PARK CITY APPEAL PANEL MEETING
SUMMIT COUNTY, UTAH
June 3, 2024

The Appeal Panel of Park City, Utah, will hold its regular meeting in person at the Marsac Municipal Building, City Council Chambers, at 445 Marsac Avenue, Park City, Utah 84060. Meetings will also be available online and may have options to listen, watch, or participate virtually.

1. MEETING CALLED TO ORDER AT 5:00PM

2. ROLL CALL

3. MINUTES APPROVAL

3.A. Consideration to Approve the Appeal Panel Meeting Minutes from April 30, 2024

3.B. Consideration to Approve the Appeal Panel Meeting Minutes from May 6, 2024

3.C. Consideration to Approve the Appeal Panel Meeting Minutes from May 20, 2024

4. PUBLIC COMMUNICATIONS

5. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

6. REGULAR AGENDA

6.A. **Appeal of 844 Empire Avenue Final Action** – The Appeal Panel Will Review an Appeal of the Final Action Taken by the Planning Commission on April 10, 2024, Denying the Proposed Plat Amendment to Remove Plat Note 3 from the 844 Empire Avenue Amended Plat, Granting the Property Owners Access to Their Property from Crescent Tram Road. PL-24-06100
(A) Public Hearing; (B) Action

7. ADJOURNMENT

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.org at least 24 hours prior to the meeting.

***Parking is available at no charge for meeting attendees who park in the China Bridge parking structure.**

PARK CITY MUNICIPAL CORPORATION
APPEAL PANEL MEETING
SUMMIT COUNTY, UTAH
MARSAC MUNICIPAL BUILDING
APRIL 30, 2024

MEMBERS IN ATTENDANCE: Adam Strachan, Esteban Nunez, Matthew Day

EX OFFICIO: Rebecca Ward, Planning Director; Spencer Cawley, Planner II; Mark Harrington, Senior City Attorney; Jacob Klopfenstein, Administrative Assistant

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1. ROLL CALL

Chair Adam Strachan called the Appeal Panel Meeting to order at 5:00 p.m.

2. MINUTES APPROVAL

A. Consideration to Approve the Appeal Panel Meeting Minutes from March 4, 2024.

MOTION: Esteban Nunez moved to APPROVE the Appeal Panel Meeting Minutes from March 4, 2024. Matthew Day seconded the motion.

VOTE: The motion passed with the unanimous consent of the Panel Members.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Chair Strachan identified the Appellants as Eric Hermann and Susan Fredston-Hermann and stated that he has known them socially for many years. However, his social relationship with them will not impact his decision about the substance of the appeal. Additionally, he knows Wade Budge and Justin Keys professionally, but this will not impact his decision on the appeal.

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5. REGULAR AGENDA

A. Appeal of 220 King Road Final Action – The Appeal Panel Will Review an Appeal of the Final Action taken by the Planning Commission Approving the Proposed Plans to Demolish Two Existing Dwellings to Construct a New Single-Family Dwelling and Accessory Buildings and Outdoor Pool within the Sweeney Master Planned Development, Historic Residential - 1 Zoning District, and Partially within the Sensitive Land Overlay as follows:(I) PL-22-05318 (Conditional Use Permit, Dwelling);(II) PL-22-05319 (Plat Amendment);(III) PL-23-05523 (Conditional Use Permit, Pool); and(IV) PL-23-05571 (Steep Slope Conditional Use Permit).

Chair Strachan reported that the appeal process will start with a Staff introduction to the appeal. That will be followed by a preliminary motion regarding standing. After that, the substance of the appeal will occur. Planner II, Spencer Cawley introduced himself and explained that he is joined by Senior City Attorney, Mark Harrington. Planner Cawley and Attorney Harrington will share an overview of the appeal application that is currently before the Appeal Panel for consideration.

Planner Cawley shared summary information about the existing conditions of the site. It is a 1.23-acre lot and it is Lot 2 of the Treasure Hill Subdivision Phase 1. It is also part of the Sweeney Master Planned Development ("MPD"). The zoning district is Historic Residential – 1 ("HR-1") and it is partially within the Sensitive Land Overlay. There are two existing structures, a single-family dwelling built in 1998, and a guest house built in 2000. The applicant proposes to demolish the existing single-family dwelling and guest house in order to construct a new single-family dwelling, accessory building, outdoor pool, and underground parking area. An image was shared with those present to show the location of 220 King Road. It highlights the driveway easement off King Road. The Sensitive Land Overlay is the section left of the dotted red line.

The Planning Commission reviewed four applications:

- Conditional Use Permit ("CUP") for a single-family dwelling;
- Plat Amendment;
- CUP for an outdoor pool;
- Steep Slope CUP.

The Appeal Panel has been asked to determine the correctness of the Planning Commission's interpretation and application of the plain meaning of the land use regulations and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application. Planner Cawley next reviewed some of the appellant's arguments.

The appellant argues that the Planning Commission erred in their approval because two eight-foot concrete retaining walls are proposed to be constructed within a platted driveway access easement for the benefit of 220 King Road and on very steep slopes in the Sensitive Land Overlay. Planner Cawley stated that no City approval may modify underlying property ownership or easement rights. The driveway easement is not within the Sensitive Land Overlay and no further analysis is required for construction within platted elements. Updated plans were submitted prior to ratification of the Final Action Letter on February 21, 2024.

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The appellant also argues that the Planning Commission decision relied on the incorrect assertion by the applicant that only the restrictions in the MPD and Subdivision Plat, rather than the Land Management Code ("LMC"), apply to this property. Plat Amendment and CUP approval are subject to the LMC, Sweeney MPD, and Treasure Hill Subdivision. Additionally, the appellant argues that the proposed structure does not meet the requirements of the LMC as expressly required by the MPD and the Restrictive Covenants. The following information was shared with the Panel:

- The 1980 MPD process established the Planning Commission as the authority to grant variations in height;
- Sweeney MPD and Treasure Hill Subdivision Plat Notes established a review process for the lots in the subdivision;
- MPD requires review for compliance with adopted codes and ordinances in effect at the time, in addition to compliance with the Master Plan.

The appellant also argues that the Planning Commission did not review restrictive covenants for the property. Planner Cawley referenced LMC § 15-1-3. It stated that the City does not enforce private restrictive covenants, nor shall any covenant have the effect of modifying the regulations herein. Planning Commission review is through the lens of applying the LMC to the application. Planner Cawley next shared an overview of the timeline for the Appeal Panel Meeting.

Representing the applicant, Bruce Baird explained that he will start by discussing the motion for standing. He handed out a document to the Appeal Panel Members with four tabs. Mr. Baird referenced the first tab in the handout. It is clearly the Hermann appeal and the cover is an appeal form. The second and third page is the actual appeal, dated March 1, 2024. It clearly says that it is an appeal on behalf of the Hermanns, but all it relates to is the driveway issue. There is nothing in that appeal regarding any of the substantive issues. Mr. Baird referenced the second tab. It mentions the undersigned, but the undersigned is Justin Keys, and he is not an appellant.

Something that came in the packet from the City is a list of all the appeals of the non-Hermann parties. Mr. Baird noted that this information can be seen in the third tab. A logical person would assume those people are the ones making this appeal. He referenced the fourth tab, which leads to Exhibit A and Exhibit B. Those are absent of any individual behind them. When reading the documents, it looks like the Hermanns are only making an appeal on the issues related to the driveway. That concern was raised with Staff early on and explained that they did not believe there was standing. Staff indicated that some kind of motion would need to be made.

A week ago, there was a pre-conference, and it was indicated to Mr. Keys that this motion would be made. It was filed, as promised, at 5:00 p.m. on Wednesday. A response was not received until 5:00 p.m. yesterday. Mr. Baird explained that he now needs to respond to the letter here as opposed to having had a chance to do that by way of a reply brief. He referenced the brief he submitted on standing and explained that he will mention a few points from that when appropriate.

Mr. Baird explained that if the Hermanns are making the driveway argument, and it is the other supporters making the other arguments, and those arguments have no standing, then those arguments are gone. He pointed out that the Hermanns are the only ones that appealed the driveway issue. The supporters appear to be the only ones who appealed the land use issue. He acknowledged that Exhibit A has since been fixed and it now seems to be the Hermanns and DeSisto, whereas Exhibit B lists all of the other parties. However, that is not the way it was filed.

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Mr. Baird addressed the substantive issues regarding the standing of the non-Hermann parties. He explained that he will respond to the arguments in the letter received by Mr. Keys. There is a reason all this makes a difference and the reason is in the Utah Code. It states that the way you get to District Court is to have exhausted your administrative remedies. This is the administrative remedy. The issue is that the Land Use, Development, and Management Act ("LUDMA") specifically says who gets to appeal to the District Court. It is only a person who is an adjoining subject property owner or will suffer damage different in kind than, or an injury distinct from, that of a general community as a result of a land use decision. While he acknowledges that the Park City code is different, it cannot expand the processes of the administrative appeals as specified in LUDMA. The appellants have input, which is due process, but input is different than standing.

Chair Strachan asked Mr. Baird if all the appellants have standing under the Park City LMC. Mr. Baird explained that they technically have standing under the Park City LMC, but the Park City LMC is violative of LUMDA in terms of whom it grants standing to. The appellants do not have standing under LUDMA, because the injuries they claim are not standing under the concept of an adversely affected party. The LMC proports to give them standing to be here, but they do not actually have standing to be here, because they have no appellant rights after this process.

Mr. Nunez asked for additional clarity about the claim that the appeal process wasn't followed properly. His understanding is since they raised public comment, they have standing to raise an appeal. Mr. Baird explained that the issue is that standing can be claimed because there was public comment, they live within 300 feet, or there is some generalized injury. Those are the three basic arguments that can be raised, but there is no belief that the first two are justified under LUDMA. He believed that because of LUDMA, they have no standing for this appeal, even if that standing is purportedly granted by the Park City LMC. Mr. Baird next discussed the issue of standing under LUDMA. He explained that standing under LUDMA has two different tests:

- Are they an adjoining property owner?
- Do they have any particularized injury?

Mr. Baird pointed out that none of the non-Hermann parties are adjoining property owners. As for the particularized injury, when they spoke to the Planning Commission, no particularized injuries were shared. Not one of them said that there was a particularized injury. For instance, that their view will be diminished. Mr. Baird next discussed the case law that was specified in the brief submitted by Mr. Keys. The issue with the case referenced is that it predates the definition of adversely affected parties. According to the current definition, there is no adversely affected interest in this particular case. As a result, there is no standing under LUDMA.

Attorney, Todd Godfrey, noted that Mr. Baird spoke of the supporting appellants. He wondered where Ed DeSisto stands in that regard. He also wanted to know what arguments have been raised in his portion of the appeal. Mr. Baird explained that Mr. DeSisto is the only other person within 300 feet. There are two 300-foot appellants, the Hermanns and Mr. DeSisto. However, he stated that Mr. DeSisto still fails under LUDMA, because it is not an adjoining property. Mr. DeSisto does not articulate any different harm that anyone else has articulated. No one articulated a view interest at the Planning Commission hearing or in their actual appeal. The only time an individualized damage assessment was articulated was in the appeal brief that came in yesterday. He stated that it is full of statements, but repetition and speculation do not make

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something true. There is no allegation, proof, or possibility of particularized individual harm as required to be considered an adversely affected party under the LUDMA definition of standing.

Mr. Day asked what will happen if the Park City rules on standing prevail. Mr. Baird stated that he has never dealt with this situation before, where the local government code purports to grant standing for an appeal beyond the standing specified in LUDMA. It is his position that the LUDMA preemption is there. He does not believe the Park City LMC can give the authority for more to appeal than would be allowed under LUDMA. Some of the appellants do not even live in the area. Mr. Day wanted to know how long there has been a difference between the Park City position. Mr. Baird believed it was approximately seven years, but he offered to find out the exact date.

Representing the appellant, Justin Keys addressed the Appeal Panel. He reported that the Hermanns have standing under LUDMA, which is the reason Mr. Baird chose to focus on the way the appeal was filed. He clarified that the motion to dismiss was not received until Friday at 5:00 p.m. and the response was drafted over the weekend so it could be filed yesterday. He shared details about the filing process. At that time, there was one application form, because he only represents one party. Mr. Keys clarified that he represents the Hermanns. The reason for the separation of arguments is that none of the others who wanted to join the appeal have standing to bring the easement-related claims. He noted that those claims only pertain to the property his clients own. To avoid confusion, there were two separate letters, but the appellants are his clients, the Hermanns. Staff was told that this was the approach that would be taken. Exhibit A was meant to be the Hermanns and Exhibit B was meant to be the supporting parties.

Mr. Keys clarified that he did not provide the appeal to the opposing counsel, as opposing counsel receives that through the City. He cannot speak to how Mr. Baird received the documents or the order those were received. However, he can explain the intention of the appeal and the confirmation there was with the City. He pointed out the newness of this appeal provision.

Mr. Day asked whether two different appeal numbers were issued. This was denied. Planning Director, Rebecca Ward, referenced the statement that Exhibit A was intended to include the Hermanns only. Mr. Keys clarified that this was his intention when he went to submit everything. Director Ward reported that in the email sent on March 16, 2024, Exhibit A included both the Hermanns and Mr. DeSisto. Mr. Keys stated that this was not his intention. He walked Exhibit A in for submission and told them that Exhibit B will be forthcoming. He reiterated that only the Hermanns are intended to be included as part of Exhibit A. Supporting parties are in Exhibit B.

The LUDMA argument was discussed. Mr. Keys reported that for the last seven years, according to the applicant, the Park City LMC has been out of compliance. However, the code can also be read in harmony with LUDMA. The definition changed, but that does not mean what is in the Park City LMC cannot be a subpart of the same definition. Essentially, material harm has to be shown, but that can be shown in the ways that the City has identified in the code. Mr. Keys does not read the two codes as being out of harmony, because someone can exhaust the administrative remedies at this level and establish their standing here and then qualify for an appeal to the District Court. He noted that the Appeal Panel can still consider new information. That is the way the appeal process is set up within the City. The record is not closed until after the Appeal Panel reaches a conclusion. At that point, if standing has not been established, there would likely be difficulty appealing to the District Court. He reiterated that there is harmony between the codes.

Attorney Harrington asked Mr. Keys to point him to a provision in the Park City Municipal Code that indicates the record is not closed after the Planning Commission proceedings. Mr. Keys

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believed that information was in the Appeal Code itself. It stated that facts de novo are being considered and new information can be taken. He shared the language with those present, which stated, "New evidence may be received so long as it relates to the scope of the appeal."

Mr. Nunez asked about the scope of the appeal. It seems there are two potential interpretations of the appeal: the one that only relates to the driveway and the one that relates to the other appellants. He is curious whether the Appeal Panel will hear only the driveway appeal or something more than that. Mr. Keys reported that there is only one appeal form and one appeal number. Only one appeal fee was paid. He stressed the fact that there were not multiple appeals, as the only appeal filed was done on behalf of the Hermanns. That being said, there were other members of the community who wanted to join in on their appeal. Those members do not have standing as to some of the claims that the Hermanns brought forward, such as the driveway claims. That was the reason those claims were separated out into a different document.

Mr. Day believed the argument was that there is only one appeal, the Hermanns have standing, and it doesn't matter whether the others have standing or not since the appeal carries based on the Hermanns. Mr. Keys clarified that several of the members do have standing under the Park City code and under LUDMA. He does not represent those appellants, but they have the ability during the public comment to state whether or not they have a particularized harm. Based on what the Appeal Code states, it is possible for those members to establish particularized harm.

Discussions were had about LUDMA and the particularized harm requirement. Mr. Keys explained that there is another way to show you have that, which is owning adjoining property. His clients own adjoining property, so there is no question as to their standing and particularized harm. The question he hasn't seen fleshed out in case law is how close someone needs to be. The measure used to be 300 feet, but now the language specifically references adjoining. He believed that will be fleshed out more over time. Mr. Keys reiterated that there is a party that has standing both under LUDMA and under the Park City LMC. Mr. Day noted that the Appeal Panel can agree to expand the appeal in order to hear information that is beyond the original scope. Mr. Keys confirmed this and pointed out that it speaks to the flexibility of the internal process.

Mr. Baird did not agree with some of the statements made by Mr. Keys. For instance, the idea that people who speak today on this appeal can have standing to file an appeal to the District Court. LUDMA states that the appellants have to make an appeal of the actual land use decision within 10 days. That forecloses anyone else who shows up today. Secondly, while the record allows new facts, it does not allow new legal arguments. Those facts cannot create retroactive appellant standing for people who didn't have it to begin with. He reviewed an example from another case.

Mr. Baird expressed concerns about the fact that Mr. Keys stated there was only one appeal. It appeared that there were two appeals, one for the Hermanns and one for the supporters. Mr. Keys clarified that it was brought forward as a single appeal. Director Ward asked if the appeal applications were sent to the City Recorder after the submission of the appeal petition. Mr. Keys explained that he came in with a hard copy version of Exhibit A and all of the appeal documents. The only thing that came in separately from the individuals who wanted to join in the appeal was what was supposed to be in Exhibit B. He reiterated that those individuals were not his clients.

Everything was filed on the Friday before the deadline, in person. The Exhibit B appeals came in over the weekend, as the deadline was on a Saturday. Planning Staff stated that when the deadline lands on a weekend, it rolls through until Monday. Everything was submitted in time.

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Director Ward referenced Page 4 of the Staff Report and the understanding of the exhibits. All of the exhibit forms were submitted within the deadline and on time, as mentioned by Mr. Keys.

Attorney Godfrey did not hear anything unexpected during the first portion of the meeting. Chair Strachan noted that there is an appeal by two people who clearly have standing. The substance of those matters will still need to be examined. Whether or not the others have standing under LUDMA, he believed that is for the District Court to sort out. They all have standing under the current Park City Code, because public input was shared at the Planning Commission level and/or they live within 300 feet of the project. The Appeal Panel's jurisdiction is shaped by the LMC. The LMC states that if people give public comment at the Planning Commission level, they have standing to appeal to the City. Whether there is standing to appeal to the District Court is a separate issue. He believed it is worthwhile to hear the Hermann appeal and to let the other appellants work out any potential standing issues at the District Court level.

Mr. Nunez feels it is within the scope of the Appeal Panel to hear not only the original appeal filed about the driveway issue but also the additional facts. He agreed with Chair Strachan that it is best to hear all of the information. There is a desire to follow the Park City code. Mr. Day wanted to settle who has standing and who does not, because it will be relevant to what the Appeal Panel does moving forward. It seems like there is a broader definition of standing, which does not indicate harm. That gives him some pause. That being said, this is a situation where in order to appeal in Park City, there are certain requirements, such as a legal argument and fees. Those requirements make it difficult for a lot of people in the community to submit an appeal. Under 15-1-18(G), the Appeal Panel has the authority to hear and to broaden the scope, which seems fair.

Chair Strachan asked that a note be made to ensure there is a ruling on the record before the Appeal Panel Meeting ends. He acknowledged that the meeting will likely be lengthy. The timeline for the Appeal Panel Meeting was reviewed. It was noted that the appellant will present their appeal grounds, the applicant will respond, and the Appeal Panel will ask questions. After the applicant has responded, Staff has the opportunity to clarify or rebut anything on either side. The public hearing will open after that. There are times listed in the document of 10 minutes and 15 minutes, but based on the complexity of this matter, he does not believe the times are accurate.

The appellant representative shared additional information. Mr. Keys shared presentation slides about the 220 King Road property. He confirmed that it is difficult to bring forward an appeal in this context. It is a lot of work and it can be expensive. The reason this is so important to the Hermanns is because they have lived in Old Town since 2006 and are familiar with the Old Town requirements. There is also familiarity with the requirements in place to approve a single-family home in Old Town. What initially made them concerned was the rapid path that this application went down, in large part due to the 45-day cut-off invoked through the Utah State Statute. There was only one public hearing and it wasn't totally clear to his clients what all of this would look like. An architect was retained to better illustrate what was actually being proposed. Mr. Keys shared a rendering of what has been proposed by the applicant and noted that it was overlayed to scale.

The home that is proposed to be constructed next door to his clients is on the hillside. It was previously argued that the house will not block any views, but Mr. Keys and his clients disagree with that statement. The majority of Park City agreed to bond and spend $64 million to be sure that the hillside does not have large construction on it. What is proposed is considered large construction. That is the reason this project is so important to his clients and others. It is out of character with what is typically approved in Old Town. It was previously stated that the project is consistent with what is seen in the Sweeney MPD. However, the record shows that this is not the

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case. He shared a graph from the January 24, 2024, Staff Report. The graph shows the size of the other single-family homes in the Sweeney MPD and Treasure Hill Subdivision. It is clear that the other single-family homes there are nowhere near the same size as the proposed structure.

Mr. Keys shared Sweeney MPD – Basic Conditions information. The Sweeney MPD constitutes an act of legislative authority taken by Park City in 1985. There was an amendment to it in 1987 and several other actions were taken over time. He explained that legislative tweaks are very different than administrative actions. The Development Parameters and Conditions language was reviewed. Mr. Keys stated that the application submitted by the applicant does not comply with the Sweeney MPD, which is a fundamental problem. The Sweeney MPD states that when each application is submitted, that application will be reviewed based on the LMC at the time. The application is considered through the lens of the Sweeney MPD and the LMC.

Mr. Keys stated that the proposed structure does not comply with the external building height requirements of the Sweeney MPD. The Sweeney MPD speaks directly to height because there were concerns about the impact high-density development would have over Old Town in this location. The agreement was that certain locations would be densified and others would be less dense with height limitations. The applicant's home is proposed to be constructed in one of the areas where there is reduced density and there are height limitations. The language states:

- Building heights shall be limited to the maximum envelope described in the Restrictions and Requirements Exhibit. At the time of Conditional Use approval, projects shall be reviewed for conformance with the heights prescribed thereon, and on the following:
    - The various parcels located within the Historic Residential (HR-1) Zone district shall abide by the Land Management Code and no height exceptions will be considered. Maximum building height on the single-family lots shall be limited to 25' in order to reduce potential visibility.

Mr. Keys explained that this is clear and plain language. It says that in the HR-1 Zone, it shall be 25 feet and there shall be no height exceptions granted. In 1987, the City Council amended the MPD, but in that, it stated, “The modification to the Sweeney MPD is minor and does not result in increased height in any of the development parcels.” Between 1985 and 1987, some density was moved around. He shared a map of the area and pointed out the lot the Hermanns own and the lot subject to the current application. It clearly states that the maximum height is 25 feet and the maximum footprint is 3,500 square feet. He next reviewed the current LMC height requirements. In the HR-1 Zone, building height is currently limited to 27 feet. Language states that “A structure shall have a maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.” In the January 24, 2024, Staff Report, it stated the proposal does not comply with the interior height.

Chair Strachan believed it was the position of Mr. Keys that the MPD controls and the maximum height is 25 feet. This was confirmed. Mr. Day asked why the MPD controls this. Mr. Keys explained that the MPD itself is the contract by which the rights were vested. It specifically states that 25 feet was the height that would be allowed. The applicant will argue that through the MPD, some plat note is vested, but he pointed out that those plat notes are inconsistent with the MPD. There is an argument to be made that the height could be 27 feet under the existing code. Mr. Keys reported that the MPD sets the vested right and it states that the home can be 25 feet.

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Attorney Godfrey asked if there is a set of covenants on this property other than the MPD. Mr. Keys stated that there are a number of different covenants, including private restrictive covenants. Those were pointed out, not because he felt they were binding to the City, but because those indicate what provisions should apply. Attorney Godfrey expressed some confusion about the argument put forward by Mr. Keys. It seems he is arguing that the proposed application violates the height restriction because it is taller than the MPD height. Mr. Keys clarified that neither the LMC nor the MPD allow the height that the Commission approved. The Commission arrived at the height based on a plat note amendment. If the MPD doesn't allow the height and the HR-1 Zone doesn't allow the height, it is not possible to get around that with a plat note amendment.

The 1996 amendment was discussed. At that time, some plat notes were added and this was an ordinance adopted by the City Council. Chair Strachan asked whether the plat note is void if it is inconsistent with the MPD and applicable zone. Mr. Keys stated that this is his position, especially if the plat note was adopted by the Planning Commission, which cannot set policy through a legislative act. Chair Strachan asked if the City Council can delegate legislative authority to the Planning Commission. Mr. Keys confirmed that this can happen in certain contexts, but it has to be specific, and that is not what happened in the instance of the application.

As a justification, Staff stated that the 1985 version of the code allowed for an amendment of the MPD and to give height exceptions. The current version of the code also allows you to amend the MPD and give height exceptions. However, that is a different process. Mr. Keys shared the 1985 LMC provision and pointed out the Variations in Height Requirements language:

- The height requirements of Section 7 shall apply to MPDs, except that after review by the Planning Commission, the Commission may approve, disapprove, or approve with modifications a request for an increase in the allowable height of some or all of the buildings in the development by up to 25% of the maximum building height.
    - Height variations shall not be permitted in the HR-1, RM, R-1, and HRL Zones.

Since this property is in the HR-1 Zone, it is not possible to use this tool to grant a height variation of up to 25%. There is a delegated authority there, but it is specifically delegated. This height cannot qualify under the LMC, because the City Council has decided that no height exceptions will be granted in this zone. Instead of going through that process, plat notes were amended. Mr. Keys stated that the Sweeney MPD speaks at length about why height is so important. Visibility of the mountainside is critical and there is no desire to see tall buildings there. It also talks about stepping. What is proposed is the opposite of minimizing the visual impact in the area.

At the last public hearing, several Commissioners were concerned about the shed roof and asked if it could be broken up. The solution that was offered was a pop-out, but that pop-out goes beyond the 25-foot façade that is allowed. Based on the work done by a hired architect, the front pop-out façade is 36 feet 10 inches and the one to the right is 32 feet 11 ¾ inches. Mr. Keys noted that the numbers on the east façade are much taller than the HR-1 Zone and Sweeney MPD allows.

Mr. Keys next spoke about the building footprint. He explained that the building footprint does not comply with the Sweeney MPD or LMC. An overlay was shared and it showed the Marsac building in gray while the white underneath illustrates the proposed structure. The applicant states that they are under 3,500 square feet because only certain aspects of the home should be counted in the footprint calculation. Their argument is that the garage should not count towards the total

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footprint. The applicant stated that it is a parking area and not a garage because of the openness, but the Sweeney MPD speaks to parking. He read Condition of Approval #3:

- The approved densities are those attached as an Exhibit and shall be limited to the maximums identified thereon. Parking shall be provided on-site in enclosed structures and reviewed in accordance with either the table on the approved Restrictions and Requirements Exhibit or the adopted ordinances at the time of project approval.

Finding of Fact #5 also stated that "The required parking can readily be provided on-site and in enclosed structures." Mr. Day believed the argument of the applicant is that it is not enclosed and therefore does not qualify as a garage. Mr. Keys explained that this is the argument, but it actually violates the MPD. The MPD states that all parking will be in enclosed structures on-site. As a result, the Planning Commission erred, because either it is an unenclosed structure and it doesn't comply with the Sweeney MPD, which requires parking to be in enclosed structures on-site, or it is a garage. If it is a garage, then it counts towards the total footprint amount.

Mr. Keys reviewed the Park City LMC definition of garage and parking area, which are as follows:

- Garage, Private: An Accessory Building, or a portion of the Main Building, used for the storage or motor vehicles for the tenants or occupants of the Main Building and not by the general public.
- Parking Area: An unenclosed area or lot other than a street used or designed for parking.

Mr. Keys pointed out that the word enclosed is not in the definition of garage. The parking area, on the other hand, specifically mentions an unenclosed area. It is his belief that what is proposed is a garage and therefore it should be counted towards the total amount. Even if it is not considered to be a garage, the Sweeney MPD requires that there be parking on-site in an enclosed structure. Previously, Staff found that the building footprint does not comply under the LMC. He shared an image from the January 24, 2024, Staff Report, which was incorporated into the February 14, 2024, Staff Report. It shows how the total footprint was measured based on the LMC. Looking at everything that is counted under the HR-1 Zone LMC measurement, it was 11,300 square feet. He shared some example renderings with those present for reference.

Language from 15-2.2-5 – Building Height and Roof Pitch was shared. Mr. Keys pointed out that it clearly states that the roof pitch of a structure's contributing roof form shall be between 7:12 and 12:12. This structure contemplates a 3:12 pitch roof. The City's own consultant stated that it did not comply with the HR-1 Zone and was not in keeping with what was contemplated. In the applicant brief, a new argument was made that the roof is not the contributing form, because it was not viewed from the nearest public right-of-way. As he understands contributing under the Code means any aspect of a structure that gives it a historic feel or provides a historic element.

The reason the driveway issue was appealed is because earlier versions of the Staff Report required his client's written consent to the modifications that were going to be made to 200 King Road. Mr. Keys explained that there is a private access easement over 200 King Road that provides driveway access to 220 King Road, but it is a non-exclusive easement. The easement actually provides access under the Sweeney MPD documents to the building envelope for 200 King Road and 220 King Road. All of the early versions from Alliance showed 8-foot retaining walls running on both sides of the access easement that currently exists. The grade on the driveway once it is dug down is 13.9%. The maximum grade under the code is 14%. As was

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indicated by Staff, after the February 14, 2024, hearing, an adjustment was made to the exhibit to have 4-foot and 2-foot walls. That is still a violation of rights for the property owner and co-holder of the easement. It is a non-exclusive easement.

The City has now said that consent and sign-off for the Building Permit will be required. Mr. Keys felt that was helpful, but noted that opposing counsel will likely disagree. He informed the Appeal Panel that there is now a lawsuit over a dog issue. The second set of claims in that lawsuit relates to this easement. In that lawsuit, the applicant claims that his client is preventing them from taking advantage of this access easement. Mr. Keys does not believe that is the case. Since it is a non-exclusive easement, the applicant simply needs to make sure they are not impairing the right to access the property in that location. That issue is currently on appeal before the courts.

Mr. Day asked whether Mr. Keys was comfortable with the Staff's response. Mr. Keys explained that the issue is not settled, because there was a condition in the original Staff Report requiring the consent of his clients, but that was removed. Staff believed it was unnecessary because there needs to be an access agreement anyway before it is possible to move forward. His concern is expressed in the briefing. What was granted was a Steep Slope CUP, but the Steep Slope CUP factors were not considered and this is clearly in the steep slope. Those factors are intended to protect neighboring property owners. He felt the Steep Slope CUP factors should have properly been reviewed before the Steep Slope CUP was granted. Mr. Keys stated that the argument as to why they didn't have to is that the Steep Slope CUP factors aren't necessary because those are addressed by the Sweeney MPD. He does not agree with that. Additional discussions were had about Steep Slope CUPs and the impacts on adjoining properties.

Mr. Keys explained that his clients live directly adjacent to this property. It will be built next to their home. If it is over the height, it will obstruct views, and light, and will impact their ability to enjoy their property. The entire purpose of the HR-1 Zone is to preserve the Historic District. His clients like living in the Historic District, because of the historic feel that the area has. It has a historic feel because, over time, the City has regulated the type of construction that can occur there. It has been restricted to historic-style homes with smaller footprints, lower building heights, and steep roofs. That is what maintains the look and feel of the community. Having a modern-style home looming over Old Town will impact the entire area. This issue is more specific to his client who lives directly next door to the proposed project. His clients complied with the HR-1 Zone when constructing their homes and did not do anything that was not allowed. LUDMA recognizes that adjoining property owners are more directly impacted and more likely to be harmed.

Mr. Day pointed out that the garage is proposed to be underground. He wondered how that will impact others in the area. Mr. Keys reiterated that the garage increases the size of the structure. The applicant is playing games with the definitions in order to have a larger home. A 20,000-square-foot structure has more of an impact on a neighboring property than a 10,000 or 5,000-square-foot structure. He referenced a landslide in King's Crown last year. Digging down too far destabilizes the mountainside. Mr. Keys shared some example scenarios with the Appeal Panel.

It was determined that the Appeal Panel would take a 5-minute break before continuing.

Wade Budge, representing the applicant, shared presentation slides for the 220 King Road appeal. He explained that he is joined by Urban Planner, Jason Bull, and co-counsel Mr. Baird. Matthew and Tatiana Prince are also present and are the owners of the property. Mr. Budge appreciates the care and attention that has been taken on this matter so far. There have been

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several interactions with Staff and the Planning Commission. On January 24, 2024, the architect was present at the Planning Commission Meeting, and models of the building were shared. Additionally, there was a hearing on February 14, 2024, and there was a detailed discussion.

Mr. Budge reviewed the presentation slides. The slides indicated the locations of those who provided comment, including the supporters of the project. The green parcels on the map that surround the large yellow middle parcel make it clear that this is a project that has elicited a lot of support, including support from notable institutions such as the Historic Society. Mr. Budge shared some context about what the Sweeney MPD represents. Under the Sweeney MPD, two homes were built on Lot 2, which is the subject lot. He shared images of the other homes already built in the Sweeney MPD. He pointed out Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, and Lot 7.

This particular subdivision authorized the construction of these homes in a certain way. The homes shown are nothing like the HR-1 Zone homes seen in the typical 25x75 lot. While there are references to the HR-1 Zone, that means something different at different times during the life of the Sweeney MPD. It is also important to remember that these homes have specific requirements that apply to them that would not apply to a home in the HR-1 Zone, not within the Sweeney MPD.

Mr. Budge explained that what is being discussed is a set of standards that arise from an MPD that was approved in 1986, amended to include these parcels in 1987, and then had additional requirements and restrictions placed through the platting process. In the prior presentation, a lot of time was spent discussing what happened in 1986. What is important to remember is that in 1986, these parcels were not involved in the Sweeney MPD, as those were not yet platted lots.

The undeveloped lot within the Sweeney MPD is Lot 1, which is owned by the appellant. The applicant lot has been developed. Lot 5 is the open space lot and there is no intention to have a home there. Mr. Budge reviewed house sizes and explained that these are different in size and scope than what is typically seen on an HR-1 Zone lot. In the case of Lot 3, there is a building area of 17,000 square feet, it is over an acre, and there is a building footprint of 2,620 square feet. However, looking at Lot 4, Lot 6, Lot 7, and Lot 8, there are much bigger homes. The footprints are larger and the square footage is much larger as well. As for the architectural drawings shared by Mr. Keys, he did not think those should be considered. Mr. Keys told him previously that he had hired an architect and would share in advance anything he intended to present, but that did not occur. It was something intended to elicit a reaction rather than be an accurate representation.

Mr. Budge shared the modeling that was previously presented to the Planning Commission. It helped to create context and make it easier to understand what is on the site currently and what is proposed. He noted that the blue shows the existing structures and the light grey shows the proposed structure. There is a non-conformity being fixed with respect to height and footprint.

Mr. Budge explained that the task is to look at what the Planning Commission did, apply the standards, and determine whether the appellant carried their burden. He does not believe the appellants have carried their burden. That conclusion can be reached by reading the Staff Report and by carefully reviewing some of the things the Planning Commission felt were important to put into the findings and conditions. To the extent there was any ambiguity, there is clarification in State Law and the LMC that the ambiguities need to be read in favor of the property owner.

It is important to keep in mind some of the facts associated with this property. Mr. Budge stated:

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- The property has vested rights under the Sweeney MPD;
- The Planning Commission was authorized to amend the Subdivision Plat, and the Amended Plat is consistent with the Sweeney MPD;
- The proposed home complies with:
    - The Sweeney MPD's height requirements;
    - The LMC interior height requirements;
    - Treasure Hill Phase 1 plat notes, including - footprint, height, massing, facade, and step out.
- The Planning Commission appropriately amended the Treasure Hill Phase 1 Plat, as allowed by the LMC and the Sweeney MPD;
- Historic Design Review is in process and a decision will follow this appeal.

Mr. Budge noted that the Sweeney MPD has been analyzed many times. He was pleased that the Staff Report includes information about the 2009 analysis. That analysis looked at what it meant to have vested rights under the Sweeney MPD. Those vested rights are the same that are being applied in this case, but the ones being applied are for Lot 2 in the Sweeney MPD.

A slide was shared about the plat amendment procedure for Lot 2. Mr. Budge explained that in 1986, the distinction was not as clear as it is today, because LUDMA came about in 2005. He reported that the MPD was approved by the City Council and the plats were approved by the City Council. When the MPD was approved in 1986, it didn't authorize any particular structure where the six homes and seven lots are currently. In 1987, there was an addition. With the parcels, there is not a lot on which to build until the owner moves forward with a plat. In this instance, which happened on September 15, 1995. The City Council approved that plat by ordinance. That ordinance is what set the dimensional limits of height, but it also set a number of other criteria that apply to this particular lot. That is notable, as it represents the implementation of the MPD. The MPD sets forth a number of values, standards, and uses, and contemplates that these homes would be built on these seven lots. To implement it, there was a process that involved the City Council. While each lot has a unique history, he is here to review the history of Lot 2.

On April 17, 1997, Lot 2 was amended. Mr. Budge reported that the lot was amended with respect to some of the boundaries of the buildable area by the City Council. On February 14, 2024, the most recent application, was approved by the Planning Commission. The reason that the application didn't go to the City Council is because the LMC has changed. This is a result of changes to State Law. Plats are now resolved and decided by the Planning Commission. In this instance, the City Council granted authority to the Planning Commission to approve and amend plats. In February, the plat was amended to reflect certain items. Those items are consistent with the MPD. This ensured there was approval consistent with the Sweeney MPD and LMC.

Mr. Budge noted that building height has been discussed a lot during this process. He shared a chart with building height information. Before 2009, the way height was handled in this zone was that it was a 27-foot height with a +25% increase. That meant a little over 6 feet could be added. In this instance, the lot height was set when the plat was first obtained. The plat explicitly states there are two height elements. There is a height of 30 feet and there is 3 feet for certain types of mechanical and other elements. Then there was the amended plat and the height stayed the same at 30 and 33 feet. What changed with the amended plat is that the notes were clarified so the particular element that allowed for elevators or other details to extend above was applied to a particular lightbox feature. This was done at the request of the Planning Commission after the

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January 24, 2024, hearing. What was done by the Planning Commission was done with delegated authority, consistent with State Law, to authorize an amendment to the plat to accommodate that.

Mr. Budge referenced an earlier comment about whether someone can act to restrict the rights of the Sweeney MPD. In his view, this cannot be done, because that would be going against the vested rights case law. Since 1980, in Utah, it has been the law of the State that when someone files their application, there are vested rights under the law that applies at that time.

Information was shared about interpretation issues. Mr. Budge explained that the MPD grants rights and then the plat provides those rights. The property owner is entitled to rely and act upon that which is most allowing of their property rights. As a regulator, it is important to remove ambiguity. As for how to handle the LMC versus the MPD, the same analysis applies. If the MPD allows something and the LMC does not, then the MPD controls and governs. However, if the MPD is silent on an item, he explained that the LMC applicable at the time would govern.

Mr. Nunez asked about the discrepancy between what is built there right now and the earlier argument that it should not be past 25 feet. The HR-1 Zone rule applied to specific properties, however, in the MPD it says zones and not specific properties. Mr. Budge stated that he does not accept the argument that the plat is in violation or contrary to the MPD. The plat is an implementation of the MPD. The way that height was allowed for this particular lot was in the 1995 plat. If a neighbor wanted to prevent that, the time to appeal would've been back then. Mr. Budge shared language about the HR-1 Zone. He clarified that the subject property is in the HR-1 Zone. The only lot in the MPD that is not in the HR-1 Zone is the property at the top.

Discussions were had about the MPD. Attorney Godfrey stated that if the MPD doesn't apply, then the City code applies, but there is an implementation of those two elements with a plat approved in 1995 and a plat approved in 1997. He believed it is the position of Mr. Budge that those are vested rights, the same as an agreement or any land use approval would create. This was confirmed. That is an argument that was made to the Planning Commission and an argument that is consistent with the careful analysis that was done in the 2009 Sweeney MPD vested rights memo. What it reflects is Utah law. Mr. Budge explained that Utah law talks about reliance. Property owners need to know that they are able to rely on those prior approvals. In this particular instance, this is a continuing implementation of the MPD, and it is done as specifically contemplated in the MPD. When the Planning Commission was faced with the question of what to do with the application, they knew under the LMC and under State Law, it says that the CUP shall be approved unless it is not possible to mitigate reasonably anticipated detrimental effects.

The Planning Commission acted in accordance with State Code and in accordance with the City ordinances. In the case of the plat, the Planning Commission was acting in accordance with what they were authorized to do and what had been done previously by the City Council. Contrary to what was indicated by the appellant, a careful analysis was done over many meetings. To do what the appellant was inviting the City to do would result in a taking of the rights that his client as a property owner has been relying on. Mr. Keys indicated that the steep slope analysis was not done, but that is not correct. Every one of the criteria of the Steep Slope Ordinance is referenced in the Findings of Fact and Conclusions of Law, which is included in the Staff Report.

The Site Plan was shared. Mr. Budge explained that it shows the area where the steep slopes are indicated. There was consideration of all those elements. Chair Strachan asked if Staff issued a steep slope determination. Mr. Budge explained that there is information in the February 14, 2024, Staff Report. The Staff did an analysis of that particular element. As part of the Planning

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Commission hearing, time was spent to show that all of the criteria were analyzed. There was a question about whether it had been appropriately analyzed. To assist this body in considering that, in the appeal brief that was filed on Friday, there was a quote included from Attorney Harrington. That quote indicated that there was compliance with those elements.

Mr. Budge shared a slide of the Approved Site Plan with Topography. The weekend before the February 14, 2024, hearing, there were reviews with the engineer. The 8-foot walls referenced earlier were noticed at that time. Those were near or extending beyond the driveway easement. As a result, Alliance Engineering updated the drawing. The updated drawing shows that all of the driveway activity will be within the existing driveway easement that has been there since the property was platted. This drawing showed that all of the driveway activities are physically located within the driveway easement. The Planning Commission then added as a condition that the driveway not be any wider than 12 feet, unless dictated or required by the Fire Code as the building process occurs. There is currently access for Lot 1 from below, but if Lot 1 wants access off of the driveway easement because it is non-exclusive, that would be granted. The driveway needs to be operated and used in a way that does not interfere with or prevent them from access. Mr. Budge stated that Page 118 of the Staff Report shows the correct driveway easement.

A summary was shared with the Appeal Panel. Mr. Budge stated that the appellant has not carried its burden, has failed to show illegality, and has not shown prejudice. He reported that the Planning Commission is now authorized to handle plat amendments. The Planning Commission clarified a number of details related to this lot. Additionally, he pointed out that there are at least four other properties in this MPD that allow for an area underground without a garage door. This particular set of plat amendments allows the applicant to act like the other properties within the Sweeney MPD and have a similar parking arrangement to those existing structures.

Mr. Budge shared two documents with the members of the Appeal Panel. He noted that the Utah Supreme Court has made it clear that if someone is going to challenge a case, it needs to be shown that it is illegal and prejudiced. It was noted that an email exchange with his client from two years ago had been handed out. It stated that the owner of Lot 1 previously said that there are no plans to build and they purchased the property to prevent construction above them. Mr. Budge believed the Planning Commission deserved the respect of having their decision upheld, particularly when there was so much care to arrive at their ultimate conclusion.

Mr. Day pointed out that under LUDMA, an adjacent property owner does not need to show proof of a particular damage. Mr. Budge explained that to get standing, there does not need to be damage shown if someone is an adjacent property owner. However, to win, prejudice needs to be shown. The plat notes were reviewed. Mr. Budge noted that there was a previous comment about how the parking area was arrived at. It is language from other lots in the Sweeney MPD applied to this particular lot, so this lot could have the same benefit as the other lots in the area:

- That portion of any garage, carport, mechanical space, parking area, or living space that is located below existing grade and which has landscaping or deck (as provided in 1(A)) located above it.

A good cause determination was listed in the Staff Report. It included the fact that the plat amendment also included a reduction in the buildable area and resulted in a shift of the building area, so impacts are being taken away from people who live downhill. There is also the fact that it has an improvement to allow for fire access and turnaround within the parking area. Those

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elements are detailed in the approval that was received from the Planning Commission. Chair Strachan asked whether good cause is a static standard or if can change over time. Mr. Budge explained that good cause is designed to give the decision maker the ability to not have the decision be second-guessed by a review in court. Unlike the case law, which is wide-ranging, Park City has a clear definition. When good cause arguments are made, that is considered.

Prior City Councils allowed for an underground parking area/garage carport not to be counted as part of the square footage in other Sweeney MPD lots. That element applied to the subject property and this was determined by the Planning Commission. One of the five elements of good cause is related to the parking area, specifically because it is designed to allow fire truck access.

Mr. Budge spoke about building height and referenced Plat Note #5. The note talked about heights of 30 and 33 feet. It stated, "…33 feet for pitch roofs shall be permitted for the express purpose of accommodating access and light features no greater than 24 feet in length." He noted that the Planning Commission ultimately broadened the language to include the reference to the light feature. If the Appeal Panel didn't like that element, the net result isn't that the project goes away, but that the feature is lost. It will then return to the plan that existed as of January 24, 2024.

Mr. Budge discussed the step out on the structure, which depending on how it is being looked at, could be considered a step back. The ambiguity was removed and there was a clear reference to a step-out made. The Planning Commission last week recommended a change of code that will be considered by the City Council. In the future, properties with a step back will only be interpreted as going back. The Code as it existed when the Planning Commission acted contemplated or at least allowed what was ultimately approved. This particular plat note simply adds some clarification about that. The final page of the plat notes was shared. There were some additional elements added that the Planning Commission thought were important to make sure everything discussed during the meetings was memorialized. One was about lighting, one had to do with glazing, one was about the steep slope, and the last plat note stated that it will not be a nightly rental. As represented during the meetings, this project will be used as a single-family home.

The Planning Commission considered the LMC and MPD. Additionally, the Commission made sure they understood the plat and even the plats of the neighboring Sweeney MPD lots. Mr. Budge asked that the appeal be rejected or denied. To grant the appeal would not serve any interest, would not result in any sort of betterment of the community, and there are insufficient grounds to do so. He did not believe the appellants have met the burden the LMC imposes on someone who wants to challenge a decision, like the one that was made by the Commission.

Mr. Day asked if the appellant has to show prejudice to win. Attorney Godfrey believed so because the case law is fairly clear on that point. It is not clear that it has to be shown at the appeal stage, but it would need to be shown at the District Court level. It likely is applicable to this proceeding and it is separate and distinct from any standing argument. Chair Strachan explained that this is now the time for Staff to rebut and share comments about this matter.

Director Ward shared the Findings of Fact from the 1985 Sweeney MPD. As the appellant indicated, the two King Road properties were not contemplated at this time as part of the 1985 Sweeney MPD. However, Finding of Fact #3 talks about the open space preservation and conceptual site planning attributes resulting from the cluster approach to the development of the hillside. That was sufficient justification for the requested height variation necessary. The review criteria outland at that time were considered. In Finding of Fact #10, it stated that the site planning

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standards set forth through the MPD process can be reasonably achieved at the time of Conditional Use review and approval. The Conditions of Approval were next reviewed.

In Condition of Approval #1, it stated: "At the time of Conditional Use or subdivision review, the Staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan." Condition of Approval #2 stated: "The official Zone Map will be amended to clearly identify those properties included within the Master Plan." It later said, "At the time of Conditional Use review, final building configurations and heights will be reviewed in accordance with the approved Master Plan, applicable zoning codes and related ordinances." Director Ward noted that a lot has been said about the HR-1 Zone. When the City Council approved the zoning for the Sweeney MPD, 200 and 220 King Road were zoned from HR-1 to HR-1-MPD. This is further reiterated in the plat notes that were carried forward for the Treasure Hill Subdivision.

In the Treasure Hill Subdivision approval in 1995, the ordinance states that the Planning Commission forwarded a positive recommendation to the City Council, with conditions regarding building size. The plat approval required that prior to final plat recordation, the Community Development Department review and approve notes on the plat addressing limits of disturbance, building footprint, building area limits, building height, and massing. The plat notes that were recorded include information about precedence. It stated that the plat notes were consistent with the Sweeney MPD and "final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan." The Small Scale Master Plan Process is now the Conditional Use Permit process. There was information written about height as well.

- Treasure Hill Subdivision Plat Notes:
    - Height: The maximum height, in general, shall be 25 feet for flat roofs and 30 feet for pitched roofs. A maximum height of 28 feet for flat roofs and 33 feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators between floor levels.

The plat notes with the height were established pursuant to the Sweeney MPD and prior to changes to the HR-1 Zone with the Treasure Hill residences in the HR-1-MPD Zoning District. Director Ward explained that the massing is more restrictive than would be allowed in the HR-1 Zoning District. Through the LMC, the building mass could go up to 4,500 square feet, considering the lot size. In this case, the structure is limited to 3,500 square feet and breaks up the massing into 1,500 square foot configurations. The following information was shared:

- The Planning Commission excluded the unenclosed underground parking area from the single-family dwelling building footprint;
- This is aligned with approvals for single-family dwellings in the Treasure Hill Subdivision and Sweeney MPD;
- On June 25, 1998, the City issued Building Permit BD-97-02851 for a shared entry tunnel to access Lots 3 and 4;
- On June 29, 2024, the City issued a Building Permit BD03-08481 for a shared tunnel to access Lots 6 and 7 from Woodside Avenue.

Director Ward reported that the Planning Commission found the following:

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- 220 King Road is notably larger than most other buildable lots in the Sweeney MPD and the ratio of lot size to the residence is significantly smaller than neighboring residences;
- The residence will be adequately setback and buffered from the surrounding properties.
- The residence is designed to break up the perceived mass and follows the plat notes breaking up the structure into at least four massing elements that are each less than 1,500 square feet with an overall footprint of less than 3,500 square feet;
- The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining walls will be located behind the residence to minimize visible impact on neighboring uses.

Director Ward reported that the Sweeney MPD was approved prior to the enactment of the Sensitive Land Overlay that was enacted in 1992. The Planning Commission approved a Steep Slope CUP. That is a permit that is required through the current HR-1 Zoning District for construction on steep slopes. It requires the Planning Commission to make the findings that are outlined in LMC Section 15-2.2-6 – Development on Steep Slopes. She explained that this outlines nine considerations for approval. The Planning Commission issued approval for a CUP for the single-family dwelling and also approved a Steep Slope CUP for the proposed project, pursuant to the steep slope criteria outlined in the LMC. The steep slope determination for the approval of this project was done through the CUP criteria.

Attorney Harrington discussed good cause standards. Notwithstanding the later adoption of LUDMA, good cause and no material harm were both standards by prior statute. Those were part of the 1995 and 1997 ordinances. There was a legislative good cause finding by the City Council on both of those. He noted that this information is shown in the exhibits. Chair Strachan asked if there are documents that show the City Council analyzed good cause. Attorney Harrington stated that there is the ordinance itself and the findings for that determination. He clarified that the current definition was not in effect at that time. Attorney Harrington agrees with the Staff characterization that the vesting under the MPD is the principal justification that the Commission relied on as opposed to past good cause findings within the plat.

Chair Strachan noted that the MPD states that no height exceptions will be entertained. Attorney Harrington stated that there is no allegation that the height provisions of the MPD are being violated in terms of the strict numeric amount. Mentions have been made about internal height and definitional issues about how height is measured. Attorney Harrington reported that the Legislature has taken away design authority from municipalities in Utah. There is an exemption for Development Agreements in Historic Districts. That is because the protections are recognized.

Attorney Harrington explained that the Appeal Panel is considering whether the Planning Commission correctly applied the code and the MPD. It is not whether there are disagreements about some of the facts of the application, but whether the Planning Commission erred. As it relates to standing, there is agreement with the appellants that standing is defined by the LMC. So far, the presentations have been related to the scope of the appeal of the appellants. He doesn't think that voting to increase the scope will solve the standing issue. Additional information about standing was shared. It was explained that the Appeal Panel may do the following:

- Affirm the Planning Commission's approval;
- Reverse the Planning Commission's approval;
- Affirm or reverse in part the Planning Commission's approval and remand the matter to the Planning Commission;

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- Request additional information and continue to a date certain.

Chair Strachan opened the public hearing.

Teri Orr noted that during this current land dispute, the focus is on two properties at the base of what passes for a sacred mountain in the area. Treasure Hill has held a special place in the hearts of residents for many years. Generations have recreated there and also watched from afar. The City tried for years to come up with a solution with the owners to purchase the land. Many years ago, the price the owners wanted was approximately $9 million. In 2017, under the stewardship of Jack Thomas, the deal was resurrected, but the price from the owners was now $64 million. There was rallying and bonding and the mountain now belongs to the residents of Park City, who pay for it on their tax bill every year. Ms. Orr explained that what the Appeal Panel is deciding on is a dispute about how Park City governs the protection of that land and the view they voted on to save. The job appears to be administrative, but it is actually a sacred trust.

Eric Hermann explained that he does not look forward to living next to a building the size of the Marsac building and he is deeply disturbed at the thought of that hillside coming down. Old Town is a quirky gem. Droves of tourists wander through, and snow and garbage removal are always challenges, but still, this is an area that is loved. It is the historical heart of Park City and is what makes the area different from other ski towns. Anyone who builds in Old Town knows about the restricted building codes that preserve the character of Old Town. Many people, including his family, have navigated the long and onerous process of obtaining Planning Commission approval. The Prince family took a very different path. Instead of designing their house to meet Code, they pressured the City to change the rules in order to accommodate the massive design they desired.

When Mr. Hermann realized that the Prince proposal violates Old Town guidelines on mass, scale, height, and footprint, he trusted that the City would enforce the Building Code and hold the Prince family to the same standards enforced on everyone else. Unfortunately, the Planning Commission approved the project by a very narrow margin. Mr. Hermann explained that their objective is to ensure that the City treats everyone equally under the law. It is his right under the code to appeal the Planning Commission's approval of a 130-foot-long, 4 ½ story house that is out of proportion with any other residence in Old Town. There are also proposed additional structures that will partly be buried in very steep slopes and environmentally sensitive lands. The proposal blatantly violates many Old Town HR-1 rules and regulations designed to preserve Old Town and the environment. When the appeal right was exercised, a campaign of harassment and intimidation began with the intention of suing them into submission. Days after the appeal, a lawsuit was filed by the Prince family against their dogs. They have owned Bernese Mountain Dogs for 14 years and never received a single complaint until the appeal was filed.

Within weeks of the appeal, Mr. Prince spent millions to purchase property next to them and filed another lawsuit, this time, alleging a tiny encroachment by an old stone wall. Mr. Prince has set up surveillance cameras and posted No Dog signs over the longstanding pedestrian easement across his property to the trail system. Mr. Prince argues that dogs are not pedestrians, which Mr. Hermann pointed out has damaging implications for dog owners in Park City.

Ms. Fredston-Hermann stated that they received a threatening letter telling them to cooperate with Mr. Prince. As the new owner of the local paper, he has used every tool imaginable to silence their free speech and that of anyone else opposing the project. He has turned a once widely respected newspaper into his personal megaphone. She believes that Mr. Prince has made or

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promised major donations to non-profits that otherwise would have opposed the project. Almost all citizens who have spoken with journalists about the massive mansion have refused to do so on the record due to fear of retaliation, similar to what they are currently enduring. Ms. Fredston-Hermann believes the Park City government has endured similar pressure and intimidation.

During the past year, the Planning Department has experienced a lot of changes. Both the Director of Planning and Senior Planner working on the Prince project quit. Ms. Fredston-Hermann wonders if this is reflective of the relentless pressure and intimidation her family has suffered. The Sweeneys were overheard stating that if the project wasn't approved, they would be in Attorney Harrington's office the next day to sue the City. Mr. Prince was overheard saying he had the City in his pocket. If planning decisions are going to be made through political pressure and backroom dealing, Old Town will be lost. The precedent will enable the next ultra-wealthy arrival to Park City to purchase whatever property they can, tear it down, and build another out-of-scale structure. The only silver lining to this horrible experience is the tremendous outpouring of community support they have received as residents have become aware of the project. She is grateful that fellow citizens share her concerns and support these efforts. Ms. Fredston-Hermann asked the City to enforce the rules of the City equitably and transparently.

Written comments were received that day from Jim Doilney, John Vrabel, and Gwen Reddish.

Jim Doilney explained that he lives near the driveway that would service this application. He was on the City Council from 1983 to 1988 and he voted against the Sweeney MPD at the time, because he believed it was deeply flawed. Mr. Doilney stated that he has lived on Sampson Avenue for decades and it took him years to receive approval to build his home. His rear yard sits just steps from the Prince's driveway. It is very clear that the Prince house violates common sense. Common sense says that the approval must be overturned and so does the law. Mr. Doilney pointed out the fact that the law was changed on February 1 to accommodate the plat note changes. This speaks volumes about the pressure that has been placed on Park City.

The whole process has been riddled with hasty decisions. Mr. Doilney stressed the importance of all citizens being treated the same way. If this matter goes to court, people will be put under oath, and the truth about why Mr. Prince has been given special treatment may be revealed. Mr. Doilney informed the Appeal Panel that the plat note revision process was used inappropriately.

Jeff Raybender stated that he has property adjacent to the applicant, as he is 28 feet away from the lot line. He previously provided a support letter for this project, because the Princes spent time with the neighbors and showed them what was planned. Many others also found what was proposed to be valuable. He felt the Planning Commission did an excellent job during the process. This project will be a positive addition to the area and to the neighborhood. It is his belief that the Planning Commission did a good job of vetting the application. He reiterated his support.

Ginger Tolman lives across the street from the previous speaker and is within the 300 feet radius that is directly impacted. She is an adjacent neighbor to Mr. DeSisto. Ms. Tolman pointed out that her adjacent neighbors were never contacted by the Prince family. She believed the reason they were not contacted is because they are in direct line of sight. Her view matters and it will be impacted by this. Ms. Tolman reiterated that the Princes have not reached out to everyone and the neighborhood is not in agreement about this project. Ms. Tolman is an appellant and stated clearly that this project will obstruct her view. In terms of the steepness, she has concerns about what could happen in bad weather. This neighborhood requires people to help one another and care for one another. It is a steep street and everyone needs to rely on one another for safety.

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Pat Sweeney explained that he has 40 years of knowledge, which he has gained from being involved in the Sweeney MPD. He thought what Mr. Budge said is correct about the Master Plan. Additionally, what Director Ward said about the wording of the original Master Plan approval was correct and well-stated. It is his opinion that the Planning Commission carefully considered the application and were thoughtful during the process. He does not believe the Commission erred.

Nic Schapper pointed out that the building they are all standing in is the same size as what is being proposed. He discussed his past work history and the avalanche that occurred in the late 1980s. Sensitive lands and steep lands are talked about in words and codes, but the reason those codes actually came about is discussed less often. Mr. Schapper trusted the Planning Commission to do the right thing, follow the code, and consider all residents in Park City. While he may not have legal standing, he noted that he has been standing in this town for a long time.

Mr. Schapper did not believe the Planning Commission articulated the difference between a parking area and a parking garage. People in Park City will see a garage. Most people will not understand the nuances between the MPD, HR-1, and LMC. Additionally, most residents will not understand how the attorneys articulate the difference between finished and unfinished space. He did not feel the Commission articulated the differences well or were clear about how the conclusion was reached. He stated that the newspaper is now a propaganda piece for one person in this community. What he has learned from this process is that the average citizen cannot come in here. There is a very clear access problem. If the community learns that it is okay to compare one home to the other in order to create a new standard, then the Prince home will become the new standard. Each one of the plat maps is unique and has its own notes. Comparing them every time a new applicant comes forward means the standards will continue to change.

The Planning Commission erred because it sets new precedence whenever there is a comparison to the last house that was built in the area. Mr. Schapper noted that there was not a discussion about footprint versus open space. Increasing the footprint means the open space is being decreased. Every time the footprint is altered, then the open space should be recalculated.

Mike Sweeney stated that the hillside is the only place in Old Town where there has not been total development. That is due to the fact that Andy Beerman asked what would be done with the hillside and if there was a willingness to sell it. At that time, he stated that there was an openness to sell and an offer was made. There was a desire to preserve the hillside. The number of units that can be built there have been designated and there is a certain amount that is for open space. Some open space was donated to make sure the view corridor was maintained. Mr. Sweeney does not believe the project will be larger than the other homes that have been built.

David Constable explained that approximately 10 years ago, his family started a historical renovation expansion. That took four and a half years with the Planning Department. Everything from building size, window size, height of the building, and preserving historical trees was considered. Even though the original plan was within the setback and floor area lot ratio, the Planning Department stated that it was too big. They didn't hire an attorney to argue with them and chose to downsize the proposal instead. Mr. Constable thought there were enough questions about this project that it warrants a second look. Residents are asking for a level playing field. If others have been asked to downsize their proposals, it makes sense that the Prince family do that also.

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Tina Lewis reported that in 1980, the Park City Chamber created a survey that was given to tourists as they rode up the gondola or checked into lodges. Visitors were asked why they chose Park City and what made it unique. Overwhelmingly, visitors said the same things that residents said. According to visitors, Park City is a real historic mining town with a real Main Street and real historic houses surrounded by real mining structures. The steep slopes enveloping it felt like a "cosmic hug." People fell in love with Park City the same way residents did. Park City worked for decades to define a new future and to create an environment that reflected a collective vision. Guidelines and codes were written and grants were created that would prevent demolition and would encourage the restoration of historic buildings. This process ensured that new buildings and homes would be complementary and blend into the historic feel of Old Town.

Ms. Lewis explained that small decisions can become large issues, especially with the passage of time. A few weeks ago, she attended the Planning Commission Meeting, where the project was explained, discussed, and voted on. In the 50 years she has spent attending hundreds of Planning Commission Meetings, she has never experienced a meeting quite like that one. It was chaotic, rushed, mismanaged, confusing, and lacked clarity. She has never seen Commissioners with so much divergence in their views of a project. Ms. Lewis stated that it is important to have trust in institutions and believe that there is equality under the law. Decisions should be free of pressure or intimidation. There needs to be certainty in the system of government. Ms. Lewis explained that she hopes that the Appeal Panel can bring clarity to the chaos that she witnessed.

Michael Anderson was attending the meeting virtually and stated that he is supportive of the Prince project. He pointed out that years have been spent with the Planning Commission to make sure this is right. Mr. Anderson attended the Planning Commission Meeting on February 14, 2024, and the Commission asked a lot of detailed questions. It felt like a transparent and open process. The Planning Commission ultimately arrived at a decision and he supported that.

Ben Dahl attended the Planning Commission Meeting on February 14, 2024. He stated that the Princes have been collaborative throughout this process and have spent time with neighbors. He has known them for years and appreciated their collaborative relationship in the neighborhood. Mr. Dahl believed the approach to the project has been respectful to the history of Park City. He feels the process the Planning Commission went through was full and complete. The fire turnaround is extremely important on a broad level. Mr. Dahl is supportive of the project and reiterated his belief that the process was complete. He asked that the appeal be rejected.

Lola Beatlebrox stated that she is not here in an official capacity as a member of the Historic Preservation Board. However, she has experience with the history of Park City and is familiar with the LMC. Ms. Beatlebrox referenced the language in 15-13-8 – Regulations for New Residential Infill Construction and Non-Historic Residential Sites in Historic Districts:

- New infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale, proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot.
- The size and mass of a structure shall be compatible with the size of the site so that lot coverage, building bulk, and mass are compatible with Historic Sites within the Streetscape or character area.

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Ms. Beatlebrox stated that this comes down to common sense. The character area is the broader Park City historic area, the district, and the whole of Park City. The entire project needs to be examined as it relates to the impact on the Historic District. Ms. Beatlebrox suggested that the Appeal Panel consider continuing the decision to a date uncertain. There has been a lot heard during the Appeal Panel Meeting so far and all of the information needs to be carefully considered.

David Bennett explained that the way business is done is as important as the decisions that are made. He noted that there has been a lot of contention regarding this case. The filing of nuisance lawsuits and the whole process doesn't feel right. He encouraged the litigants to examine their processes and procedures. The attorneys have done a fine job of presenting their cases. Mr. Bennett encouraged the litigants to focus on healing the community regardless of the outcome.

Patricia Constable reported that she and her husband have lived in Park City for 50 years and have always been in the historic area. This project would cause the eastern sun to glare through their windows and decrease their view. Additionally, it does not fit in with the historic nature of the town. She wants to see the project correspond more with the historic nature of the area.

Matthew Prince informed those present that he grew up in Park City. He appreciates all of the comments that have been made. On some level, this is a complicated issue, because it is difficult to build in the HR-1 Zone. On the other hand, what makes this simple is that this isn't HR-1, but it is actually HR-1-MPD. There was a specific deal made by the Sweeney's when 50 acres of land was given in exchange for the creation of seven special lots. All but one of those lots today has a home on it and all but one of those homes are well over 30 feet tall and well over 3,500 square feet of footprint. Many of them are well in excess of 10,000 square feet of interior footage.

When 220 King Road was purchased, there was a reliance on what is there currently. Mr. Prince pointed out that if what was there now burned down, it would not be possible to rebuild it, which seems unfair. Four years ago, he sat down with the former Planning Director, Gretchen Milliken, and asked what he should do. She suggested not copying the historical guidelines, but gaining inspiration from them. A lot of work was done to find an architect who understood historic mining districts and culture. Mr. Prince stated that the planting that he committed to was intended to make sure the home completely blended in. At the direction of the Planning Commission, over 150 trees will be planted. A lot of work was done to determine how to build something that was inspired by what is here already. While he understands this is not what everyone wants, seven special lots were part of a deal the Sweeneys made to give up 50 acres of land.

Mr. Prince stated that the Planning Commission found good cause. Previously, homes were being used as nightly rentals and were a nuisance to the neighborhood. As for the comments about the newspaper, he stated that it was purchased to keep it alive. He stressed the importance of local news and there being a newspaper in the community. It is a passion project for the family.

Mr. Prince reported that what is being built is shorter than what is there currently. Additionally, he noted that there was an attempt to respond to the concerns of the neighbors. The Planning Commission heard the work that was done to try to fit into the neighborhood and established there was good cause because of that. The firetruck turnaround is expensive to put in, but it is the right thing to do because if that side of the hill catches fire, the area can be protected. Mr. Prince stated that he is not asking for anything that hasn't been done before. He appreciates the work done by Staff and the Planning Commission. He also appreciates the thorough process.

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

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The Appeal Panel took a short break before continuing the appeal discussions.

Chair Strachan stated that the appellant and applicant have an opportunity to respond after the public comment. He asked that the comments be five minutes or less, due to the time.

Mr. Keys clarified the argument that was being made. When both the LMC and MPD address the same topic, the stricter one controls, based on the plain meaning of the MPD terms. The applicant argued in response that in that scenario, the MPD controls. The arguments made during the Appeal Panel Meeting were made using their argument as the assumption. Even under their theory, the structure does not comply, because it does not comply with the MPD. The 1987 amendment to the MPD made clear that the original requirements of the 1985 MPD applied to this lot. There was no question about the height and footprint that applied, nor was there any question that the other requirements of the 1985 MPD applied. The revised Conditions of Approval to the Sweeney MPD dated October 14, 1987, was shared. He read the following language:

- That all conditions of the original Sweeney MPD remain in effect.

Mr. Keys explained that all conditions of the original Sweeney MPD apply and it is not possible to pick and choose. As for the comments shared by the applicant about the HR-1-MPD Zone, there has not been clarity about the difference between the HR-1 Zone and the HR-1-MPD Zone. There has been an argument made that the parking structure is a garage, but it is not a garage, as it is not enclosed. The MPD requires enclosed parking. If the parking is enclosed, then there is no compliance with the footprint requirements that apply in the HR-1 Zone and the MPD.

Mr. Keys stated that there have been many misrepresentations made at the meeting that are referenced in the briefing. The main takeaway is that the language of the plat notes has been played with to achieve additional density. He stressed the importance of considering the precedent this decision will set. The non-conformance of others in the area is not a justification for more non-conformance. Mr. Keys appreciates the work done by the Planning Commission and acknowledged that the Commissioners were under a tremendous amount of pressure. The Planning Commission tried to get it right, but he did not believe that they did. He encouraged the Appeal Panel to go back and listen to the hearings and the justifications made. He was also asked by the Appeal Panel to read the Staff Reports and make sure a fair decision is made.

Mr. Budge did not feel that what was stated by Mr. Keys was accurate. There was no attempt made to vary the rules or to change the standards in a way that is inconsistent with the original approval. The bump out was done so the home could be located in a way that achieved the variation in mass that was anticipated in the plat note first approved by the City Council. Everything was done in the context of existing law and existing MPD. What was done relative to the plat notes is what has been done with respect to the other lots in the MPD. In this particular instance, the MPD contemplated that those site-specific restrictions would be imposed on the property through a plat. He pointed out that this is a very limited area with only seven lots.

Any allegations that an attempt was made to change something or force a decision is not supported by the record. Mr. Budge explained that this has been a four-year process. This particular structure has evolved. It doesn't reflect an effort to force something on the community or within this MPD, but it reflects the input that has been received and considered. He reported

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that there is no special treatment or change of law being sought out. If there was a desire to change the law, a rezone or a text amendment would have been considered. Instead, the processes that were contemplated were considered. The MPD explicitly contemplated that those restrictions will be imposed by plat. The plat itself says the home will be evaluated as a CUP. All of those applications were brought forward. The Planning Commission recognized all the work that was done to listen to the input and ultimately reached the conclusions they did.

Chair Strachan believed the Appeal Panel should start by addressing the standing issue. After that, he thought it would be best to look at the plat amendment, followed by the CUPs, and the easement issue. The Appeal Panel started by discussing standing. Mr. Day was not necessarily ready to say that the State standing law supersedes the Park City standing law. That being said, it is not necessary for the Appeal Panel to make a decision on that. His view is that there was one single appeal, and regardless of the other appellants included or not included in that appeal, the Hermanns have standing for all of the appeal items that were brought forward today.

Mr. Nunez stressed the importance of clarification. If someone has standing, it essentially means that their appeal is valid and it is within the purview of the Appeal Panel to consider. Mr. Day confirmed this. Under State Law, they are adjacent properties and have standing. Under Park City law, they have standing. It is clear that the Hermanns have standing. The question is whether there were two separate appeals. He believed that under Park City law, the additional appellants have standing to appeal those items. Other Appeal Panel Members agreed. Chair Strachan did not see a standing issue based on what has been presented. As a result, the Appeal Panel denied the motion to dismiss for lack of standing, based on the reasons stated.

The plat amendment was discussed next. Chair Strachan stated that this was what he considered most. He listened to the hearing, read the transcript that was submitted, and reviewed the information. This good cause finding has some potential errors. One is that there was no Sensitive Land Overlay determination submitted by Staff to the Planning Commission. It might have been reviewed by the Planning Commission as part of the deliberation on the Plat Amendment and incorporated into the Final Action Letter, but the Sensitive Land Overlay Zone requires that the Staff make that determination first and that the Planning Commission review that determination and make findings. The citation to that Sensitive Land Overlay 15-2.21-3(C) is:

- SENSITIVE LANDS DETERMINATION. The Planning Department shall review the information presented in the Sensitive Lands Analysis, as described in Section 15-2.21-3(A) and Section 15-2.21-3(B), and provide a recommendation to the Planning Commission determining and delineating all Sensitive Lands on the parcel, including Steep Slope Areas, Ridge Lines Areas, Entry Corridors, Wetlands, Stream Corridors, Irrigation Ditches, Wildland and Wildfire Interface Areas, and Critical Wildlife Movement Corridors and Habitat Areas.

Chair Strachan pointed out that some of that was lacking. He has not been able to find a Sensitive Land Overlay determination in the record that the Planning Commission was able to consider and then take Final Action on. Even if he is incorrect about that, a good cause finding to amend a building footprint into the Sensitive Land Overlay is a second layer of trouble. There needs to be good cause to do that, regardless of what the Sensitive Land Overlay determination is. A good cause determination to change a building footprint is easy and happens all the time. However, building footprints are not normally changed and then put into the Sensitive Land Overlay. Many times, building footprints are amended to remove something from the overlay.

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Chair Strachan noted that the Planning Commission decision was split and he did not believe the Final Action Letter addressed that. He asked whether a Sensitive Land Overlay determination was made and presented. Director Ward reported that the Planning Commission reviewed this under the HR-1-MPD lens. Finding of Fact #9 in the CUP acknowledges that City Staff have questioned whether the Sensitive Land Overlay Zone applies to the property. The way the zoning of the Sensitive Land Overlay in the 220 King Road property is, it doesn't fully encompass the property, but it does encompass a portion of the property. Staff recommended that the applicant comply with the Sensitive Land Overlay requirements that are cited in 15-2.21-4.

The CUP Finding of Fact #9 was ratified by the Planning Commission. The Commission found that after carefully considering the Staff concerns and supporting documentation submitted by the applicant, the Sensitive Land Overlay does not apply to the property. Director Ward stated that the zoning ordinance that established the zoning for 220 King Road was enacted in 1990 and that the zoning designation was the HR-1-MPD. The Sensitive Land Overlay was enacted in 1992. The applicant presented material to the Planning Commission regarding the interpretation of the Sensitive Land Overlay and how it would apply to the Treasure Hill Subdivision and Sweeney MPD properties. Director Ward explained that the proposed plat amendment is to reallocate square footage from the eastern side and shift that to the western side, in what is now the overlay.

Chair Strachan noted that if this was the pre-February 2024 plat, there would not be a Sensitive Land Overlay issue. That is the finding that he believed was erred on. When the building footprint was moved into the Sensitive Land Overlay and no proper analysis was done for that, that was in his view, an error. Mr. Day believed the argument is that the Sensitive Land Overlay doesn't apply to the lot at all, because it was put in place later. This could be a vested rights issue. Chair Strachan pointed out that they have a vested right to what is on the pre-amended plat. Moving into a zone that doesn't allow them to develop doesn't make sense. Mr. Nunez wondered whether Chair Strachan believed the Planning Commission erred in the determination due to the assumption that the Sensitive Land Overlay didn't apply to the applicant's plans. Chair Strachan confirmed this and noted that the footprint was moved into the Sensitive Land Overlay without an analysis that looked into the impacts. Discussions were had about the process timeline.

Chair Strachan stated that the Sensitive Land Overlay Zone has a prohibition on development on very steep slopes, which are defined as 50 degrees and over. There was no determination made as to what the slopes were, how steep they were, whether there was significant vegetation, and what the impacts of building the accessory structure inside that overlay would be. He did not believe the Planning Commission checked off this box and that is something to consider.

Mr. Day explained that all of those comments presuppose that the Sensitive Land Overlay applies to the subject property. Chair Strachan stated that it applies to a portion of the property. Mr. Budge explained that if anyone were to produce a map showing that it actually was in the Sensitive Land Overlay, then the steep slope analysis done, including the geotechnical information submitted, would satisfy those requirements. No one has produced a map showing that they are in the Sensitive Land Overlay. The map in the record shows the boundary is uphill from the lot.

Mr. Day asked if there are rules about being within a certain distance of a steep slope. Mr. Budge confirmed that there is a setback for steep slopes. The Sensitive Land Overlay is uphill from the lot line. Since the steep slope analysis was done and coupled with the geotechnical work, any criteria for evaluating and developing in a Sensitive Land Overlay were satisfied. Furthermore, the Planning Commission explicitly adopted the findings that Director Ward mentioned. Mr.

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Budge believed Chair Strachan is referring to the set of criteria for platting lots in the Sensitive Land Overlay. That set of criteria wasn't evaluated, because this lot was in existence before the Sensitive Land Overlay even bordered this particular lot.

Attorney Godfrey recalled that there was a dispute between Staff and the applicant about whether the Sensitive Land Overlay applied. He shared a map of the area and pointed out that it clearly cut through the property. Mr. Budge referenced the LMC language on the Sensitive Land Overlay. It says it is the intent of the Sensitive Land Overlay not to bisect properties and it will only be allowed to bisect properties if there was intention reflected in the adoption of the map, showing it was intended to bisect a property. He has not seen a map that shows that it clearly comes onto the subject property, nor has anyone produced information showing that the Council in adopting any version of the Sensitive Land Overlay map intended to bisect the property. From a legal perspective, Mr. Budge stated that the Sensitive Land Overlay is not applicable to this lot.

Those present reviewed a map of the area and discussed the location of the Sensitive Land Overlay. Chair Strachan asked where the official zoning map placed the Sensitive Land Overlay. Mr. Budge stated that the graphical representation of the line cannot be read in isolation, because the code states that it is not intended to bisect properties unless intent is reflected. He reported that this is in LMC 15-1-6. He has not seen any evidence that there was any intent to bisect. Mr. Budge explained that the Sensitive Land Overlay does not prevent development, but it requires consideration of certain items. All of those items were considered in connection with the steep slope analysis and geotechnical work. There was a lot of care put into this matter. Chair Strachan pointed out that as it stands, the applicant could demolish the existing structure and build a new one without disturbing the Sensitive Land Overlay in any way. Mr. Budge confirmed this.

Mr. Nunez wondered whether the Sensitive Land Overlay Zone was disclosed or discussed during the Planning Commission Meeting. Chair Strachan reported that Commissioner Johnson bought up the matter. Mr. Nunez asked whether the appellant provided something that says the Sensitive Land Overlay is encroached on or it wasn't properly addressed. Mr. Keys explained that Commissioner Johnson quoted the letter that he sent to the Planning Commission. That was referred to in the appeal documents as well. It was noted that Commissioner Johnson voted for the plat amendment, but was not supportive of the Steep Slope CUP. Mr. Day wanted clarification about whether the footprint of the property goes over the Sensitive Land Overlay. Mr. Budge does not believe that under the maps and statute, it comes onto the property.

Mr. Keys referenced the last paragraph of Page 6 of the appeal letter, which stated:

- Finally, the approval of the Steep Slope CUP violates the Sensitive Land Overlay Zone regulations. The applicant is shifting the building envelope into the very steep slope of the Sensitive Land Overlay. Park City's Land Management Code has strict requirements for development in a Sensitive Land Overlay Zone. An applicant is required to provide a sensitive lands analysis that is then reviewed by Staff, who is to issue a sensitive lands determination. Here, no analysis has been provided and no affirmative determination made. Where steep slopes are involved, an applicant must also prove that the development will have no significant adverse impact on adjacent properties. The Planning Commission can only determine that the steep slope requirements are met if:
    - The applicant proves the density is compatible with that of adjacent properties;
    - The architectural detail, height, building materials, and other design features of the development are compatible with the adjacent properties;

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- The applicant has set up appropriate mitigation measures, such as landscaping, screening, illumination standards, and other design features to buffer the adjacent properties from the developed land.

Mr. Keys explained that Staff has to make this analysis because that is what the code requires. He believed that is what Chair Strachan is saying as well. It is a formal determination under the code that Staff has to make based on information provided by the applicant. The applicant argued that Staff didn't need to make that determination. As a fallback, the applicant stated that the Planning Commission made the determination in the Findings of Facts and Conclusions of Law. However, he noted that this is not what the code contemplates. Mr. Budge stated that he doesn't have control over what Staff does, but that the necessary materials were provided. Mr. Day believed everything that would be in an analysis was in the record already. Mr. Keys pointed out that the error was in the fact that Staff did not perform the analysis, as stated in Code.

Director Ward called attention to the February 14, 2024, Staff Report that was prepared for the Planning Commission. Page 32 of that report outlines the Sweeney MPD approval prior to the adoption of the Sensitive Land Overlay as well as the purpose behind the Sensitive Land Overlay. In September 1995, the City Council adopted Ordinance 95-50, approving the Treasure Hill Subdivision. There was information about the allocation of the building area limits. The platted area limits do not encroach into the Sensitive Land Overlay. However, the applicant requested an amendment to the building area limits, shifting a portion into the Sensitive Land Overlay. There was an analysis outlined in the January 24, 2024, Staff Report of what the requirements are for the very steep slopes. That analysis was incorporated into the February 14, 2024, Staff Report.

What was presented to the Planning Commission and what was addressed in the February Staff Report is a September 1992 letter from the City Attorney regarding the status of the Sweeney MPD and the Sensitive Land Overlay. The question was whether the Sensitive Land Overlay Zone will apply to the Treasure Hill portion. The City Attorney concluded that it applies to the property if there is a change in concept, unit type, configuration, or number, and the Planning Commission reviews the entire Sweeney MPD. The conclusion of that letter was that the Sensitive Land Ordinance was being adopted in the form of an overlay zone and would not by itself impact the approved Sweeney MPD. Unless the MPD was amended, it would not be triggered. There was an informal analysis outlining the code requirements in the Staff Report.

Chair Strachan pointed out that there was no analysis done to look at the impacts. He agreed that the issue has been addressed, but did not think the analysis gave the Planning Commission the evidence needed. The impacts haven't been identified. The purpose of having a sensitive lands determination is so Staff can look at the impacts and analyze them with their professional background to determine whether those impacts have been mitigated appropriately. The Planning Commission cannot make that kind of determination without the assistance of Staff. That is the reason there is language requiring a formal determination.

Attorney Godfrey stated that the Appeal Panel is entitled to receive his advice outside of the session. Chair Strachan suggested that other issues on the plat amendment be discussed aside from the Sensitive Land Overlay issue. After that, the Appeal Panel can convene with Attorney Godfrey privately. If there is no good cause for the plat amendment, the CUPs are secondary to that. He asked if there are any other discussion items related to the good cause finding for the plat amendment. Mr. Day thought the Planning Commission applied the LMC and Sweeney MPD appropriately as it relates to the plat amendment. Mr. Nunez stated that he is inclined to agree.

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There was a break in the meeting while Attorney Godfrey spoke to the Appeal Panel.

Chair Strachan explained that after deliberations with counsel, there is a desire to make a motion. There can be deliberations if the motion garners a second. After the discussion will be a vote. Chair Strachan made a motion to remand to the Planning Commission the Sensitive Land Overlay issue so Staff has the opportunity to follow the Sensitive Land Overlay code and specifically provide the determination in 15-2.21-3(C) and determine whether the accessory structure in the amended plat has impacts, and if so, whether or not they are mitigated. Matthew Day seconded the motion. Chair Strachan explained that there will now be discussion on the motion.

Chair Strachan believed the Planning Commission has done a good job overall, but believed they missed the Sensitive Land Overlay issue. There is disputed evidence in the record about where the Sensitive Land Overlay line is and whether it can even bisect a lot like this. The Planning Commission needs to consider all of the impacts. He explained that he does not like remanding something back to the Planning Commission, but that is the error that he found through this process. Mr. Day agreed. He noted that this is a difficult situation because he can understand the arguments made, but neither party has provided an appropriate map or reason for the line running through the property. Since this relates to safety, he is supportive of sending the matter back to the Planning Commission for only this specific issue. It is necessary to double-check this, as it is a safety issue. Mr. Nunez appreciates all of the time and effort that has been put into this process. He tends to agree with what has been presented by the applicant during this meeting, that if the Sensitive Land Overlay did apply, that should've already been addressed. He pointed out that when there is ambiguity, the ruling is normally in favor of the property owner.

Attorney Godfrey asked the Appeal Panel to clarify their positions on the other issues that were raised during the meeting. For instance, if the Appeal Panel wants to remand only this specific Chair Strachan didn't find an error in the Planning Commission's analysis of the CUP for the pool and dwelling or in the Steep Slope CUP. If the Appeal Panel remands the matter, those are not part of the scope of the remand. To clarify, those items would not be included in the motion language. Attorney Godfrey asked whether the appeal is being denied for those issues and the Appeal Panel is remanding solely the Sensitive Land Overlay issue as it relates to the plat amendment. Chair Strachan confirmed this. He also noted that the motion would not encompass the issue related to the easement for the driveway.

Chair Strachan informed Staff that he is troubled by the use of plat notes to essentially achieve a legislative change in the LMC. It is not the way the code should be structured or carried out. Plat notes are not intended to be used for that purpose. He cautioned the Planning Commission from making legislative determinations in the context of a plat note in this way moving forward.

Attorney Harrington wanted to be clear about the scope of the remand to the Planning Commission. With the Sensitive Land Overlay, he wondered whether there should be more briefing on the boundary dispute and a follow-up on the 1992 letter as well as an analysis. Chair Strachan outlined the questions that he has and believes still need to be addressed:

- Whether the Sensitive Land Overlay can even apply to the lot.
- If it does apply, can the amended plat footprint breach it?
- If it can, what are the impacts of that and how are they mitigated?

PENDING APPROVAL

MOTION: Adam Strachan moved to REMAND to the Planning Commission the Sensitive Land Overlay issue so Staff has the opportunity to follow the Sensitive Land Overlay code and specifically provide the determination in 15-2.21-3(C) and determine whether the accessory structure in the amended plat has impacts, and if so, whether or not they are mitigated. Matthew Day seconded the motion.

VOTE: Adam Strachan-Aye; Matthew Day-Aye; Esteban Nunez-Nay. The motion passed of 2-to-1.

6. ADJOURNMENT

MOTION: Adam Strachan moved to adjourn.

The meeting adjourned at approximately 11:23 p.m.

PENDING APPROVAL

220 KING ROAD APPEAL

SUMMARY

Existing:

- 1.23-acre lot
- 4,235-square-foot single-family dwelling (1998)
- 4,189-square-foot guest house (2000)
- Lot 2 Treasure Hill Subdivision Phase 1, First Amended
- Sweeney Master Planned Development
- Historic Residential – 1
- Partially in the Sensitive Land Overlay

Proposal:

- Demolish existing single-family dwelling & guest house
- Construct new single-family dwelling, accessory building, outdoor pool, and underground parking area

PENDING APPROVAL

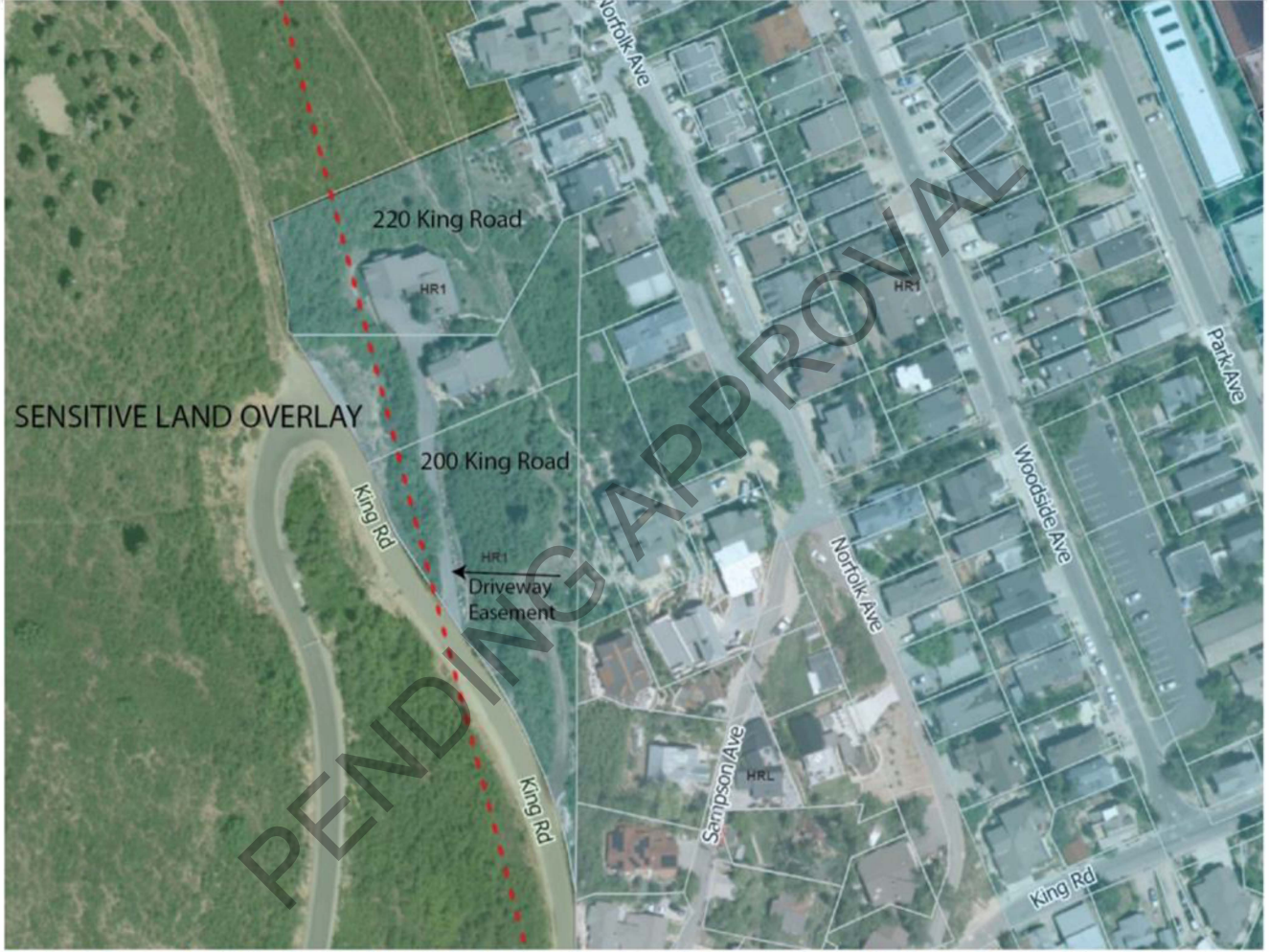


Figure 1 Excerpt from the Zoning Map with the Sensitive Land Overlay indicated by the red dashed line. Property to the left of the dashed line is in the Sensitive Land Overlay and property to the right is outside of the Sensitive Land Overlay.

SUMMARY

Review:

- Conditional Use Permit (CUP), single-family dwelling
- Plat Amendment
- Conditional Use Permit, outdoor pool
- Steep Slope Conditional Use Permit

Appeal Panel:

Determine the correctness of the Planning Commission's interpretation and application of the plain meaning of the land use regulations and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

PENDING APPROVAL

APPEAL

The Appellant argues:

Planning Commission erred in their approval because two eight-foot concrete retaining walls are proposed to be constructed within a platted driveway access easement for the benefit of 220 King Road and on very steep slopes within the Sensitive Land Overlay (SLO).

- No City approval may modify underlying property ownership or easement rights
- The driveway easement is not within the SLO
- No further analysis is required for construction within platted elements
- Updated plans submitted for ratification of approval on 2.21.2024

PENDING APPROVAL

APPEAL

The Appellant argues:

The Planning Commission's decision relied on the incorrect assertion by the Applicant that only the restrictions in the Master Planned Development (MPD) and Subdivision Plat, rather than the Land Management Code (LMC), apply to this property.

- Plat Amendment and CUP approval is subject to the LMC, the Sweeney MPD, and the Treasure Hill Subdivision

PENDING APPROVAL

APPEAL

The Appellant argues:

The proposed structure does not meet the express requirements of the LMC as expressly required by the MPD and the Restrictive Covenants.

- 1980 MPD process established Planning Commission authority to grant variations in height.
- Sweeney MPD and Treasure Hill Plat Notes established a review process for the lots in the subdivision.
- MPD requires review for compliance with adopted codes and ordinances in effect at the time, in addition to compliance with the Master Plan

PENDING APPROVAL

APPEAL

The Appellant argues:

The Planning Commission did not review restrictive covenants for the property.

- LMC § 15-1-3 – The City does not enforce private restrictive covenants, nor shall any such covenant have the effect of modifying the regulations herein
- Planning Commission review is through the lens of applying the LMC to the application

PENDING APPROVAL

220 King Road Appeal

Applicant will address standing (10 mins).

Appellant will rebut (10 mins).

Appeal Panel determines standing.

Appellant will present appeal (15 mins).

Applicant will rebut (15 mins).

Staff will present the Planning Commission decision (15 mins).

Public Hearing (comments limited to three minutes).

Appellant may respond (5 mins).

Applicant may respond (5 mins).

Appeal Panel deliberation and potential Final Action.

PENDING APPROVAL

220 King Road Appeal

1985 Sweeney Master Planned Development

Findings of Fact:

3. The open space preserved and conceptual site planning attributes resulting from the cluster approach to the development of the hillside is sufficient justification for the requested height variation necessary, and that the review criteria outlined in Section 10.9 (e) have been duly considered.

10. The site planning standards as set forth in Section 10.9(g) of the Land Management Code have either been satisfied at this stage of review or practical solutions can be reasonably achieved at the time of conditional use review/approval.

PENDING APPROVAL

220 King Road Appeal

1985 Sweeney Master Planned Development

Conditions of Approval:

1. The Sweeney Properties Master Plan is approved based upon the information and analysis prepared and made a part hereof. While most of the requirements imposed will not be imposed until individual parcels are created or submitted for conditional use approval, certain specific obligations are also identified on the approved phasing plan. At the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan.

PENDING APPROVAL

220 King Road Appeal

1985 Sweeney Master Planned Development

Conditions of Approval:

2. Upon final approval of the proposed Master Plan, a recordable document (in accordance with the Land Management Code) shall be prepared and submitted. The Official Zone Map will be amended to clearly identify those properties included within the Master Plan, and the hillside property not included within either the Town Life Mid-Station or Creole Gulch sites (approximately 110 acres) shall be rezoned to Recreation Open Space. At the time of conditional use review, final building configurations and heights will be reviewed in accordance with the approved Master Plan, applicable zoning codes and related ordinances. A minimum of 70% open space shall be provided within each of the development parcels created except for the Coalition properties.

PENDING APPROVAL

220 King Road Appeal

1990 Sweeney Master Planned Development Zoning

Recorded at the request of and return
to: Park City Municipal Corp.
P. O. Box 1480, Park City, UT 84060
ATTN: CITY RECORDER

Ordinance No. 90-24

RED NOTE ___ AB 2/7 C

335573

Park City Municipal Corp

91 JAN 18 AM 9:49

ALAN SPRIGGS
SUMMIT COUNTY RECORDER

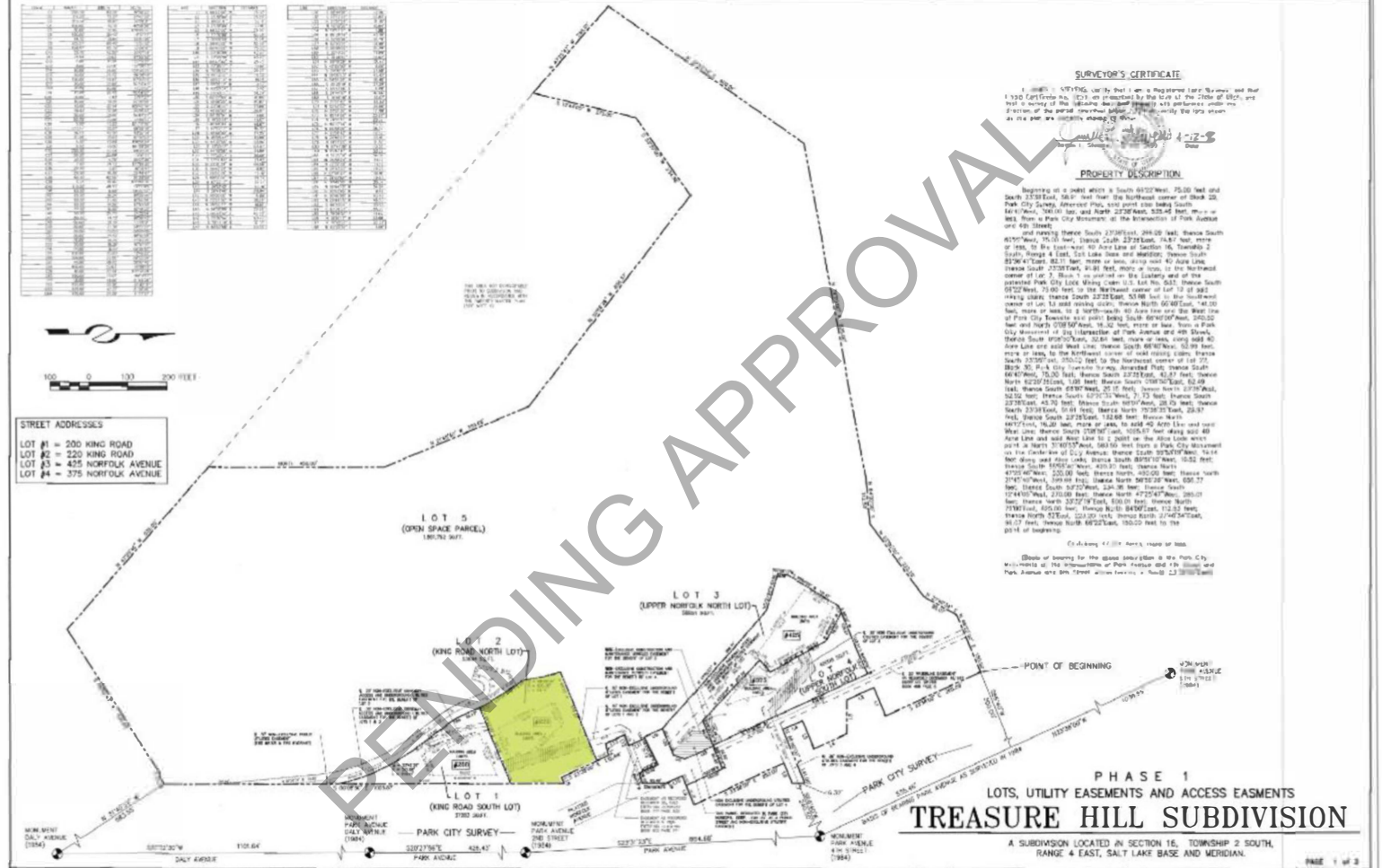
DG. NC

Fee Exempt per Utah Code Annotated 1953 21-7-2

RECORDED

PENDING APPROVAL

An Ordinance zoning portions of the Historic District; specifically 109 acres of hillside on ~~Treasure~~ Mountain from Estate to Recreation Open Space and several development parcels, specifically; two Fifth Street single family lots from HR1 to HR1-MPD; and two upper Norfolk (approximately 400 Upper Norfolk) single family lots from HR1 to HR1-MPD; and two King Road (approximately 200 King Road) single family lots from HR1 to HR1-MPD; and one Lower Norfolk Avenue (approximately 700 Lower Norfolk) single family lot from HR1 to HR1-MPD; and a 3.75 acre condominium/commercial lot at the Town Lift Midstation from HR1 to Estate-MPD; and a 7.75 acre hotel/condo/commercial lot at the Creole Gulch site from Estate to Estate-MPD; and a .543 acre hotel/condo/commercial lot at the Coalition West Site at approximately 775 Park Avenue from HRC to HRC-MPD and from HR-1 to HR-1-MPD; and a 1.57 acre hotel/condo/commercial site at approximately 770 Park Avenue from HRC to HCB-MPD; and amending the Official Zoning Map of Park City, Utah



PHASE 1

LOTS, UTILITY EASEMENTS AND ACCESS EASEMENTS

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

PAGE 1 of 3

SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT	PLANNING COMMISSION	ENGINEERS CERTIFICATE	APPROVAL AS TO FORM	CERTIFICATE OF ATTEST	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS 12TH DAY OF April 1996 A.D. BY S.B.S.I.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 15TH DAY OF March 1996 A.D. CHAIRMAN	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 2ND DAY OF APRIL 1996 A.D. PARK CITY ENGINEER	APPROVED AS TO FORM THIS 15TH DAY OF March 1996 A.D. PARK CITY ATTORNEY	I CERTIFY THAT RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 9TH DAY OF SEPTEMBER A.D. 1996 BY Linda L. Sheldon PARK CITY RECORDER	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 9TH DAY OF SEPTEMBER 1996 A.D. MAYOR	Entry # 452275 RECORDED STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF Corporation Title Co. DATE 9-10-96 TIME 12:00 BOOK PAGE 9:00 FEE RECORDER

PENDING APPROVAL

220 King Road Appeal

Treasure Hill Subdivision – September 7, 1995

Ordinance No. 95-50

AN ORDINANCE APPROVING THE FINAL PLAT OF TREASURE HILL SUBDIVISION LOCATED AT 200 AND 220 KING ROAD AND 375 AND 425 NORFOLK AVENUE, PARK CITY, UTAH

WHEREAS, the owners of the property indicated above, MPE Inc., petitioned the City Council for approval of the final plat; and

WHEREAS, proper notice was sent and the Planning Commission held a public hearing on August 30, 1995 and the City Council conducted a public hearing on September 7, 1995 to receive testimony on the proposed plat amendment; and

WHEREAS, on August 30, 1995 the Planning Commission forwarded a positive recommendation of approval to the City Council, with conditions regarding building size, public utility, fire protection, trails, the Infrastructure Review Ordinance, and setbacks; and

WHEREAS, it is in the best interest of Park City, Utah to approve the amended plat;

PENDING APPROVAL

220 King Road Appeal

Treasure Hill Subdivision – September 7, 1995

PENDING APPROVAL

SECTION 2. PLAT APPROVAL. The Treasure Hill Subdivision is approved as shown on Attachment A with the following conditions:

1. All original conditions of approval for the Preliminary Plat shall apply (Exhibit B).

2. Prior to final plat recordation, the Community Development Department shall review and approve notes on the plat addressing limits of disturbance, building footprint, building area limits, building height, and massing.

220 King Road Appeal

Treasure Hill Subdivision Plat Notes

9. PRECEDENCE. The above special restrictions are consistent with the Sweeney Master Plan approved by the Park City Municipal Corporation on October 16, 1986 and as subsequently amended on October 14, 1987 and December 30, 1992. Final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan.

PENDING APPROVAL

220 King Road Appeal

Treasure Hill Subdivision Plat Notes

PENDING APPROVAL

1. FOOTPRINT. The maximum footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3500) square feet including garages. The following shall not count towards the foot print calculations:

   (a) Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
   (b) Exterior walkways;
   (c) Exterior stairs;
   (d) Driveways.

220 King Road Appeal

Treasure Hill Subdivision Plat Notes

4. HEIGHT. The building height shall be measured from existing grade to the top of flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators, between floor levels.

PENDING APPROVAL

220 King Road Appeal

Treasure Hill Subdivision Plat Notes

6. MASSING. House designs may be comprised of one or more connected or unconnected building masses. No one building mass within the 3500 square foot footprint referenced in Note 1 above, shall have a footprint that exceeds 1,500 square feet. Massing elements shall be separated by horizontal and/or vertical facade breaks.

PENDING APPROVAL

220 King Road Appeal

The Planning Commission excluded the unenclosed underground parking area from the Single-Family Dwelling Building Footprint.

This is aligned with approvals for Single-Family Dwellings in the Treasure Hill Subdivision and Sweeney Master Planned Development.

On June 25, 1998, the City issued Building Permit BD-97-02851 for a shared entry tunnel to access Lots 3 and 4.

On June 29, 2004, the City issued a Building Permit BD03-08481 for a shared tunnel to access Lots 6 and 7 from Woodside Avenue.

PENDING APPROVAL

220 King Road Appeal

The Planning Commission found:

220 King Road is notably larger than most of the other buildable lots in the Sweeney MPD and the ratio of lot size to the residence is significantly smaller than neighboring residences.

The residence will be adequately setback and buffered from the surrounding properties.

PENDING APPROVAL

220 King Road Appeal

The Planning Commission found:

The residence is designed to break up the perceived mass and follows the plat notes breaking up the structure into at least four massing elements that are each less than 1,500 square feet with an overall footprint of less than 3,500 square feet.

The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining walls will be located behind the residence to minimize visible impact on neighboring uses.

PENDING APPROVAL

220 King Road Appeal

The Appeal Panel may:

Affirm the Planning Commission's approval.

Reverse the Planning Commission's approval.

Affirm or reverse in part the Planning Commission's approval and remand the matter to the Planning Commission.

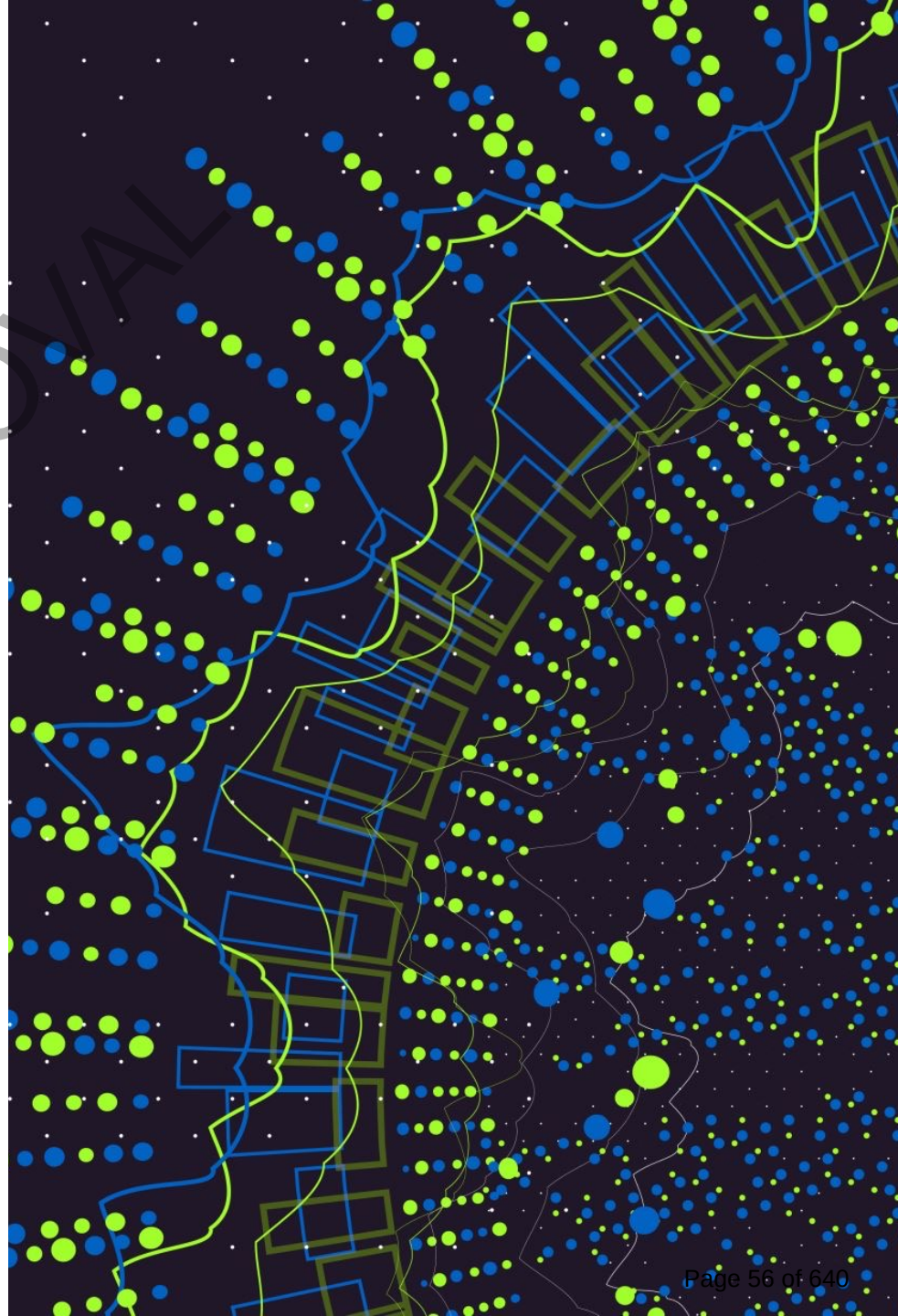
Request additional information and continue to a date certain.

PENDING APPROVAL

220 King Appeal

PARK CITY APPEAL PANEL

APRIL 30, 2024



PENDING APPROVAL

APPEAL ILLUSTRATIONS
220 KING

MARSAC OVERLAY

Sweeney MPD Treasure Hill Lots

For reference, other Single Family Lots in the Sweeney MPD include:

Address	Parcel No.	Lot Area (acres)	Building Area Limits (SF)	Approximate House Size [2] (SF)	Zoning District
200 King Road	THILL-1	0.86	12,700	NA	HR-1
220 King Road	**THILL-2-AM**	**1.23**	**11,250**	**~6,000 (existing) ~16,000 (proposed)**	**HR-1**
425 Norfolk Ave	THILL-3-AM	1.31	17,000	~3,300	HR-1
375 Norfolk Ave	THILL-4-AM	1.1	7,500	~9,600	HR-1
503 ½ Woodside Ave	THILL-II-6	0.79	7,650	~8,000	HR-1
503 Woodside Ave	THILL-II-7	0.92	7,500	~8,000	HR-1
445 King Road	THILL-3-8-1AM	11.9	29,084	~5,600	Estate

*THILL-5-X is a 42.74 acre Lot that was dedicated to Park City Municipal as Open Space.

PENDING APPROVAL

APPEAL STANDARD:

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review **factual matters de novo**, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority **shall determine the correctness of the land use authority's interpretation** and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below; rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

PENDING APPROVAL

Sweeney MPD – Basic Conditions

III. DEVELOPMENT PARAMETERS and CONDITIONS

The staff's recommendation that the Sweeney Properties Large Scale Master Planned Development be approved by the Planning Commission, and subsequently by the City Council, is predicated upon the following terms and conditions. Upon approval, MPE Inc./Sweeney Land Company, its successors or assignees, shall become bound by and obligated for the performance of the following:

1. The Sweeney Properties Master Plan is approved based upon the information and analysis prepared and made a part hereof. While most of the requirements imposed will not be imposed until individual parcels are created or submitted for conditional use approval, certain specific obligations are also identified on the approved phasing plan. At the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan.

PENDING APPROVAL

The Proposed Structure does not Comply with the External Buildings Height Requirements of the Sweeney MPD

5. Building heights shall be limited to the maximum envelope described on the Restrictions and Requirements Exhibit. At the time of conditional use approval, projects shall be reviewed for conformance with the heights prescribed thereon, and the following:

(a) The various parcels located within the Historic Residential (HR-1) zone district shall abide by the Land Management Code and no height exceptions will be considered. Maximum building height on the single

3

family lots shall be limited to 25' in order to reduce potential visibility.

PENDING APPROVAL

1987 Revised Conditions of Approval to the Sweeney MPD

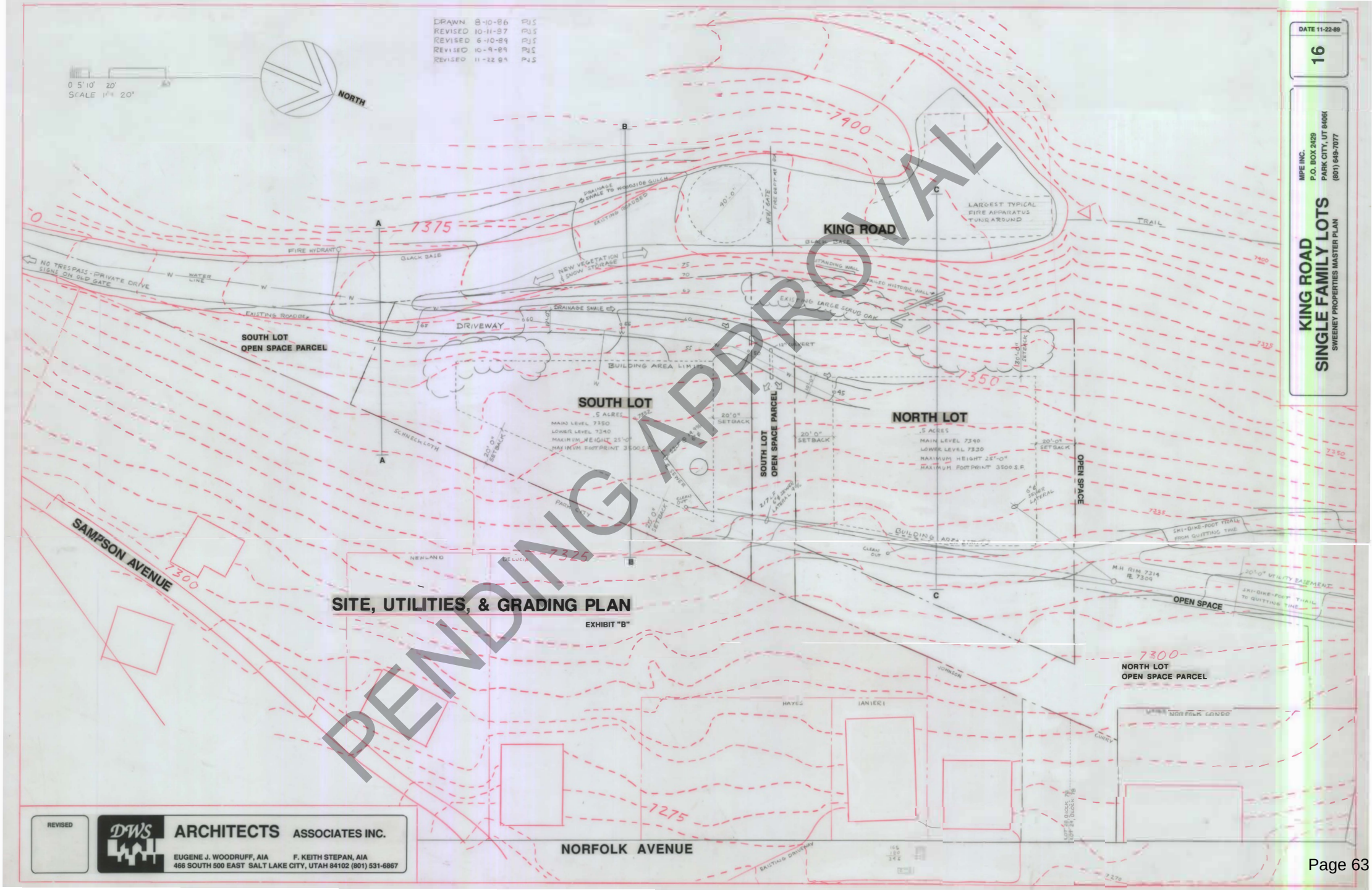
Staff recommends approval of the proposed revision in the Sweeney MPD based upon the following findings:

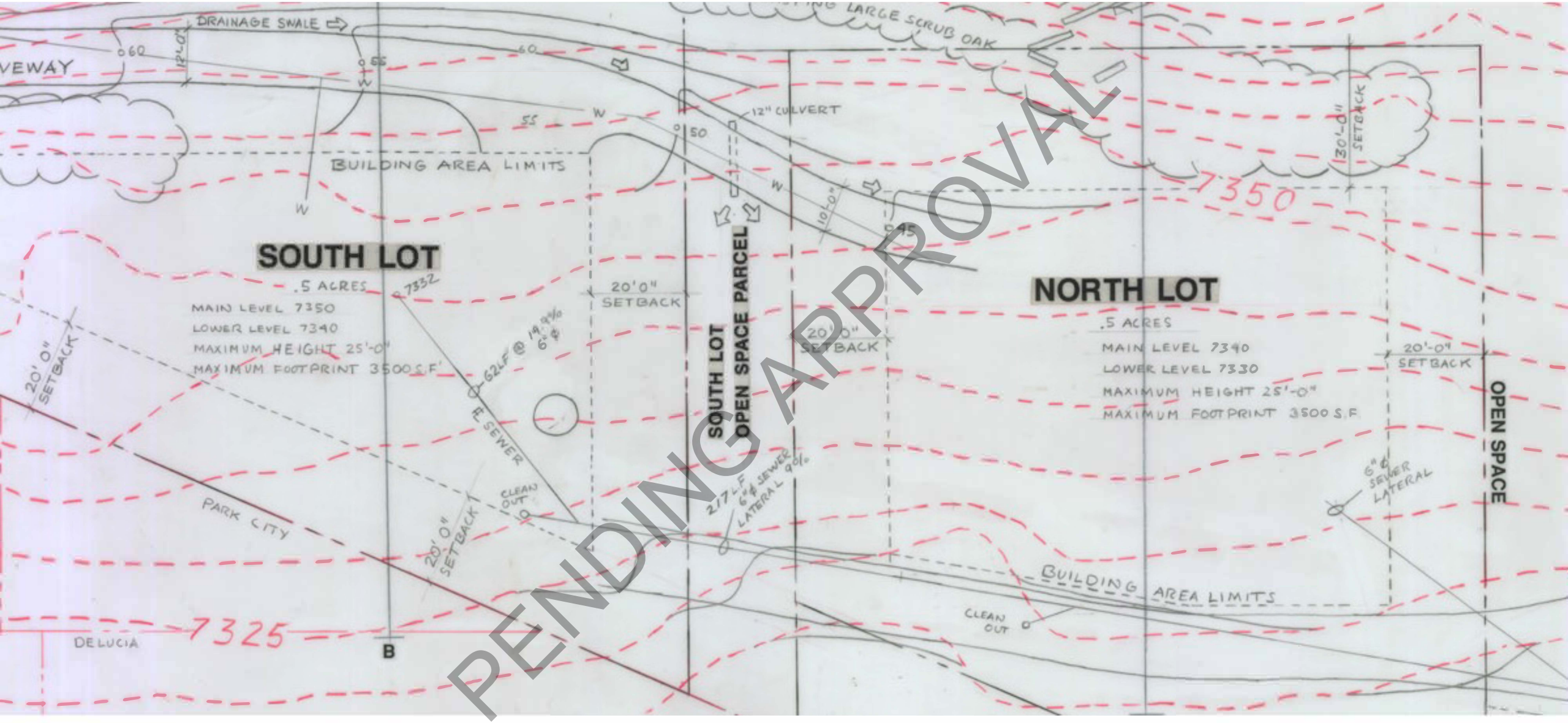
1. The modification to the Sweeney MPD is minor and does not result in increased height in any of the development parcels.

b. Relocating 2 unit equivalents from the Sheen parcel and 2 from the MPE parcel. Two of these units would be relocated off the King Road, one off of Upper Norfolk, and one off of 5th Street.

The Planning Commission and Staff shall review these proposals as conditional uses. This shall include review of the design of the structures to insure that they are designed to minimize visual impact. The design shall be consistent with the Historic District Guidelines.

PENDING APPROVAL


DRAWN 8-10-86 PJS
REVISED 10-11-87 PJS
REVISED 6-10-89 PJS
REVISED 10-9-89 PJS
REVISED 11-22-89 PJS
SCALE 1" = 20'
NORTH
DATE 11-22-89
16
KING ROAD
SINGLE FAMILY LOTS
SWEENEY PROPERTIES MASTER PLAN
MPE INC.
P.O. BOX 2429
PARK CITY, UT 84061
(801) 649-7077
KING ROAD
LARGEST TYPICAL FIRE APPARATUS TURNAROUND
TRAIL
FIRE HYDRANT
NO TRESPASS - PRIVATE DRIVE SIGNS ON OLD GATE
EXISTING ROADBED
DRIVEWAY
DRAINAGE SWALE TO WOODSIDE GULCH
NEW VEGETATION & SNOW STORAGE
EXISTING LARGE SCRUB OAK
BUILDING AREA LIMITS
SOUTH LOT
OPEN SPACE PARCEL
SOUTH LOT
.5 ACRES
MAIN LEVEL 7350
LOWER LEVEL 7340
MAXIMUM HEIGHT 25'-0"
MAXIMUM FOOTPRINT 3500 S.F.
NORTH LOT
.5 ACRES
MAIN LEVEL 7340
LOWER LEVEL 7330
MAXIMUM HEIGHT 25'-0"
MAXIMUM FOOTPRINT 3500 S.F.
20'-0" SETBACK
OPEN SPACE
SKI-BIKE-FOOT TRAIL FROM QUITTING TIME
SCHNEEKLOTH
SAMPSON AVENUE
NEWLAND
DELUCIA
HAYES
JANIERI
JOHNSON
NORFOLK AVENUE
NORTH LOT
OPEN SPACE PARCEL
7400
7375
7350
7325
7300
7275
SITE, UTILITIES, & GRADING PLAN
EXHIBIT "B"
PENDING APPROVAL
REVISED
DWS ARCHITECTS ASSOCIATES INC.
EUGENE J. WOODRUFF, AIA F. KEITH STEPAN, AIA
466 SOUTH 500 EAST SALT LAKE CITY, UTAH 84102 (801) 531-6867



PENDING APPROVAL

Current LMC Height Requirements:

15-2.2-5 Building Height

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirements must be met:

A. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

B. A ten foot (10') minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish Grade on all sides of the Structure. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

PENDING APPROVAL

Although the exterior Building Height complies with existing Plat Notes, Planning staff is concerned that the interior Building Height does not comply with LMC § 15-2.2-5(A), which limits interior height to a total of 35 feet in the HR-1 Zoning District. The Planning Department calculates the interior Building Height at 53.5 feet, an excess of 18.5 feet. As a result, we seek Planning Commission clarification after discussing directly with the Applicant.

Neither the 1985 nor the current version of the LMC allow the height exception the Planning Commission Granted.

In the Appeal Panel Staff Report, the City justifies the excess height under the LMC MPD height exceptions provisions: “The 1980s MPD process established Planning Commission authority to grant variations in height requirements, allowing an increase in height up to 25% of the maximum building height (Attachment 6). Today’s MPD code grants the Planning Commission similar authority (see LMC Section 15-6-5(F)).”

But at page 32 of the February 14, 2024 Staff Report, Staff concluded:

> On January 24, 2024, the Planning Commission confirmed no amendment to the Sweeney MPD or rezone is necessary. As a result, staff recommends addressing the Sensitive Land Overlay site mitigation pursuant to the Steep Slope Conditional Use Permit application as outlined in recommended Conditions of Approval outlined in the next section.

PENDING APPROVAL

1985 LMC – Variation in Height Requirements

(e) Variations in Height Requirements. The height requirements of Section 7 shall apply to Master Planned Developments, except that after review by the Planning Commission, the Commission may approve, disapprove, or approve with modifications a request for an increase in the allowable height of some or all of the buildings in the development by up to 25% of the maximum building height established for that zone in Chapter 7 of this Code (not including those adjustments permissible under Section 8.17) after due consideration of the following site specific review standards, in addition to the other standards established for Master Planned Developments by this Chapter. If the

11. Height variations shall not be permitted in the HR-1, RM, R-1, and HRL zones.

PENDING APPROVAL

Current LMC – 15-6-5(F.) Master Planned Development Requirements

1. **BUILDING HEIGHT**. The Building Height requirements of the Zoning District in which a Master Planned Development is located shall apply, except that the Planning Commission may consider an increase in Building Height based upon a Site specific analysis. Height exceptions will not be granted for Master Planned Developments within the HR-1, HR-2, HRC, and HCB Zoning Districts. The Applicant must request a Site-specific determination and shall bear the burden of proof to the Planning Commission that the necessary findings for an increase in Building Height can be made, according to Subsections (1) through (5) below. In order to grant Building Height in addition to that which is allowed in the underlying Zoning District, the Planning Commission must find that:
    1. The increase in Building Height does not result in increased square footage or Building volume over what would be allowed under the zone-required Building Height and Density, including requirements for Facade variation and design, but rather provides desired architectural variation, unless the increased square footage or Building volume is from the Transfer of Development Credits;
    2. Buildings have been positioned to minimize visual impacts on adjacent Structures. Potential problems on neighboring Properties caused by shadows, loss of solar Access, and loss of air circulation have been mitigated as determined by the Site specific analysis;
    3. There is adequate Landscaping and buffering from adjacent Properties and Uses;
    4. Increased Setbacks and separations from adjacent projects are proposed;
    5. The additional Building Height results in more than the minimum Open Space required and results in Open Space that is publicly accessible;
    6. The additional Building Height is designed in a manner that provides a transition in roof elements in compliance with Chapter 15-5, Architectural Review, or the Design Guidelines for Park City's Historic Districts and Historic Sites if the Building is located within the Historic District.
    If and when the Planning Commission grants additional Building Height based on a Site specific analysis, the approved additional Building Height shall only apply to the specific plans reviewed and approved by the Planning Commission. Additional Building Height shall be specified as a Finding of Fact in the Master Planned Development Approval, in the Development Agreement, and on each plat within the Master Planned Development that includes a Building with an additional Height allowance.

PENDING APPROVAL

Plat Notes are inconsistent with the Sweeney MPD and the LMC

54. HEIGHT. THE BUILDING HEIGHT SHALL BE MEASURED FROM EXISTING GRADE TO THE TOP OF THE FLAT ROOFS AND TO THE RIDGE OF PITCHED ROOFS. THE MAXIMUM HEIGHT, IN GENERAL, SHALL BE TWENTY -FIVE (25) FEET FOR FLAT ROOFS AND THIRTY (30) FEET FOR PITCHED ROOFS. A MAXIMUM HEIGHT OF TWENTY EIGHT (28) FEET FOR FLAT ROOFS AND THIRTY-THREE (33) FEET FOR PITCHED ROOFS SHALL BE PERMITTED FOR THE EXPRESSED PURPOSE OF ACCOMMODATING ACCESS AND LIGHT FEATURES NO GREATER THAN 24 FEET IN LENGTH, I.E. STAIRWELLS AND/OR ELEVATORS, BETWEEN FLOOR LEVELS. IN ACCORDANCE WITH THE SWEENEY MPD, WHICH WAS APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986, AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992, BUILDING HEIGHT SHALL ONLY BE MEASURED AS OUTLINED IN THIS PLAT NOTE #54 ~~AND THERE ARE NO INTERIOR HEIGHT RESTRICTIONS~~.

65. FACADE HEIGHT, EASTERLY FACING. THE MAXIMUM FACADE HEIGHT FOR THE EASTERLY FACING FACADES WITHOUT A STEP BACK OR STEP OUT OF AT LEAST FIVE (5) FEET SHALL BE TWENTY FIVE (25) FEET FROM EXISTING OR REESTABLISHED GRADE WHICHEVER IS GREATER.

PENDING APPROVAL

1985 Sweeney MPD - Visibility

Visibility - The issue of visibility is one which varies with the different concepts proposed and vantage or view points selected. The very detailed visual analyses prepared graphically demonstrated how the various proposals might look from key points around town. The cluster approach, although highly visible from certain areas, does not impose massive structures in the most prominent areas. Instead, the tallest buildings have been tucked into Creole Gulch where topography combines with the densely vegetated mountainside to effectively reduce the buildings' visibility. The height and reduction in density at the Mid-Station site has been partly in response to this concern. The staff has included a condition that an exhibit be attached to the Master Plan approval that further defines building envelope limitations and architectural considerations.

PENDING APPROVAL

1985 Sweeney MPD - Stepping

PENDING APPROVAL

Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding neighborhood. The relocation of density from the Town Lift site was partly in response to this issue. The concentration of density into the Creole Gulch area, which because of its topography and the substantial mountain backdrop which helps alleviate some of the concern, and the requested height variation necessary in order to reduce the mass perceived (higher versus lower and wider), have greatly improved the overall scale of the cluster approach. The sites along Park Avenue have been conceptually planned to minimize scale and have provided stepped facades and smaller-scale buildings to serve as a transition.

1987 Sweeney MPD - Review

The Planning Commission and Staff shall review these proposals as conditional uses. This shall include review of the design of the structures to insure that they are designed to minimize visual impact. The design shall be consistent with the Historic District Guidelines.

PENDING APPROVAL

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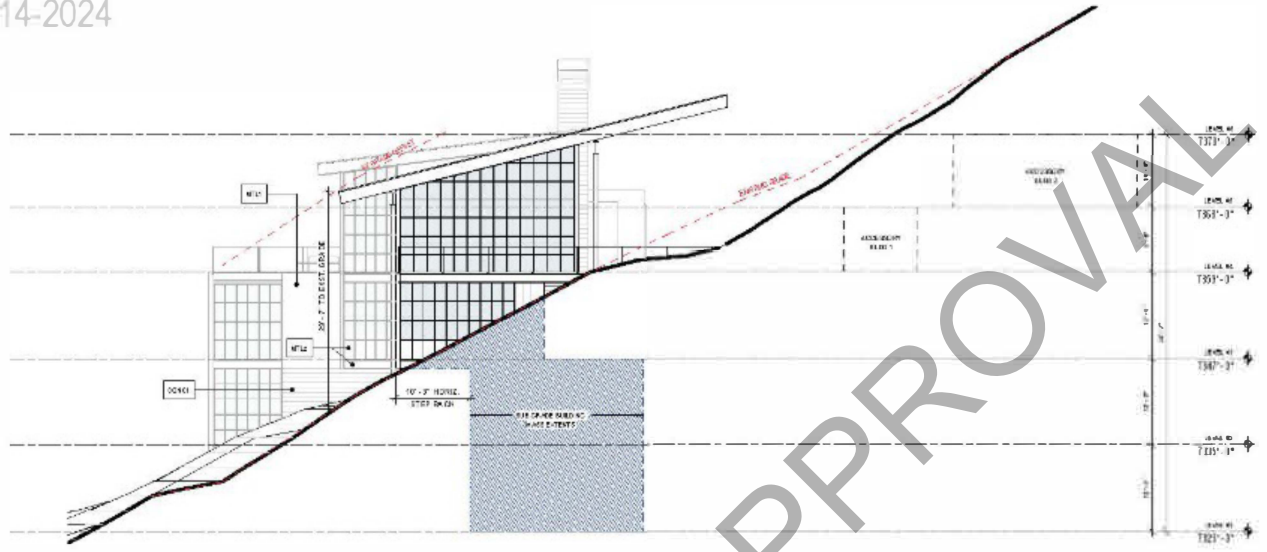
Approved 2-14-2024



2 NORTH ELEVATION

1 EAST ELEVATION

PENDING APPROVAL

Olson Kundig

PARK CITY RESIDENCE - PRINCE

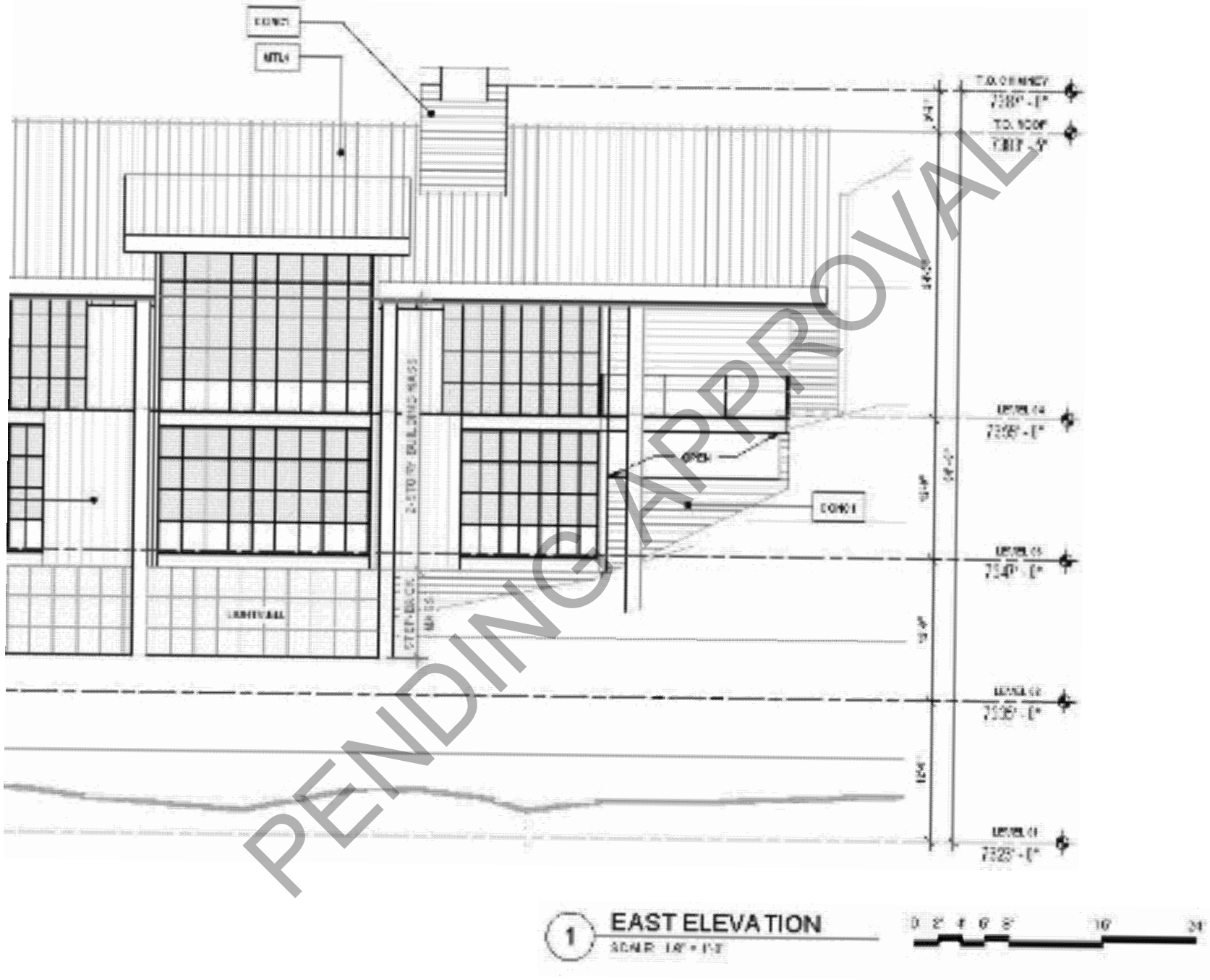
220 KING ROAD
PARK CITY, UT 84060

NOT FOR CONSTRUCTION

PLANNING COMMISSION

EXTERIOR ELEVATIONS

A3.01

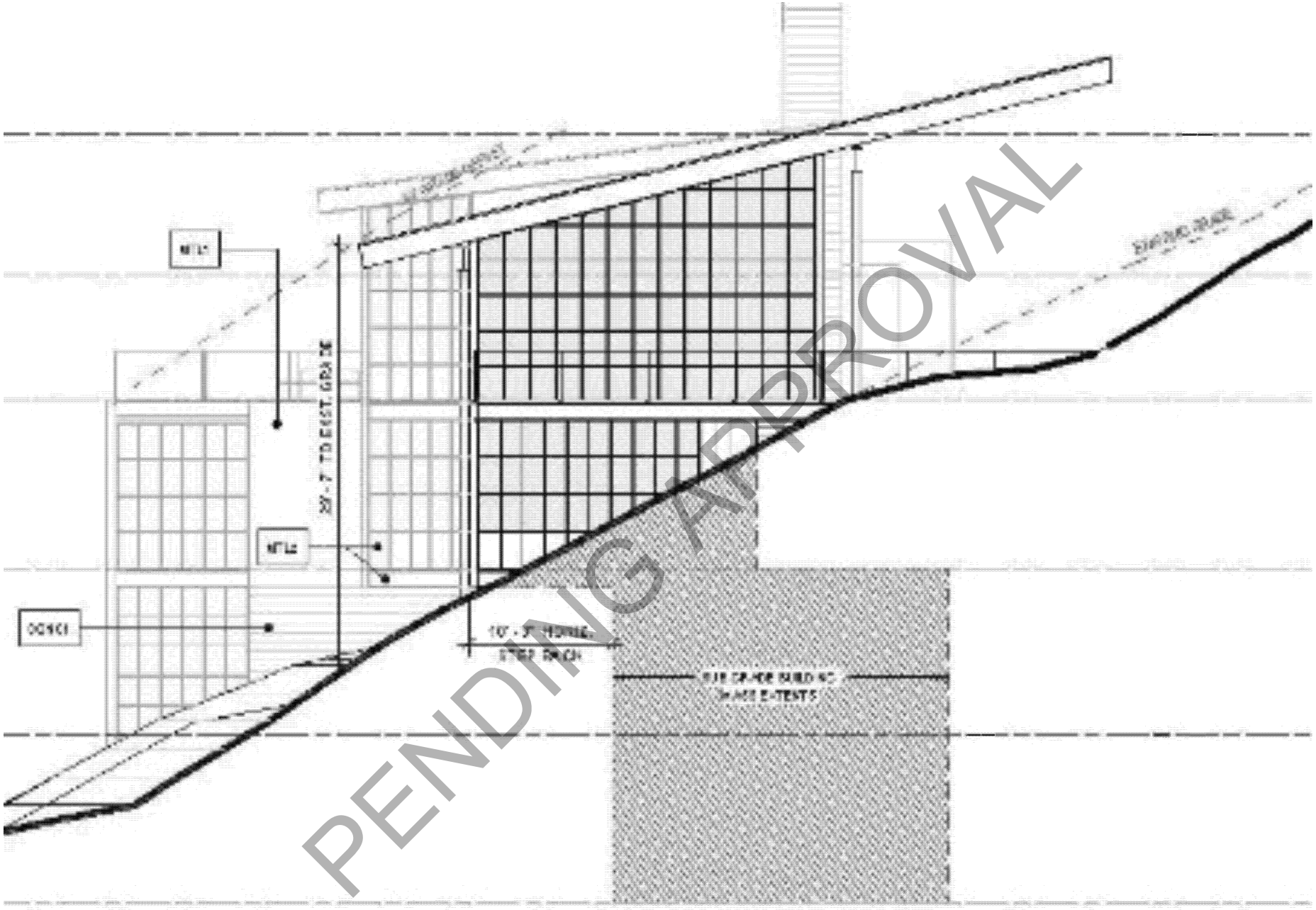


1 EAST ELEVATION

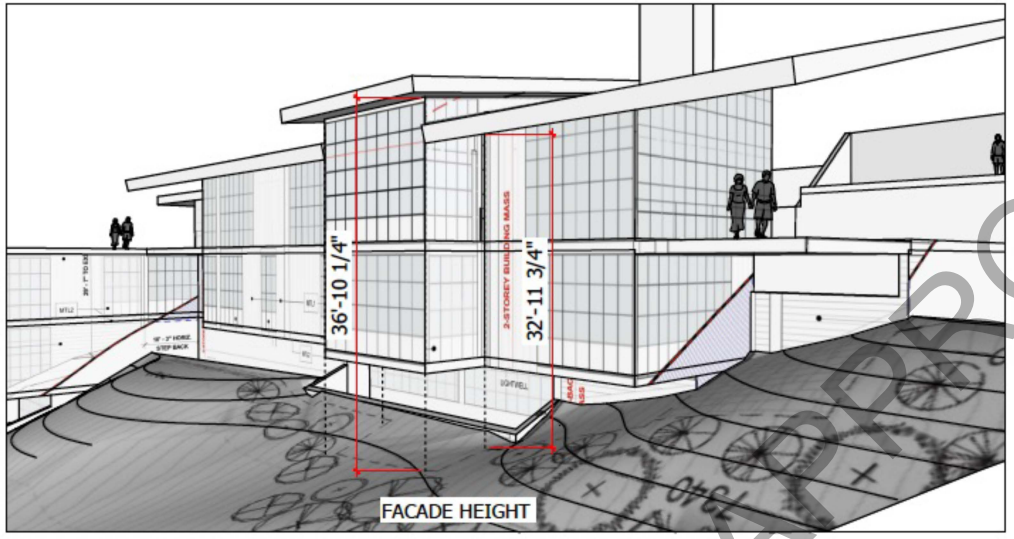
SCALE: 1/8" = 1'-0"

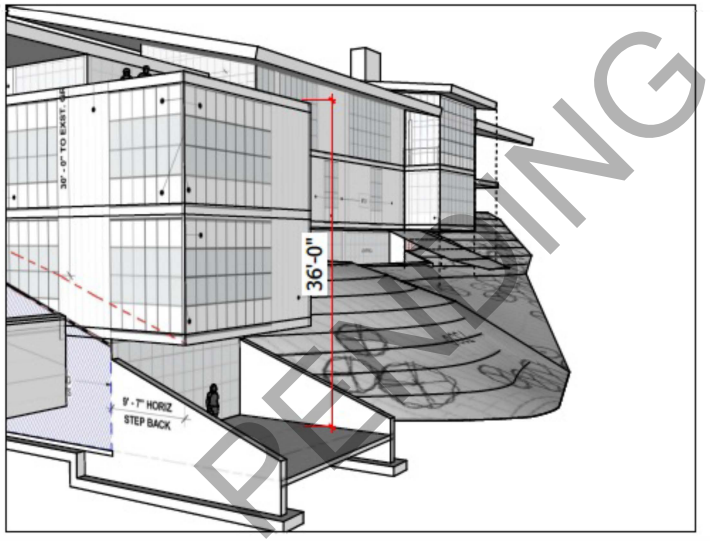
0 2' 4' 6' 8' 10' 24'

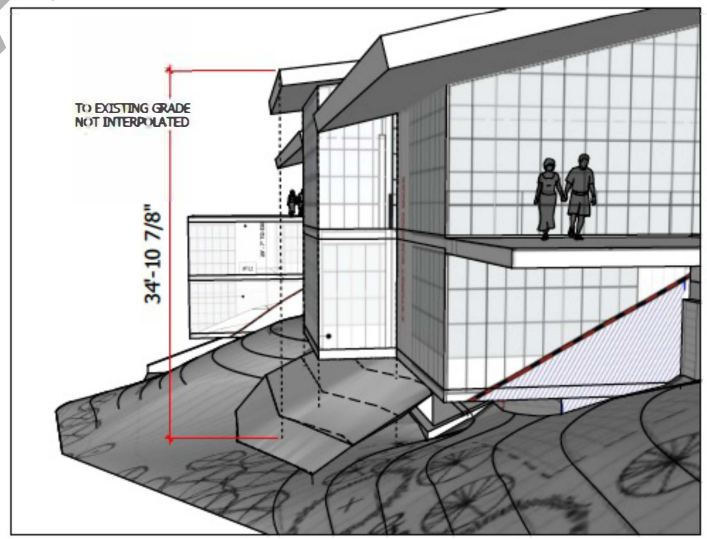
PENDING APPROVAL



PENDING APPROVAL





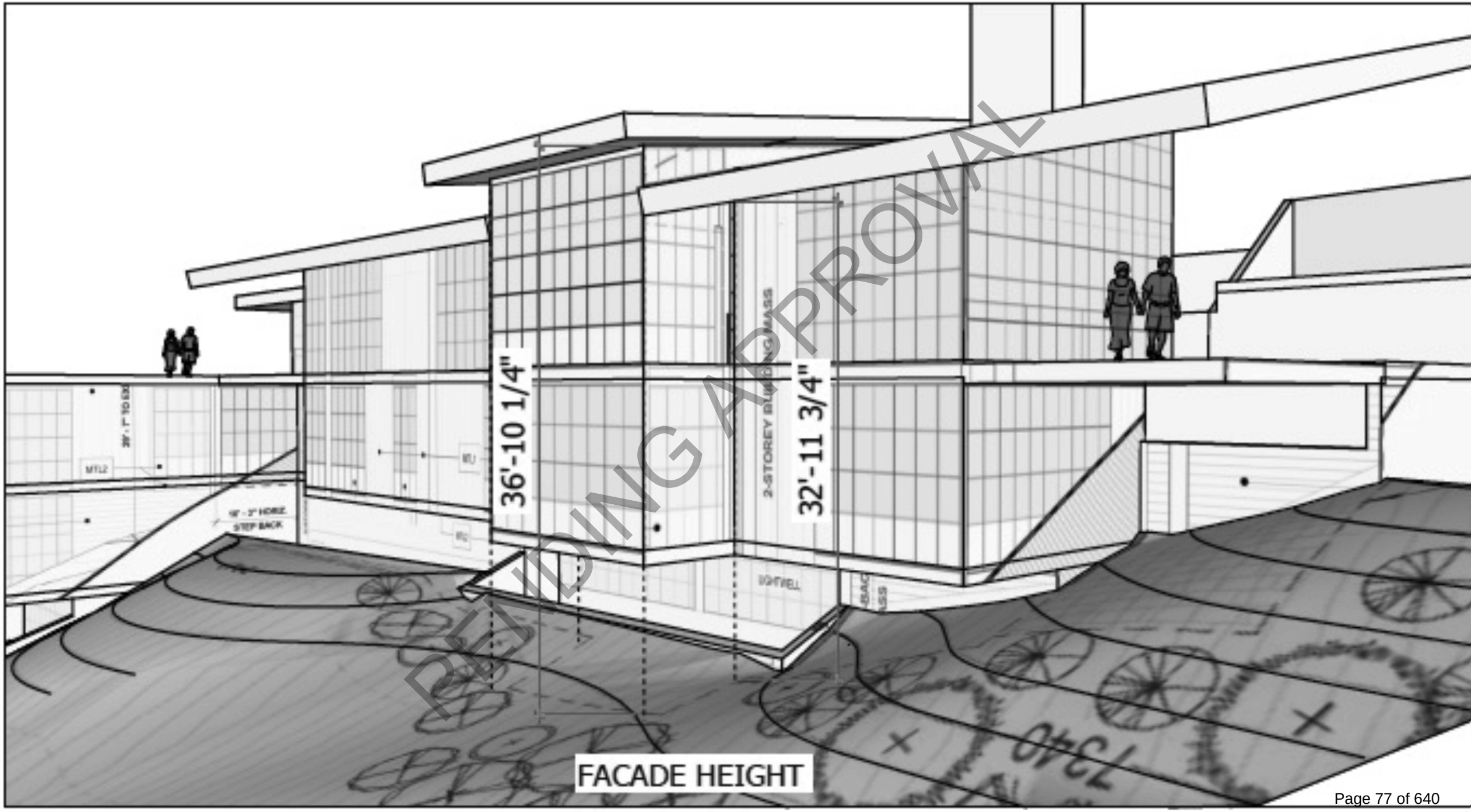


PENDING APPROVAL

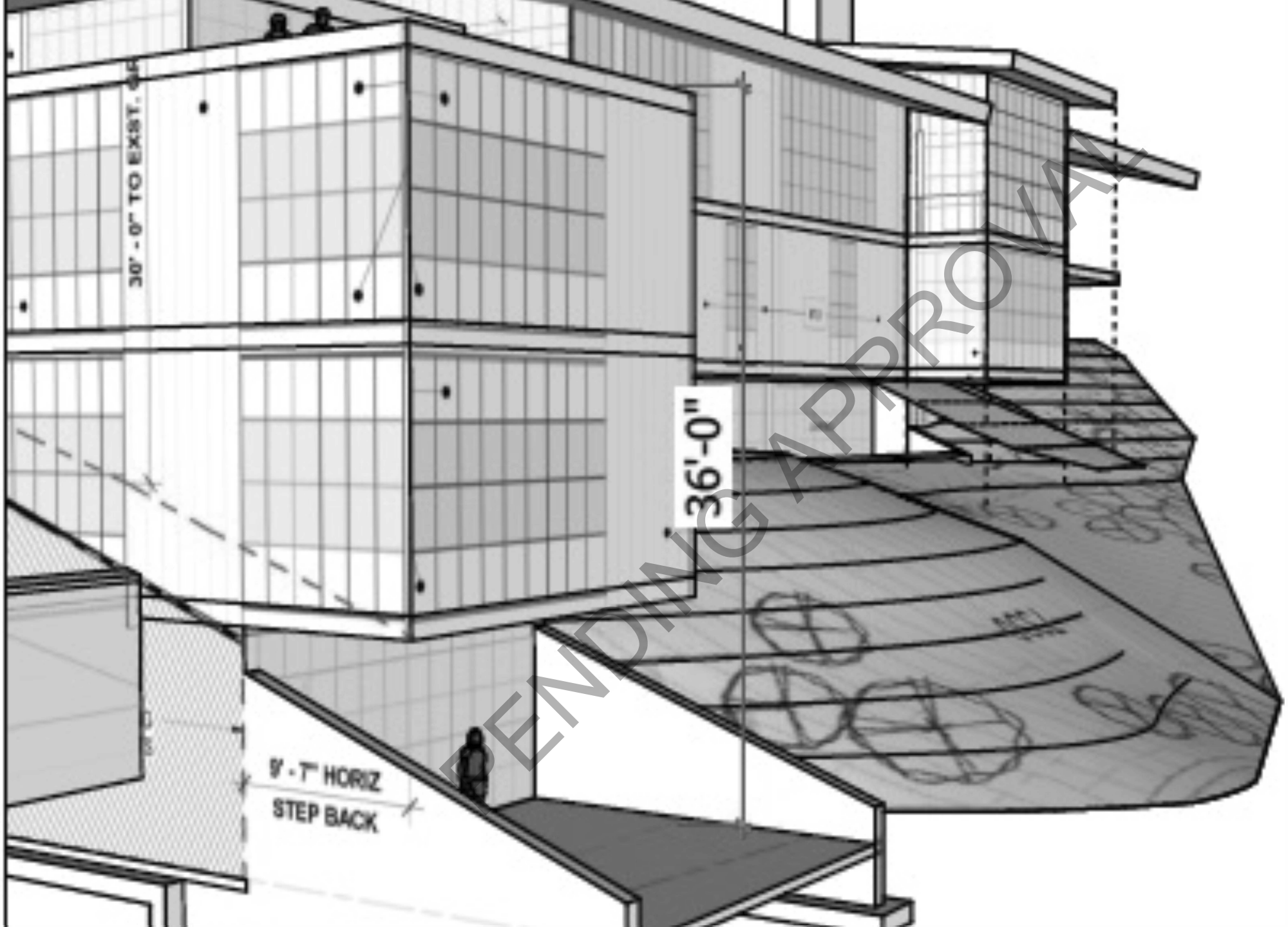
APPEAL ILLUSTRATIONS
220 KING

HEIGHT

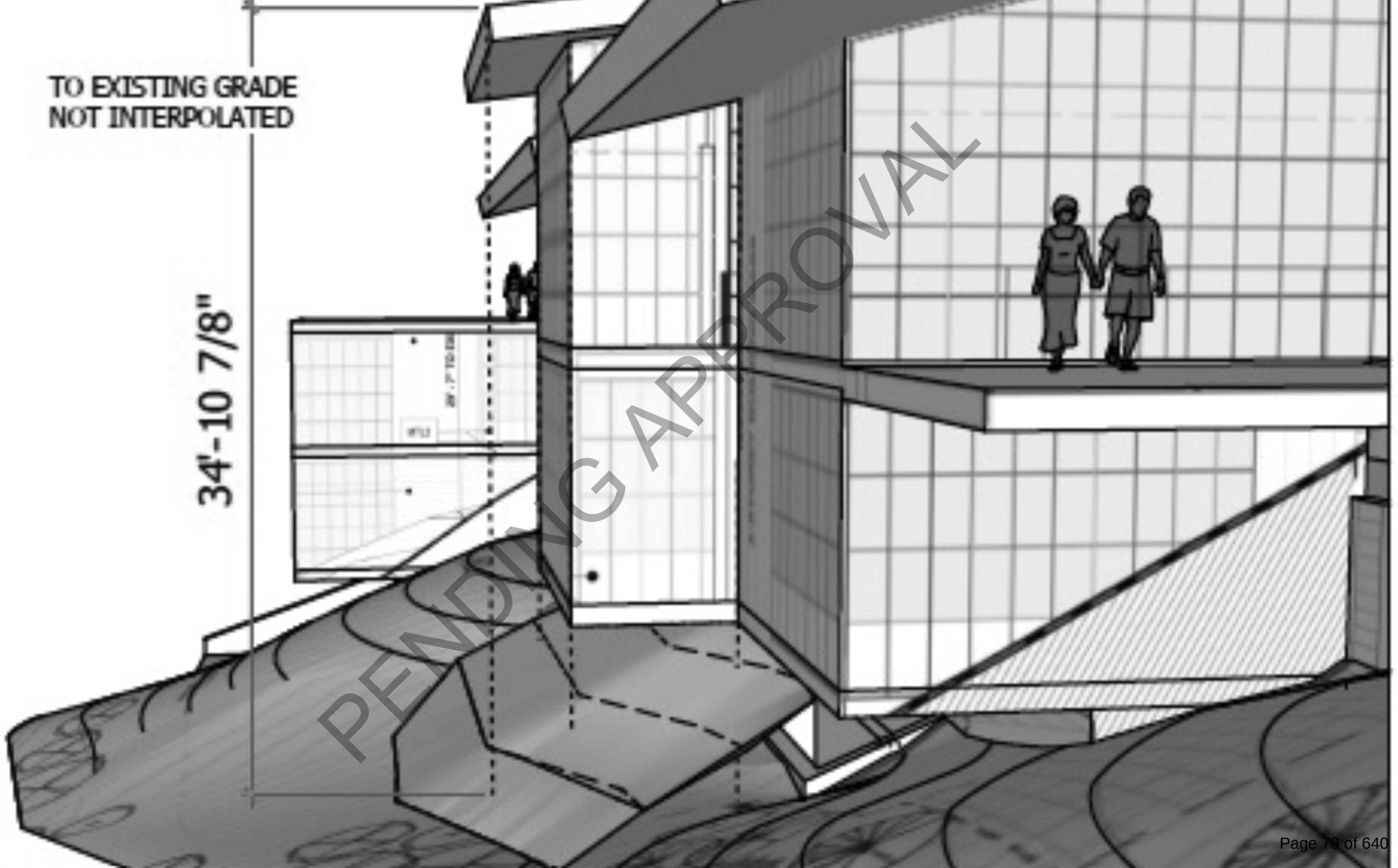
04/30/24
NO SCALE
3



FACADE HEIGHT

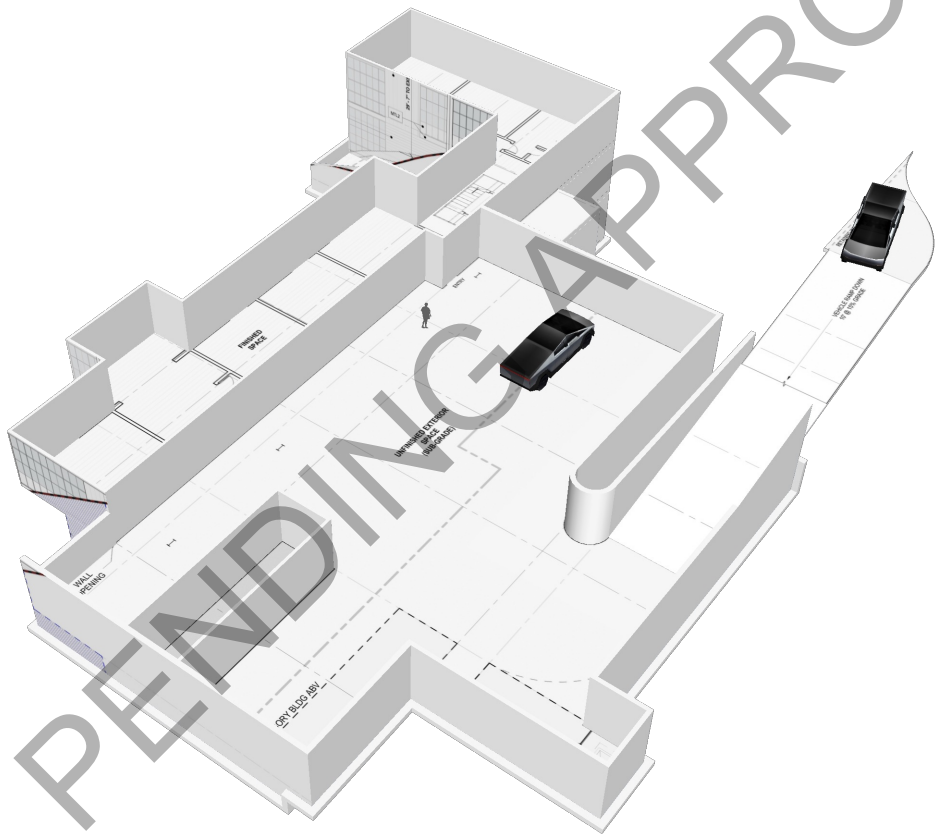


PENDING APPROVAL



PENDING APPROVAL

The Building Footprint Does Not Comply under the Sweeney MPD or LMC



PENDING APPROVAL

APPEAL ILLUSTRATIONS
220 KING

MARSAC OVERLAY

Sweeney MPD – Densities & Parking Requirements

Condition of Approval No. 3

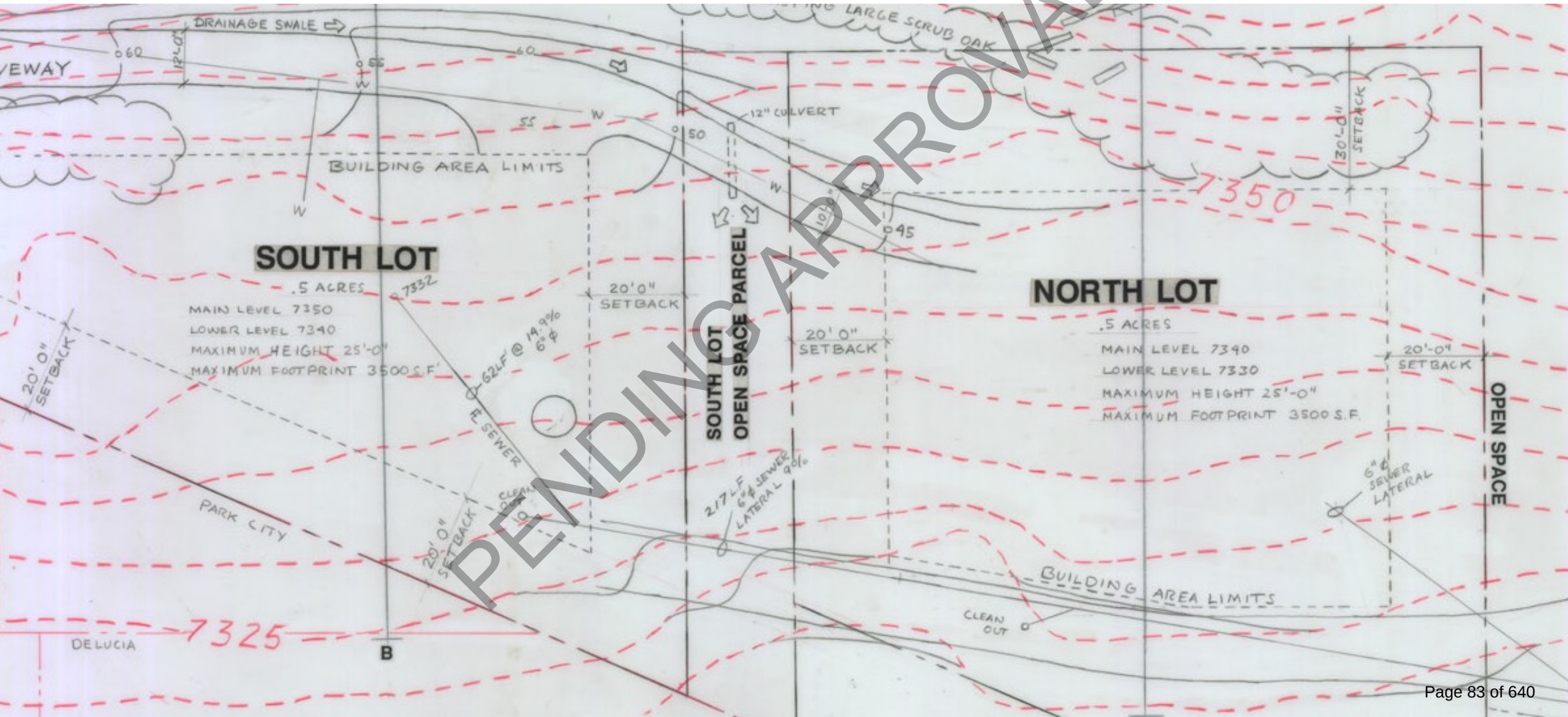
3. The approved densities are those attached as an Exhibit, and shall be limited to the maximums identified thereon. Parking shall be provided on-site in enclosed structures and reviewed in accordance with either the table on the approved Restrictions and Requirements Exhibit or the adopted ordinances at the time of project approval. All support commercial uses shall be oriented and provide convenient service to those residing within the project and not designed to serve off-site or attract customers from other areas.

Finding of Fact No. 5:

5. The required parking can readily be provided on-site and in enclosed structures.

PENDING APPROVAL

Sweeney MPD – Lot Exhibit



PENDING APPROVAL

The current LMC definition for Building Footprint uses the furthest exterior wall of the Structure projected to Natural Grade. The Planning Department calculates the Applicant's actual building footprint at approximately 11,300 square feet, using the LMC definition's methodology.

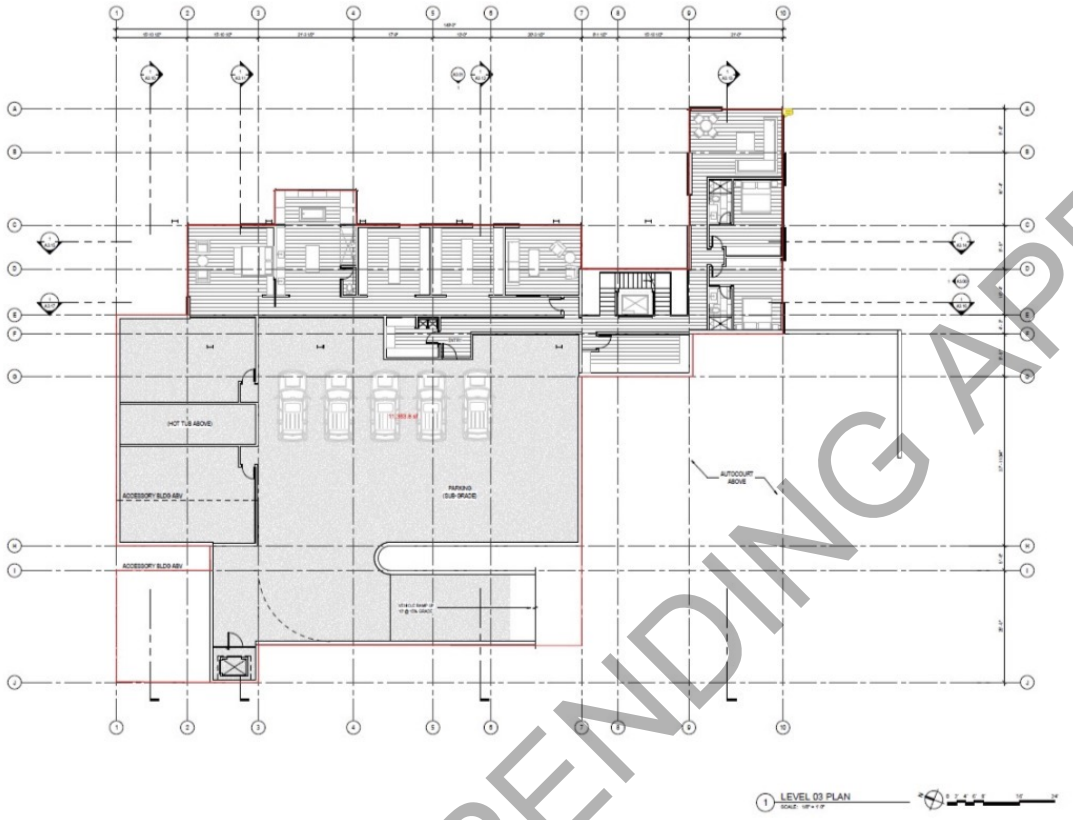


Figure 6: Footprint area as calculated by the Planning Department outlined in red. This image is from a 2022 submittal and may not be the most recent floor plan. No floor plans were submitted with the December 29, 2023, submittal.

PENDING APPROVAL

Staff found that the Building Footprint does not Comply under the LMC

Applicant's Proposed Plat Amendment

21. FOOTPRINT. THE RESIDENTIAL FOOTPRINT OF THE DWELLING ("MAIN HOUSE"), TO BE LOCATED ON THE SECOND AMENDMENT FOR LOT 2, PHASE I, TREASURE HILL SUBDIVISION
(THE "LOT"), SHALL BE CALCULATED FROM THE OUTSIDE FACE OF WALLS ON ANY SINGLE LEVEL, AND A MAXIMUM OF THREE THOUSAND FIVE HINDERED (3,500) SQUARE FEET FOOTPRINT INCLUDING GARAGES. THE FOLLOWING SHALL NOT COUNT TOWARD THE FOOTPRINT CALCULATIONS:

a) DECK WHICH IS OPEN ON AT LEAST TWO SIDES, BUT WHICH MAY HAVE RAILINGS AS REQUIRED, COVERED OR UNCOVERED, AND THAT DOES NOT HAVE ABOVE-EXISTING NATURAL GRADE OR LIVING SPACE LOCATED BELOW OR ABOVE IT;
b) EXTERIOR WALKWAYS;
c) EXTERIOR STAIRS;
d) DRIVEWAY; AND
e) THAT PORTION OF ANY ~~GARAGE,~~ CARPORT, MECHANICAL SPACE, PARKING AREA, OR LIVING SPACE THAT IS LOCATED BELOW EXISTING GRADE AND WHICH HAS LANDSCAPING OR DECK (AS PROVIDED IN 1(A)) LOCATED ABOVE IT.

PENDING APPROVAL

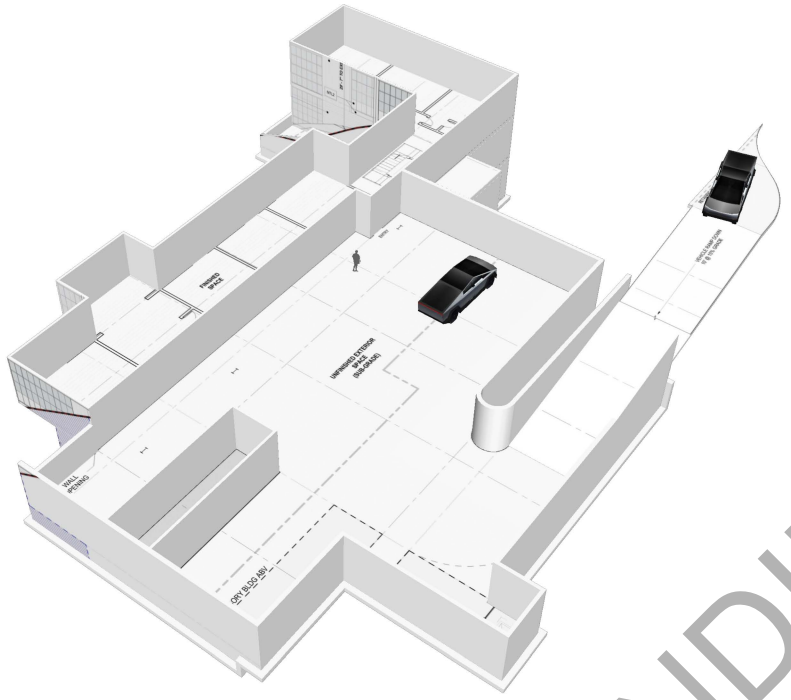
The Park City LMC Defines Garage & Parking Area

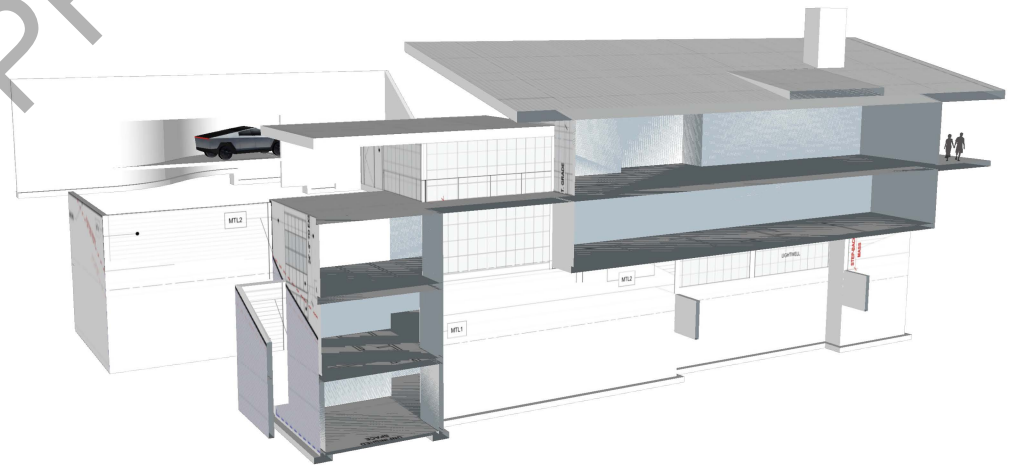
The Applicant's argument on footprint turns on its assertion that its private underground garage is not a "Garage" but instead is a "Parking Area"; both if which are defined terms under 15-15 of the LMC:

- **Garage, Private**. An Accessory Building, or a portion of the Main Building, used for the storage of motor vehicles for the tenants or occupants of the Main Building and not by the general public.

- **Parking Area**. An unenclosed Area or Lot other than a Street used or designed for parking.

PENDING APPROVAL





PENDING APPROVAL

An “Unenclosed” Parking Area Violates the Sweeney MPD and the Proposed Garage Violates the Footprint Requirements.

Either the area designated for parking in the Proposed Structure is a garage because it is enclosed and therefore must be counted towards the building footprint, *or* it is not a garage because it is not enclosed meaning there is no enclosed parking on the property.

These are mutually exclusive.

Either way, the Proposed Structure does not comply with the MPD. No reasonable argument can be made that the Proposed Structure complies with both requirements from the MPD, and it illustrates why, notwithstanding the degree of deference, the Planning Commission’s decision was arbitrary, capricious, and illegal under Utah Code § 801(c)(3).

PENDING APPROVAL

LMC 15-2.2-5 Building Height and Roof Pitch

C. ROOF PITCH. The roof pitch of a Structure's Contributing Roof Form shall be between seven: twelve (7:12) and twelve: twelve (12:12) and shall occupy a minimum horizontal distance of 20 feet measured from the primary façade to the rear of the building, as viewed from the primary public right-of-way. Secondary Roof Forms may be below the required 7:12 roof pitch and located on the primary façade (such as porches, bay window roofs, etc).

1. Secondary Roof Forms may be Rooftop Decks so long as they are not more than 23 feet in height above Finished Grade. This height includes any railings, parapets, stairs, and similar constructions on the Roof Deck.

2. The height of railings, parapets, stairs, and similar constructions on a Green Roof or Flat Roof are included in the calculation of Building Height. Decks, hot tubs, outdoor cooking areas, and seating areas are not permitted on Green Roofs. Green Roofs must be vegetated.

3. A Structure containing a flat roof shall have a maximum height of thirty-five feet (35') measured from the lowest floor plan to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the Green Roof, including the parapets or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above. Any required railings for a Green Roof shall comply with Building Height.

CONTRIBUTING BUILDING, STRUCTURE, SITE/AREA OR OBJECT. Building (main, attached, detached, or public, Accessory Building, Structure, Site, or Object that is determined by the Historic Preservation Board to meet specific criteria set forth in LMC 15-11-10. A portion of an existing building, an Accessory Building, Structure, or object may also be considered contributory so the historical significance of a Building or Site if it reflects the Historical or architectural character of the site or district as designated by the Historic Preservation Board.

PENDING APPROVAL

Non-Exclusive Driveway Easement

Driveway is clearly in the Steep Slope Area

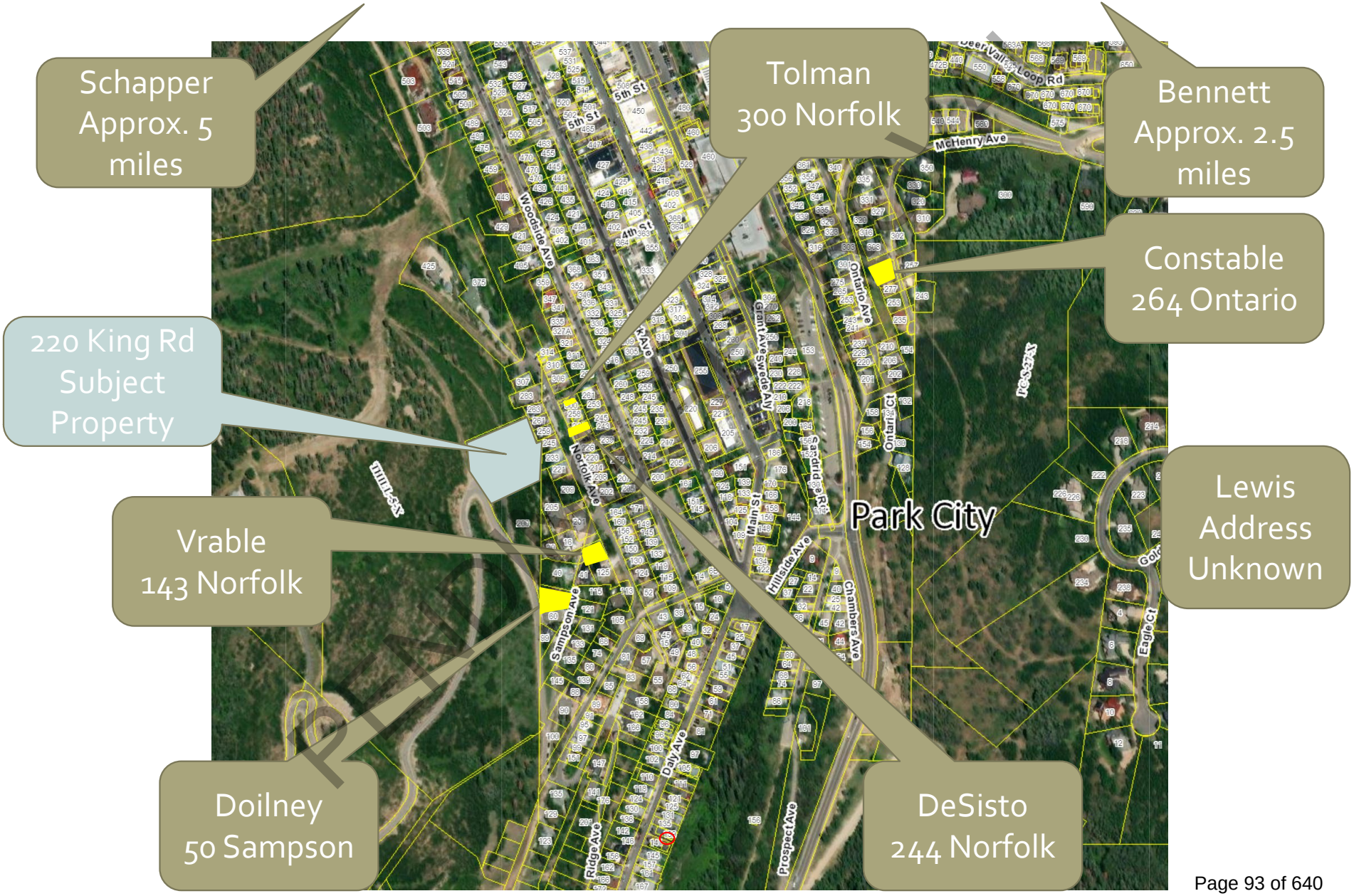
PENDING APPROVAL

220 King Road Appeal

PENDING APPROVAL

Park City Appeal Panel– April 30, 2024

Standing - (Appeal Supporters)



Neighborhood Support in Favor of Project.

Properties that have submitted letters of support through 2-14-2024.

Open Space/Vacant Lot

I understand Mr./Mrs. Prince wish to build on lot 2, 220 King Road, and I wish them well. Their approach is no different than what Pat and I did back in the 90s. The quality of their plans and architecture are very impressive. I fully support their application and look forward to having Mr. Prince and family as neighbors.

Carol and I are residents of 314 Norfolk Ave, Park City, UT. We know the owners of 220 King Road and totally support the rebuilding of the property as a single family home. The Prince's are very active in the community and will work for a better Park City both past and present. Carol and I strongly encourage the Planning Commission to approve the proposed changes to 220 King.

For more than a decade the existing two homes on 220 King Road have been nightly rentals that are within our close visual and aural range. From our perspective, it will be nice to see these two nightly rentals converted to a single family home that will be owner-occupied by full-time residents who love their community.

We have talked with the owners of 220 King (Matthew and Tatiana Prince) and seen their plans for a new home. I am supportive of their request to rebuild a single family home on the property and convert it from a part-time rental property to a residence. Matthew Prince is a long term Utah resident who grew up here and has the community's interest in mind. He and Tatiana have been a great addition to the neighborhood. The plans for he and Tatiana's house appear to be in keeping with the mining tradition of Park City and will replace two dwellings that look both dated and out of sync with Park City. I encourage the Planning Commission to approve their project.

Alexandra - My family owns and spends a great deal of time at our home located at 263 Norfolk Avenue. Our home is adjacent to the 220 King property that is currently the subject of discussion involving proposed redevelopment by Matthew and Tatiana Prince). We know Matthew and Tatania and are aware of their plans for 220 King. We support these plans and look forward to the conversion of a part-time rental property to a single family residence. Further, we are familiar with the architectural plans for 220 King and think this new residence will be a welcome addition to our "neighborhood" in particular and community more generally. Importantly, Matthew and Tatiana are thoughtful, responsible and engaged members of the Park City community (Matthew grew up in Park City and has returned to make Park City his home). The project at 220 King reflects their commitment to our town. Please do not hesitate to contact me if you would like to discuss our strong support for this project in greater detail.

I represent the owner of 261 Norfolk Ave (held in Twinkle Weasel Mountain LLC). 261 Norfolk Avenue shares a property border with 220 King Road.
My client, the owner of 261 Norfolk Avenue, has reviewed and is supportive of the plans for 220 King Road, including eliminating it as a nightly rental, converting it into a single-family home, and honoring the historic architectural heritage of the community.
The owner of 261 Norfolk Avenue encourage the Planning Commission to approve the requested amendments to the 220 King Road plat.

We are writing to express our support for the plans that our neighbors, Matthew and Tatiana Prince, have for 220 King Road. Our home is on Upper Norfolk Avenue, and their property is adjacent to ours. We have reviewed the plans and trust that the permanent residence they are proposing to build will enhance the property, and we appreciate that the plans purposefully honor the area's historic mining past. The Princes have long-standing ties to Park City, and we would like to encourage the Planning Commission to support them and their exciting project.

I own 245 Norfolk Avenue. My property is immediately adjacent to 220 King Road (directly downhill). I had a few concerns about the project since it is literally in my back yard... Based on these explanations, I support their plans to build a single family home at 220 King Road.

I represent the owners of 233 Norfolk Avenue which shares a property border with 220 King Road. The owners of 233 Norfolk Avenue have reviewed and are supportive of the plans for 220 King Road, including eliminating it as a nightly rental, converting it into a single family home, and honoring the historic architectural heritage of the community. The owners of 233 Norfolk Avenue encourage the Planning Commission to approve the requested amendments to the 220 King Road plat.

Let me introduce myself. I along with my wife Viki are the owners of 221 Norfolk Ave located in Old Town. We are also neighbors of Matthew and Tatiana Prince, the owners of 220 King which is located directly above our home.
Matthew has shared his plan to remove 2 existing homes and replace with 1 single family home. We have no concerns and in fact have no doubt that the Prince's plan will not only have a positive impact for our immediate neighborhood but also Park City and the county as well . This project will obviously be a very significant investment by the Prince's and we applaud their continued commitment and support to the Park City community.

I fully support Matthew's effort to amend the plat. Please feel free to call or email me with any questions you may have concerning this or related matters.

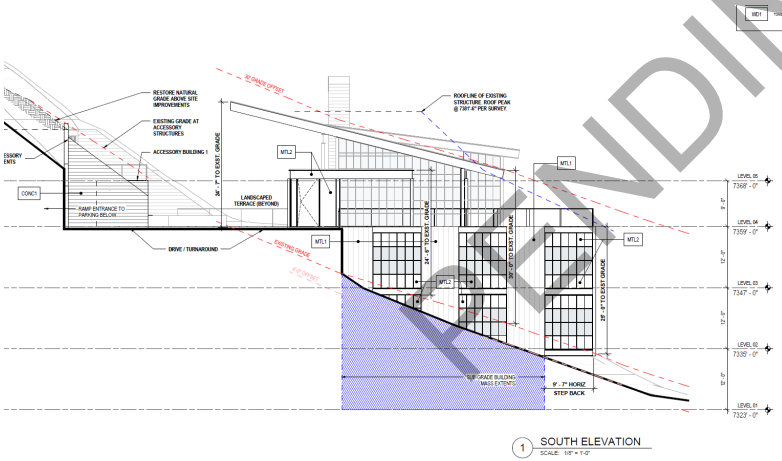
In summary, we urge the Planning Commission to approve the replat. Please do not hesitate to contact us with any questions regarding our support.

PENDING APPROVAL

Current homes

PENDING APPROVAL

Approved Design



1 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

1 EAST ELEVATION
SCALE: 1/8" = 1'-0"

PENDING APPROVAL

Sweeney MPD Homes

PENDING APPROVAL

Sweeney MPD Single Family Lots

Plat	Parcel #	Building Area Limits (sq ft)	Lot Area (acres)	Building Footprint (approx. sq ft)	Building size (sq ft)
Treasure Hill Subdivision Phase 1 - 1996	THILL-1 (200 KING RD)	12,700	0.86	NA	NA
	THILL-2-A-AM/ THILL-2-B-AM (220 King Rd)	11,250	1.23	Existing - 3,936 sq ft (survey) Proposed - 3,500 sq ft	Total - 6,965 sq ft (Summit County Tax Info- both homes) Proposed – 7,461 sf (finished) 5,898 sf (unfinished)
	THILL-3-AM (425 NORFOLK AVE)	17,000	1.31	2,620 sq ft (Google Earth)	Total - 3,881 sq ft (Summit County Tax Info)
	THILL-4-AM (375 NORFOLK AVE)	7,500	1.1	5,178 sq ft (Google Earth)	Total - 10,813 sq ft (Summit County Tax Info)
Treasure Hill Subdivision Phase II -2003	THILL-II-6 (503 1/2 WOODSIDE AVE)	7,650	0.79	4,268 sq ft (Google Earth)	Total - 9,161 sq ft (Summit County Tax Info)
	THILL-II-7 (503 WOODSIDE AVE)	7,500	0.92	4,182 sq ft (Google Earth)	Total 9,214 sq ft (Summit County Tax Info)
Treasure Hill Subdivision Phase III Amd 1 -2009	THILL-3-8-1AM (445 KING RD)	29,083.90	11.9	4,280 sq ft (Google Earth)	Total - 8,738 sq ft (Summit County Tax Info)

PENDING APPROVAL

Standard of Review

- Review as quasi-judicial matter (LMC 15-1-18.G)
- Burden is on the appellant(s) (LMC 15-1-18.G)
- Ambiguities are interpreted in favor of the property owner (Utah Code Ann. 10-9a-306)

PENDING APPROVAL

Summary

1. The Property has vested rights under the Sweeney MPD.

2. The Planning Commission was Authorized to Amend the Subdivision Plat, and the Amended Plat is Consistent with the Sweeney MPD.

3. The Proposed Home Complies with:
   - The Sweeney MPD's Height Requirements.
   - The LMC interior height requirements.
   - Treasure Phase 1 plat notes, including – footprint, height, massing, façade, and step out.

4. The Planning Commission appropriately amended the Treasure Hill Phase 1 Plat, as allowed by the LMC and the Sweeney MPD.

5. Historic Design Review is in the process and a decision will follow this appeal.

PENDING APPROVAL

Plat Amendment Procedure For Lot 2

Action	Approval Date	Decision Body
Plat Approved	9/15/1995	City Council
Lot 2, Phase 1, Amd.	4/17/1997	City Council
Lot 2, Phase 1, 2nd Amd.	2/14/2024	Planning Commission*

* By ordinance 2024-03, adopted February 1, 2024, the Planning Commission is the land use authority for plats related to Single-Family Dwellings, Duplexes, or Townhomes

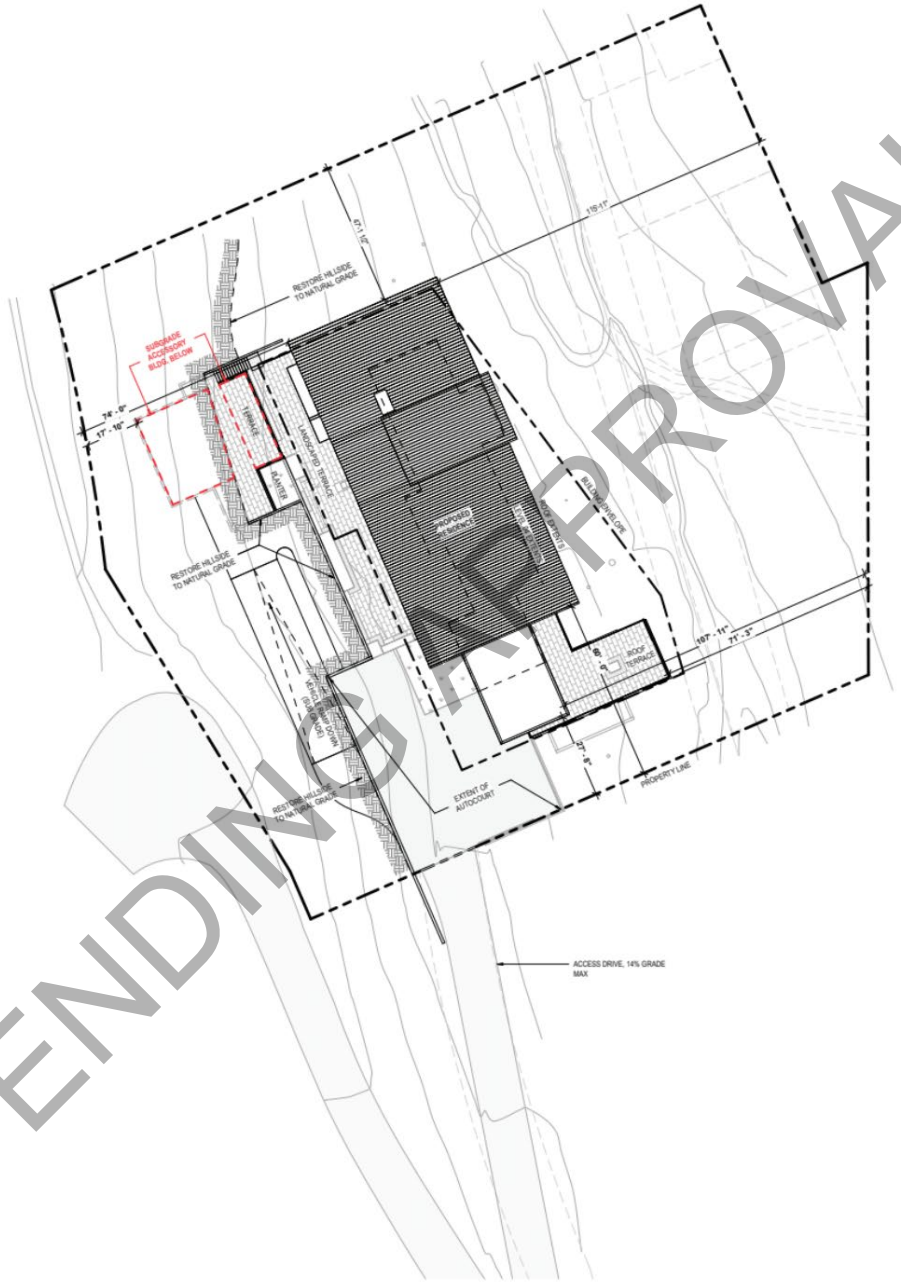
PENDING APPROVAL

Building Height

Approved	Date of approval	Height (pitched roof/exception)
Pre-2009 Zone Height		27′, +25%
Plat	9/15/1995	30/33
Amended Plat (1st)	4/17/1997	30/33
Amended Plat (2nd)	2/14/2024	30/33

PENDING APPROVAL

Approved Site Plan



PENDING APPROVAL

1 SITE PLAN
SCALE: 1" = 20'-0"

N

0 10' 20' 40' 60'

Olson Kundig

199 South Jackson St, Suite 600
Seattle, Washington 98104 USA
+1 206 624 5670 olsonkundig.com

project:
PARK CITY RESIDENCE - PRINCE
220 KING ROAD
PARK CITY, UT 84060

principal architect TK
project manager SG
drawn by
checked by
job no. 20102
date 12/28/23

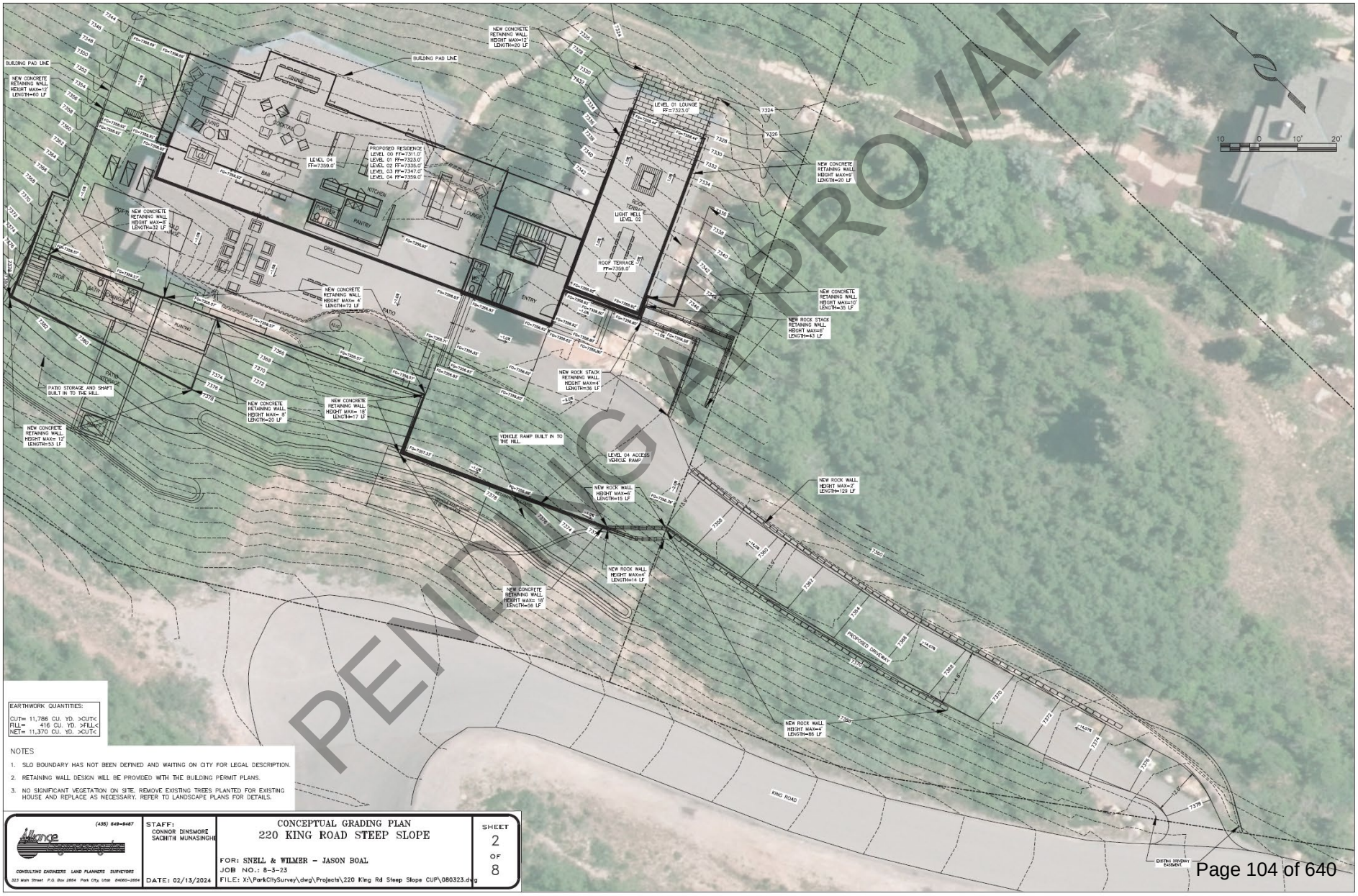
revisions:

no.	date	by

NOT FOR CONSTRUCTION
PLANNING COMMISSION
12/28/23

SITE PLAN
A1.00

Approved Site Plan with Topography



EARTHWORK QUANTITIES:

CUT= 11,786 CU. YD. >CUT<
FILL= 416 CU. YD. >FILL<
NET= 11,370 CU. YD. >CUT<

NOTES

1. SLO BOUNDARY HAS NOT BEEN DEFINED AND WAITING ON CITY FOR LEGAL DESCRIPTION.
2. RETAINING WALL DESIGN WILL BE PROVIDED WITH THE BUILDING PERMIT PLANS.
3. NO SIGNIFICANT VEGETATION ON SITE. REMOVE EXISTING TREES PLANTED FOR EXISTING HOUSE AND REPLACE AS NECESSARY. REFER TO LANDSCAPE PLANS FOR DETAILS.

Alliance Engineering (435) 649-9467
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF:
CONNOR DINSMORE
SACHITH MUNASINGHE

DATE: 02/13/2024

CONCEPTUAL GRADING PLAN
220 KING ROAD STEEP SLOPE

FOR: SNELL & WILMER - JASON BOAL
JOB NO.: 8-3-23
FILE: X:\ParkCitySurvey\dwg\Projects\220 King Rd Steep Slope CUP\080323.dwg

SHEET 2 OF 8

Summary

Appellant(s) has:

- Not carried its burden
- Failed to show illegality
- Not shown prejudice

The well reasoned decision of the planning Commission should be affirmed.

PENDING APPROVAL

220 King Road Appeal

PENDING APPROVAL

Plat Notes

1. PRECEDENCE. THE BELOW SPECIAL RESTRICTIONS ARE CONSISTENT WITH THE SWEENEY MASTER PLAN APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986 AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992. FINAL HOUSE DESIGN SHALL BE REVIEWED UNDER THE CONDITIONAL USE PERMIT PROCESS IN ACCORDANCE WITH THE SWEENEY MASTER PLAN.

2. FOOTPRINT. THE RESIDENTIAL FOOTPRINT OF THE DWELLING ("MAIN HOUSE"), TO BE LOCATED ON LOT 2, PHASE I, TREASURE HILL SUBDIVISION (THE "LOT"), SHALL BE CALCULATED FROM THE OUTSIDE FACE OF WALLS ON ANY SINGLE LEVEL, AND A MAXIMUM OF THREE THOUSAND FIVE HINDERED (3,500) SQUARE FEET FOOTPRINT INCLUDING GARAGES. THE FOLLOWING SHALL NOT COUNT TOWARD THE FOOTPRINT CALCULATIONS:

a) DECK WHICH IS OPEN ON AT LEAST TWO SIDES, BUT WHICH MAY HAVE RAILINGS AS REQUIRED, COVERED OR UNCOVERED, AND THAT DOES NOT HAVE ABOVE-EXISTING NATURAL GRADE OR LIVING SPACE LOCATED BELOW OR ABOVE IT;
b) EXTERIOR WALKWAYS;
c) EXTERIOR STAIRS;
d) DRIVEWAY; AND
e) THAT PORTION OF ANY GARAGE, CARPORT, MECHANICAL SPACE, PARKING AREA, OR LIVING SPACE THAT IS LOCATED BELOW EXISTING GRADE AND WHICH HAS LANDSCAPING OR DECK (AS PROVIDED IN 1(A)) LOCATED ABOVE IT.

3. BUILDING AREA LIMITS. IMPROVEMENTS, INCLUDING FENCES AND FORMAL LANDSCAPING (UNLESS OTHERWISE PERMITTED UNDER EASEMENTS OR AGREEMENTS OF RECORD OR AS SHOWN ON THE PLAT OR AS CONSISTENT WITH THE APPROVED CONSTRUCTION DRAWINGS OF THE DRIVEWAYS, UPPER NORFOLK TURNAROUND, KING ROAD TURNAROUND, SKI BRIDGE AND UTILITY PLANS) SHALL BE LIMITED TO THE BUILDING AREA LIMITS NOTED ON THE PLAT.

PENDING APPROVAL

Plat Notes

4. CONSTRUCTION DISTURBANCE. UNLESS OTHERWISE PROVIDED IN AGREEMENTS WITH PARK CITY MUNICIPAL CORPORATION WHICH ARE OF RECORD, TEMPORARY CONSTRUCTION DISTURBANCE SHALL BE LIMITED TO TWENTY (20) FEET BEYOND THE BUILDING AREA LIMITS OR TO ADJOINING LOT PROPERTY LINES WHICH EVER IS CLOSER.

5. HEIGHT. THE BUILDING HEIGHT SHALL BE MEASURED FROM EXISTING GRADE TO THE TOP OF THE FLAT ROOFS AND TO THE RIDGE OF PITCHED ROOFS. THE MAXIMUM HEIGHT, IN GENERAL, SHALL BE TWENTY -FIVE (25) FEET FOR FLAT ROOFS AND THIRTY (30) FEET FOR PITCHED ROOFS. A MAXIMUM HEIGHT OF TWENTY EIGHT (28) FEET FOR FLAT ROOFS AND THIRTY-THREE (33) FEET FOR PITCHED ROOFS SHALL BE PERMITTED FOR THE EXPRESSED PURPOSE OF ACCOMMODATING ACCESS AND LIGHT FEATURES NO GREATER THAN 24 FEET IN LENGTH, I.E. STAIRWELLS AND/OR ELEVATORS, BETWEEN FLOOR LEVELS. IN ACCORDANCE WITH THE SWEENEY MPD, WHICH WAS APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986, AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992, BUILDING HEIGHT SHALL ONLY BE MEASURED AS OUTLINED IN THIS PLAT NOTE #4.

6. FACADE HEIGHT, EASTERLY FACING. THE MAXIMUM FAÇADE HEIGHT FOR THE EASTERLY FACING FACADES WITHOUT A STEP BACK OR STEP OUT OF AT LEAST FIVE (5) FEET SHALL BE TWENTY FIVE (25) FEET FROM EXISTING OR REESTABLISHED GRADE WHICHEVER IS GREATER.

7. MASSING. HOUSE DESIGNS MAY BE COMPRISED OF ONE OR MORE CONNECTED OR UNCONNECTED BUILDING MASSES. NO ONE BUILDING MASS WITHIN THE 3,500 SQUARE FOOT FOOTPRINT REFERENCED IN NOTE 1 ABOVE, SHALL HAVE A FOOTPRINT THAT EXCEEDS 1,500 SQUARE FEET. MASSING ELEMENTS SHALL BE SEPARATED BY HORIZONTAL AND/OR VERTICAL FACADE BREAKS.

8. SEWER LATERALS. MAINTENANCE AND REPLACEMENT OF SEWER LATERALS SHALL BE THE RESPONSIBILITY OF THE OWNER(S) AND NOT THAT OF SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT.

9. FIRE SPRINKLING. INTERNAL AND EXTERNAL MODIFIED 13d FIRE SPRINKLERS SHALL BE PROVIDED FOR THE HOME. WOOD ROOFING MATERIAL SHALL BE PROHIBITED.

PENDING APPROVAL

Plat Notes

10. EXTERIOR LIGHTING. ALL EXTERIOR LIGHTING SHALL BE DOWN DIRECTED AND FULLY SHIELDED WITH BULBS 3,000 DEGREES KELVIN OR LESS. FLOOD LIGHTS ARE PROHIBITED. OUTDOOR LIGHTS SHALL NOT BE INSTALLED MORE THAN 12 FEET ABOVE EXISTING GRADE. GROUND-LEVEL FIXTURES SHALL BE FULLY SHIELDED.

11. GLAZING. SIXTY PERCENT (60%) OF THE EASTERN FACING FAÇADE IS PERMITTED TO BE GLAZING AND LIGHTING IMPACTS FROM THE EASTERNFACING FAÇADE SHALL BE MITIGATED BY INTERIOR FIXTURES DESIGNED TO MINIMIZE DIRECT VISIBILITY OF THE LIGHTING ELEMENT FROM RESIDENCES WITHIN 1/3 MILE OF THE RESIDENCE.

12. CONTINGENT UPON A STEEP SLOPE CONDITIONAL USE PERMIT APPROVAL BY THE PLANNING COMMISSION, DETACHED BELOW GRADE ACCESSORY BUILDINGS. BELOW GRADE ACCESSORY BUILDINGS ARE PERMITTED WITHIN THE BUILDABLE AREA. THE FOOTPRINT OF A DETACHED BELOW GRADE ACCESSESORY BUILDING DOES NOT COUNT TOWARDS THE FOOTPRINT AREA OF THE DWELLING AS ALLOWED IN NOTE #1.

13. USE OF RESIDENTIAL STRUCTURE. ANY RESIDENCE CONSTRUCTED AFTER THE DATE OF THIS AMENDMENT SHALL ONLY BE USED AS A SINGLE-FAMILY RESIDENCE. THE NEW RESIDENCE SHALL NOT BE USED AS A CONDOMINIUM, TIME INTERVAL OWNERSHIP, FRACTIONAL OWNERSHIP, OR NIGHTLY RENTALS. HOME OCCUPATIONS SHALL BE PERMITTED IN ACCORDANCE WITH LMC § 15-4-3.

PENDING APPROVAL

Snell & Wilmer

MEMORANDUM

TO: Park City Appeal Panel

FROM: Jason Boal

DATE: April 29, 2024

RE: 220 King Road – Appeals as Filed

This memo presents the appeal applications as they were filed and provided to the applicant on March 5, 2024.

In addition to the files shown below, we have included the email from Rebecca Ward to the DropBox with the files.

The files were organized in the DropBox link as shown below:

Appeal - 220 King Road

Name ↑	Modified	Size
03 01 24_Appeal App - Justin Keyes.pdf	Last month	2.28 MB
Appeal App - David Bennett.pdf	Last month	140.22 KB
Appeal App - David Constable.pdf	Last month	853.02 KB
Appeal App - Ed Desisto.pdf	Last month	794.26 KB
Appeal App - Ginger Tolman.pdf	Last month	708.87 KB
Appeal App - James A Doilney.pdf	Last month	721.07 KB
Appeal App - John Vrabel.pdf	Last month	796.62 KB

PENDING APPROVAL

	Appeal App - Mariena Stahlke Lewis.pdf	Last month	440.11 KB
	Appeal App - Nicholas J Schapper.pdf	Last month	344.88 KB
	Attachment 1.pdf	Last month	2.58 MB
	Exhibit A B C.pdf	Last month	4.31 MB
	Exhibit D.pdf	Last month	7.56 MB
	Exhibit E.pdf	Last month	6.26 MB
	Exhibit F.pdf	Last month	21.64 MB
	Exhibit G.pdf	Last month	2.93 MB

JB

PENDING APPROVAL

1

PARK CITY MUNICIPAL CORPORATION
PLANNING DEPARTMENT
445 MARSAC AVE ° PO BOX 1480
PARK CITY, UT 84060
(435) 615-5060

PARK CITY

RECEIVED
MAR 01 2024
Park City Municipal Corp.

APPEAL OF A LAND USE DETERMINATION

For Office Use Only

BOARD REVIEW
APPROVED _____
DENIED _____
PROJECT PLANNER _____

APPLICATION # PL-24-06057
DATE RECEIVED _____
EXPIRATION _____

PROJECT BEING APPEALED

PROJECT NAME: 220 King Road Plat Amendment and Conditional Use Permits

ADDRESS: 220 King Rd., Park City, UT 84060

LAND USE AUTHORITY BEING APPEALED: Planning Commission

DATE OF FORMAL ACTION: 2/21/24

APPELLANT INFORMATION

NAME: Eric Hermann and Susan Fredston-Hermann

MAILING ADDRESS: P.O. Box 1027
Park City, UT 84060

PHONE #: (914) 309 - 5909

EMAIL: ehermann@fhinternational.com

APPELLANT REPRESENTATIVE

NAME: Justin Keys

MAILING ADDRESS: 1225 Deer Valley Drive, Suite 201
Park City, UT 84060

PHONE #: (435) 714 - 7676

EMAIL: Justin@hlhparkcity.com

PENDING APPROVAL

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making an application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am a party whom the City should contact regarding any matter pertaining to this application.

I have read and understood the instructions supplied by Park City for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I understand that my application is not deemed complete until a Project Planner has reviewed the application and has notified me that it has been deemed complete.

I will keep myself informed of the deadlines for submission of material and the progress of this application. I understand that a staff report will be made available for my review three days prior to any public hearings or public meetings. This report will be on file and available at the Planning Department in the Marsac Building.

I further understand that additional fees may be charged for the City's review of the proposal. Any additional analysis required would be processed through the City's consultants with an estimate of time/expense provided prior to an authorization with the study.

Signature of Applicant: S. Fredston-Hermann

Name of Applicant: Eric Hermann and Susan Fredston-Hermann

PRINTED

Mailing Address: P.O. Box 1027, Park City, UT 84060

Phone: 914-309-5909 Fax:

Email: ehermann@fhinternational.com

Type of Application: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

PENDING APPROVAL

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.

SUBMITTAL REQUIREMENTS – All of the following items must be included in order for the Planning Department to take the application.

1. Completed and signed application form.

2. Application Fee: $500

3. Appeals must (a) be by letter or petition, and contain the name, address, and telephone number of the petitioner, their relationship to the project or subject Property, and (b) must contain a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken

4. Any additional information that will assist in clearly understanding the nature of the appeal.

5. An electronic Excel spreadsheet with property owner, Summit County Assessor Parcel Number, and mailing address for all parties who received mailed notice for the action being appealed. Template is available through https://www.parkcity.org/departments/planning.

6. One (1) electronic copy of the required materials in PDF format.

PLEASE NOTE:

STANDING TO APPEAL: The following has standing to appeal a Final Action:

1. Any Person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board, or Planning Commission
2. The Owner of any Property within three hundred feet (300') of the boundary of the subject site;
3. Any City official, Board, or Commission having jurisdiction over the matter; and
4. The Owner of the subject Property

TIMING: All appeals must be made within ten (10) calendar days of the Final Action except for an appeal from a decision by the historic preservation authority which is Staff regarding the Design Guidelines for Historic Districts and Historic Sites or a decision by the Historic Preservation Board regarding a land use application, the applicant may appeal the decision within thirty (30) days after the day on which the historic preservation authority issues a written decision. The reviewing body, with the consultation of the appellant, shall set a date for the appeal. All appeals shall be heard by the reviewing body within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

FORM OF APPEALS: Appeals to the Planning Commission, Board of Adjustment, or Historic Preservation Board must be filed with the Planning Department. Appeals to the City Council must be filed with the City Recorder. Appeals must be by letter or petition, and must contain the name, address, and telephone number of the petitioner; his or her relationship to the project or subject Property; and must have a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken. The Appellant shall pay the applicable fee established by resolution when filing the appeal. The Appellant shall present to the appeal authority every theory of relief that it can raise in district court. The Appellant shall provide required envelopes within fourteen (14) days of filing the appeal.

PENDING APPROVAL

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.

HLH
HOGGAN LEE HUTCHINSON

Justin Keys
Justin@hlhparkcity.com
Direct: 435.731.9195

PENDING APPROVAL

March 1, 2024

VIA EMAIL & HAND DELIVERY

Park City Appeal Panel
Michelle Kellogg, City Recorder
michelle.kellogg@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Petition to Appeal the Conditional Use Application for 220 King Road Approved at the February 21, 2024 Hearing

Dear Ms. Kellogg,

Eric Hermann and Susan Fredston-Hermann ("Appellants") file this petition to appeal approval of the Conditional Use Permit # PL-23-05571 (the "CUP"). Appellants submitted written comment and testified in opposition to the CUPs. They also own property within 300 feet of the boundary of the subject site—indeed, their primary residence is adjacent to the proposed project and the CUP contemplates modification of their property without their approval.

BACKGROUND

On February 21, 2024, a split Planning Commission Approved Findings of Fact and Conclusion of Law to (1) Amend the Plat Notes for the Treasure Hill Subdivision, Phase 1, Lot 2; (2) for a Conditional Use Permit for Residential Design of the Proposed Structure and (3) for a Conditional Use Permit to Construct in the Very Steep Slope of the Sensitive Lands Overlay.

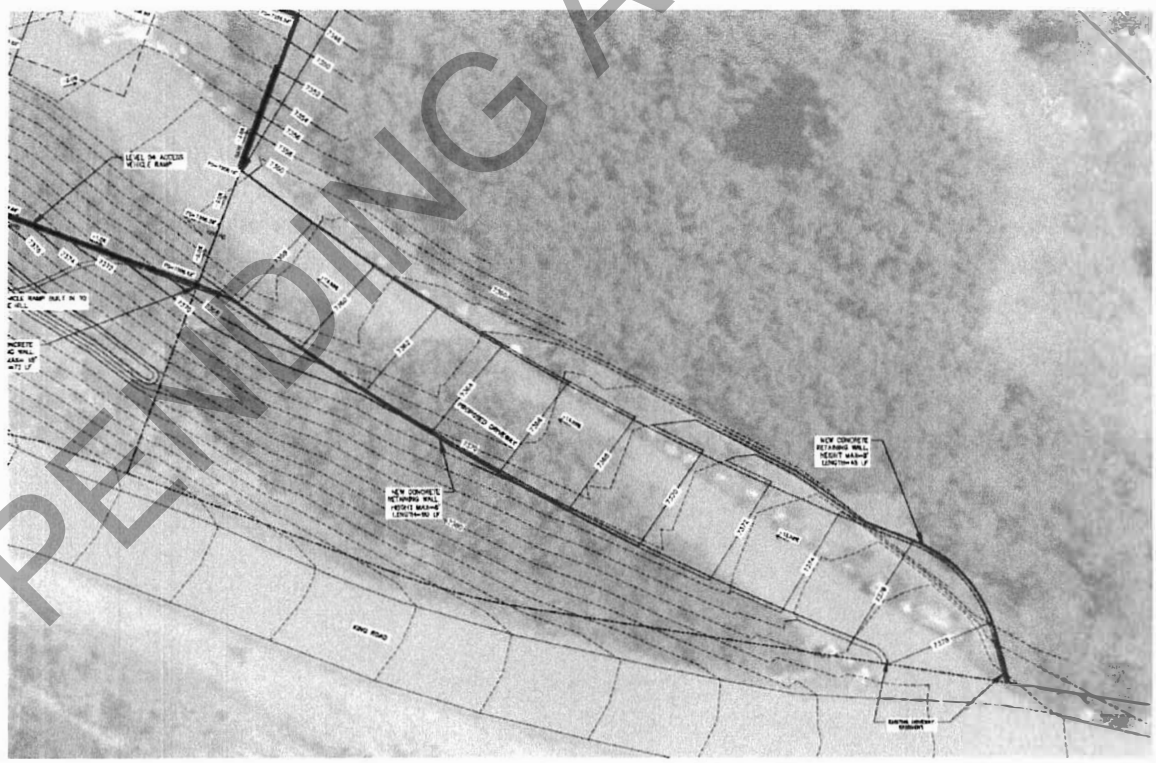
Relative to this appeal, that approval granted the Applicant the unilateral right to cut and re-grade the access driveway that crosses the Fredston-Hermanns' property at 200 King Road. The Applicant, as the owner of 220 King, has a non-exclusive right of access over a twenty-foot-wide driveway that runs the length of 200 King. This same driveway also serves as the access drive for the 200 King building envelope.

In approving the CUP, the Planning Commission incorrectly granted the Applicant the unilateral right to modify the access easement as long as they stay "within the platted easement." In earlier

proposed Conditions of Approval Staff recommended that the Planning Commission require that the Applicant obtain my clients' express approval to modify their 200 King property. In the February 14, 2024 hearing, the Applicant objected to this condition of approval. And in the final conditions of approval, City Staff (without any discussion with the Planning Commission) removed this requirement and included only this condition:

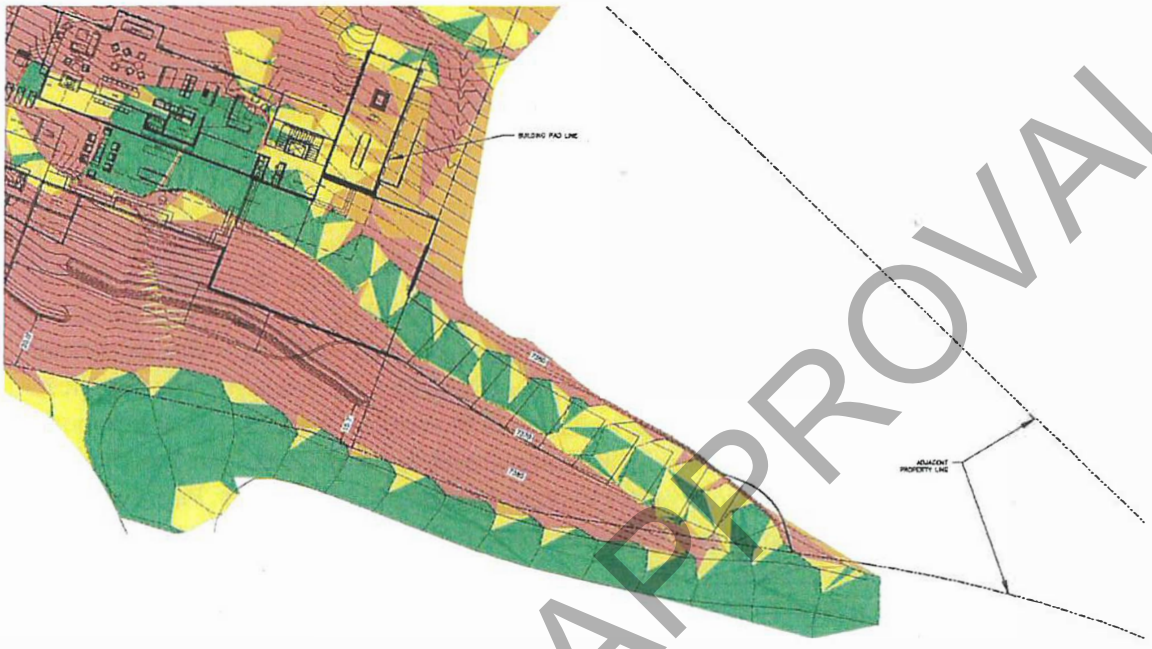
> To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited within the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road." *See* February 21, 2024 Staff Report, Exhibit C.

The Applicant is proposing to re-grade and construct retaining walls on much of my clients' property. During the February 14, 2024 hearing discussion regarding the CUP, Commissioner Johnson asked the Applicant whether there would be any eight-foot retaining walls constructed that would not be hidden from view by the Applicant's proposed structure. The Applicant represented that the only over-height retaining walls would be screened from view by the proposed structure. However, what was not discussed in that context were the substantial eight-foot retaining walls the Applicant proposed to construct on my clients' 200 King Road property. Page two of the Applicant's proposed grading plan, shown below, includes two eight-foot concrete retaining walls on my clients' property. One of these walls is ninety feet long and the other is forty-five feet long. The combined eight-foot wall stretches one hundred and thirty-five feet.



PENDING APPROVAL

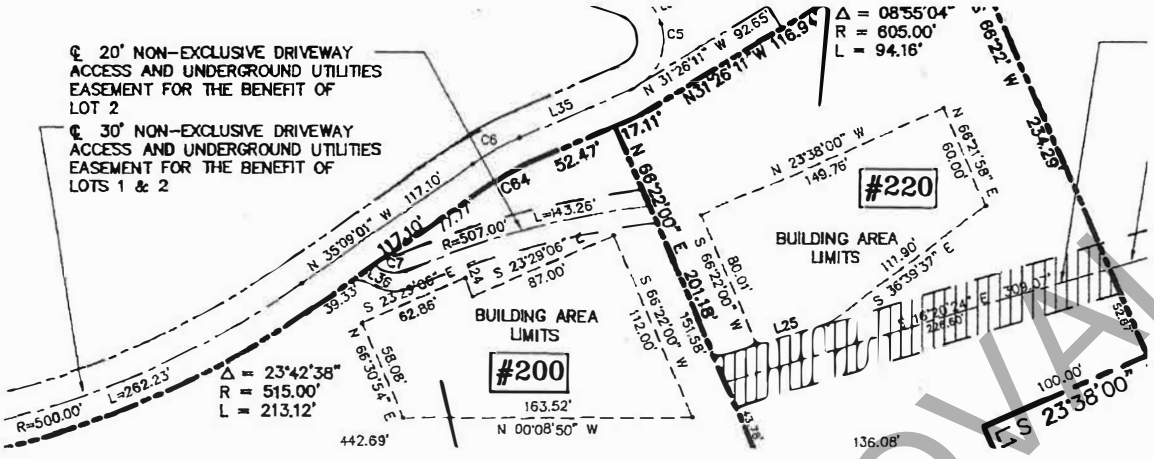
The proposed retaining walls are also located in the Very Steep Slope area of my clients' lot, as demonstrated at page 4 of Alliance Engineering's report provided by the Applicant.



In spite of the fact that they're proposing to install retaining walls along much of my clients' lot, the Applicant did not provide any input on the impact this will have on access for 200 King Road from the non-exclusive easement. Nor have they provided any analysis on the impact this excavation will have on my clients' primary residence, which is located directly down slope from their 200 King lot.

It is important to note that the Applicant's right to access over my clients' 200 King Road property is very limited. The "platted easement" is simply a 20' wide "non-exclusive" driveway and utility access. The entire statement of the easement is included in the following excerpt from the plat:

PENDING APPROVAL



STANDARD OF REVIEW

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below: rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

ARGUMENT

Through the CUP, The Planning Commission improperly granted Applicant the unilateral right to modify the non-exclusive access easement over the Fredston-Hermanns' property.

It is axiomatic that an easement's use may not unreasonably interfere with the property rights of the servient estate. "Whenever there is ownership of property subject to an easement there is a dichotomy of interests, both of which must be respected and kept in balance. On the one hand, it is to be realized that the owner of the fee title, because of his general ownership, should have the use and enjoyment of his property to the highest degree possible, not inconsistent with the easement. On the other, the owner of the easement should likewise have the right to use and enjoy his easement to the fullest extent possible not inconsistent with the rights of the fee owner."[1]

[1] *Nyman v. Anchor Dev., L.L.C.*, 2003 UT 27.

PENDING APPROVAL

The rights of the owner of fee title are all the more important where the easement is "non-exclusive" because it is contemplated that they (and potentially others) will also use the easement.

Here, the Fredston-Hermanns reserved the right to use the driveway for access to their lot. The driveway is located directly adjacent to the building area limits for the 200 King Road property. The most efficient means of accessing that building area will be from the already constructed driveway access. The Applicant and Staff are operating under the incorrect assumption that the Applicant may make any modifications to the driveway it desires so long as the work stays within the 20' non-exclusive easement—regardless of the impact that work may have on the Fredston-Hermanns' use of their property.

The flaw in this approach is apparent when you consider other non-exclusive easements in the area. For example, my clients have a non-exclusive access right over the Sweeney trails that run through the 220 King Lot. But this does not mean they have the unilateral right to enter the 220 King property (staying within the boundaries of the easement) and re-grade it to make their use of the Sweeney trails more convenient. Like the Applicant's driveway access, my clients' right to use the Sweeney trails is limited by its non-exclusive nature. Any attempt to re-grade the Sweeney trails would interfere with 220 King's rights—along with others who hold non-exclusive rights to the Sweeney Trails.

If the project proceeds as currently conditioned, it will mean that any applicant who holds a non-exclusive easement over another's property is entitled to modify that easement as it sees fit, so long as it stays within the geographic bounds of that easement. There are literally thousands of non-exclusive easements within Old Town alone. The continued grant and use of those non-exclusive easements depends upon cooperative use of non-exclusive easements, with proper deference to the rights of the property those easements burden.

Finally, it bears repeating that the Applicant is seeking its approval without meeting the Very Steep Slope requirements of the Sensitive Land Overlay ("SLO"). Park City's Land Management Code is very clear about the requirements for developing in the SLO. An applicant is required to provide a "Sensitive Lands Analysis" that is then reviewed by Staff who is to issue a "Sensitive Lands Determination." *See* Park City Land Management Code § 15-2.21-2. Here, no analysis has been provided and no affirmative determination made.

Additionally, where steep slopes are involved, "The Applicant must prove that the Development will have no significant adverse impact on adjacent Properties." LMC § 15-2.21-4 (H)(d). The Planning Commission can only determine that the steep slope requirements are met "if the Applicant proves: (1) [t]he Density is Compatible with that of adjacent Properties; (2) [t]he Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties; and (3) [t]he Applicant has adopted appropriate mitigation measures such as landscaping, Screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land." *Id.*

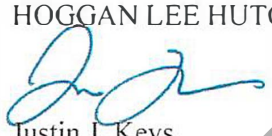
PENDING APPROVAL

The Applicant has not and cannot prove any of these elements. To make matters worse, the Applicant is taking the position (and Staff appears to agree) that it does not need my clients' permission to construct retaining walls across much of their property—including an area of Very Steep Slopes.

CONCLUSION

The Planning Commission erred by failing to provide due consideration for the impacts this project will have on the Fredston-Hermanns' property, which will be substantially modified by the grant of the proposed CUP as conditioned—without their participation, review, or approval. For this reason, the Appeal Board should reverse the Planning Commission's grant of the CUP.

Very Truly Yours,
HOGGAN LEE HUTCHINSON



Justin J. Keys

PENDING APPROVAL

HLH
HOGGAN LEE HUTCHINSON

Justin Keys
Justin@hlhparkcity.com
Direct: 435.731.9195

March 1, 2024

VIA EMAIL & HAND DELIVERY

Park City Appeal Panel
Michelle Kellogg, City Recorder
michelle.kellogg@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Petition to Appeal the Conditional Use Applications and Plat Amendment Application for 220 King Road Approved at the February 21, 2024 Hearing

Dear Panelists,

The undersigned and those listed in the attached Exhibit A file this petition to appeal the approvals of Plat Amendment # PL-22-05319 as well as Conditional Use Permit # PL-23-05571 (the "Steep Slope CUP"), Conditional Use Permit # PL-22-05318 (the "Single-Family Dwelling CUP"), and Conditional Use Permit # PL-22-05523 the "Accessory Uses CUP") (collectively the "CUPs"). Each of the undersigned submitted written comment or testified in opposition to the CUPs and Plat Amendment, or own property within 300 feet of the boundary of the subject site. In addition, attached as Exhibit B is a list of Park City residents who may not have standing under a strict interpretation of Park City Land Management Code §15-1-18(D) but who support this appeal and have consented to expressing that support by allowing us to affix their name to the Exhibit B list.

We and many other residents in the Old Town and Rossi Hill subdivisions believe the approval of the above-mentioned CUPs and Plat Amendment should be reversed.

On February 21, 2024, a split Planning Commission Approved Findings of Fact and Conclusion of Law with limited conditions to (1) Amend the Plat Notes to the Treasure Hill Subdivision, Phase 1; (2) for Conditional Use Permits for Residential Design of the Proposed Structure and accompanying pool; and (3) for a Conditional Use Permit to Construct in the Very Steep Slope of the Sensitive Lands Overlay.

STANDARD OF REVIEW

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application

PENDING APPROVAL

unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below; rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

ARGUMENT

The Appeal Panel should reverse the Planning Commission's decision to Amend the Plat Notes to the Treasure Hill Subdivision and approve the CUPs because the Planning Commission (1) failed to properly apply the Park City Land Management Code, (2) the proposed structure does not meet the express requirements of the Park City Land Management Code, and (3) the Planning Commission does not have the authority to exempt the Applicant from the LMC provisions the proposed structure violates.

1. *The Planning Commission's decision relied on the incorrect assertion by the Applicant that only the restrictions in the MPD and Subdivision Plat, rather than the Land Management Code, apply to this property.*

The Planning Commission erred in accepting the Applicant's claim that rules from the Land Management Code (LMC) do not apply if they are different from the restrictions in the Sweeney MPD.[1] This assertion directly contradicts the conditions stipulated in the Sweeney MPD. Section III (1) of the Sweeney MPD states that "[a]t the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan." Although the Applicant acknowledges this provision in its January 24 letter to the Planning Commission, it argues that the Land Management Code should be ignored where the Plat or MPD have more permissive restrictions. The primary reasoning for this, given by the Applicant, is not based on any law, precedent, or a conflicting provision, but rather that "[o]therwise, the MPD would have no meaning." This argument is groundless. The restrictions in the MPD remain meaningful even if the property is subject to stricter LMC rules. The logical reading of the above clause is that the MPD and LMC work together to set the limits for projects in the development.

The appropriate application of the LMC and MPD is that the stricter of the two restrictions apply. If the LMC is changed to be more permissive, than the restriction from the MPD would be the governing restriction. When the LMC is stricter, it governs. The LMC rules for the HR-1 district apply to every property in the HR-1 district. The rules in the Sweeney MPD apply to every property in the MPD. If the property is in both the Sweeney MPD and the HR-1 district, as 220 King is, then both sets of rules apply. When two equally applicable sets of rules govern an overlapping area, the stricter rule is the one that must be followed. For example, if Park City passed a law making it illegal to serve alcohol after 10 pm and Utah were to later pass a law making it illegal to serve alcohol after 9 pm, the 9 pm cutoff would govern. If the state were to, however, change its rule to 11 pm, the applicable cutoff in Park City would become 10 pm because it is the stricter of the two rules. It would be patently absurd to argue that the less strict rule covering the smaller overlapped area is the applicable cutoff simply because it would be meaningless otherwise. This same principle applies to the MDP and LMC in this case. Within the overlapping area, the stricter rule applies.

[1] Exhibit C, Letter from Wade R. Budge, Attorney for Applicant, to Planning Commission (January 24, 2024).

PENDING APPROVAL

The second argument advanced by the applicant for why the LMC does not apply are statements made by City staff. The most notable is a quotation from a 1985 letter by City Attorney Tom Clyde to Ed Sweeney (the original applicant for the Sweeney MPD). He stated: "Having filed your development proposal and paid the fees with the Planning Department, your zoning rights with respect to this particular project and application are vested under the existing zoning and would not be affected by subsequent zone changes." While this appears to support the Applicant's argument, the timing of the statement makes it inapplicable here. The 1985 letter is dated as received June 26, 1985. The Sweeney MPD was approved on December 18, 1985. Thus, even if Tom Clyde's statement was correct at the time, the subsequent inclusion of the provision requiring compliance with the zoning code "at the time of" conditional use review rendered it irrelevant. While standard practice may be that land use applications are governed by the zoning code in place when the application is filed, the specific terms of this MPD dictate that the houses built in the Sweeney MPD are to comply with the LMC as it reads at the time of the conditional use review. There are other statements in the record supporting the idea that properties in the MPD are not subject to code changes, however, these statements have no authority in this case as statements made by staff in direct contradiction of written terms are not binding.

In addition to the Sweeney MPD, 220 King Rd. is bound by restrictive covenants which state that the "zoning ordinances of Park City . . . are in full force and effect" and that "no Lot shall be occupied or used in a manner that is in violation of any such ordinance or code."[2] The argument by the Applicant that the LMC does not apply to this property or only applies when the MPD and Plat are silent is impossible to reconcile with the restrictive covenants stating that the zoning ordinances of Park City (i.e. the LMC) are in "full force." If the LMC does not apply or only applies in a limited manner it is not in "full force and effect." Likewise, because the restrictive covenants were put in place in 1996 (ten years after the Sweeney MPD) it would not make sense for the restrictive covenants to state that the LMC is in "full force and effect" if only the ordinances in place prior to the creation of the Sweeney MPD applied to this property. The restrictive covenants also specifically require that "[a]ll improvements and construction on the Covered Property is subject to the applicable existing architectural and other design and building restrictions in effect now and from time to time in the future." This further reinforces that any structure built on 220 King must comply with all current design rules (i.e., historic design regulations, roof size and shape restrictions, height restrictions, etc.)

2. *The proposed structure does not meet the express requirements of the Park City Land Management Code as expressly required by the Sweeney MPD and the Restrictive Covenants.*

The Applicant's proposed structure on 220 King Rd. violates numerous provisions of the LMC. These include limitation requirements for height, roof shape, building footprint, design, and the Sensitive Land Overlay.

First, the proposed structure exceeds the LMC's height requirements. The LMC limits exterior height for buildings with pitched roofs in the HR-1 district to 27 feet from existing grade.[3] Here,

[2] Exhibit D. Declaration of Restrictive Covenants (King Road Lots)(2)(a).
[3] LMC § 15-2.2-5.

PENDING APPROVAL

the plans approved by the Planning Commission (and required to remain the same as a condition of approval) not only exceed the 27 feet required by the LMC but also the 30 foot limit stated in the plat (even after this amendment) and the 25 feet required by the Sweeney MPD. The MPD specifically states in its height restrictions that parcels in the HR-1 district "shall abide by the Land Management Code and no height exceptions will be considered."[4] The external building height here, therefore, violates the MPD, Plat, and LMC.

Additionally, the Applicant has insisted that where LMC § 15-2.2-5(A) says "lowest finish floor plane" what it really means is "lowest finish*ed* floor." This interpretation, however, does not comport with the intention of the Planning Commission and Council when reviewing the staff report and minutes when the ordinance creating this phrasing, Ord. No. 13-48, was approved.[5] The discussion shows that what this change was trying to achieve was to maintain roughly the same height requirements for HR-1 and HR-2 that were previously in place while granting the flexibility to property owners to have split level floor plans that would have conflicted with the previous restrictions–reversing the trend of people going deeper with their bottom floor. The Staff Report when this change was made establishes that the change was intended to maintain a similar restriction of three standard stories, including the basement level, while allowing for split level plans of a similar height to a standard three-story home.

Planning Commission minutes from January 9, 2013 discussing this change show that one of the problems they were concerned about was the depth of basements. With this concern in mind, it does not make sense that they would have intended this provision to mean you can build down as far as you want and have an unlimited internal height if there is only thirty-five feet from the lowest "finished" floor to the point of the highest wall top plate. It appears from the wording[6] that the planning commission forwarded a positive recommendation on that the word "finish" was never intended to be put into the code here but rather was accidently left in Exhibit A of Ordinance No. 13-48 from a previous draft. The word "finish" must be read within the context of what the Planning Commission and Council were trying to achieve. If a floor can be easily converted into livable space (i.e., partially or fully above grade and not exclusively mechanical space or a crawl space) it should be considered for the internal height restrictions. It was clearly not intended that someone would be allowed to build two floors to a depth of twenty-four feet below the point at which the internal height is measured from.

Staff found the internal height of the building to be 53.5 feet, but the Applicant convinced the Planning Commission of the incorrect notion that the internal height requirements did not apply and argued that even if they did apply, they could comply by simply not finishing a massive portion of the house. As the internal height requirements do apply, the house does not comply with the internal height restriction as Council intended it to function when approving it. The Applicant should not be allowed to get around this rule simply by having the plans show the space as "unfinished" (especially considering the Applicant's representative refused to agree to a condition requiring that the Applicant not go in later and finish these floors).

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[4] Exhibit E, Sweeney MPD (III)(5)(a).
[5] Exhibit F, Staff Report for PL-13-01889.
[6] "A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters."

Within the height restrictions of LMC § 15-2.2-5 are also restrictions on roof pitch that the Applicant's proposed structure violates. LMC § 15-2.2-5(C) requires that homes in the HR-1 district have a roof pitch for the Contributing Roof Form[7] of between seven: twelve and twelve: twelve. Here the proposed building's Contributing Roof Form has a roof pitch of three: twelve. Even under the Applicant's theory of Section III(1) of the Sweeney MPD (that the LMC applies only when the Plat and MPD are silent) this is a violation as neither the MPD or Plat mention roof pitch.

Beyond the proposed structure's height violations, it violates the building footprint requirements. The LMC limits the building footprint to 4,500 square feet and MPD and Plat set the building footprint limit at 3,500 square feet. As the MPD is more restrictive, it governs. The MPD does not have a method of calculating building footprint. As it was written to incorporate the LMC, the LMC definition should be used to determine whether the proposed structure complies with the MPD.

The Plat has its own method of measuring the building footprint which has been modified to try to maneuver around its own rules since the proposed structure does not comply with the Plat limits. Even with the Plat Amendment, however, the proposed structure should not be viewed as in compliance with the Plat's building footprint limit. Under the LMC method, the Planning Department calculated the building footprint to be approximately 11,300 square feet, well beyond both the MPD limit and the LMC limit on building footprint.

The calculation would be the roughly the same (still well above the limit) under the Plat's rules both before and after amendment depending on whether or not the space where they intend to park their cars is a garage or not. Plat Note 2 (both before and after amendment) says that footprint "shall be calculated from the outside face of walls on any single level, and a maximum of three thousand five hundred (3,500) square feet footprint including garages." In an attempt to avoid this restriction, the Applicant has chosen to refer to the area where cars will be parked as a "parking area" rather than a "garage" and amend Plat Note 2 by adding to the exceptions from footprint calculation "that portion of any carport, mechanical space, parking area, or living space that is located below existing grade and which has landscaping or deck (as provided in 1(a)) located above it." The Applicant argued to the Planning Commission that the difference between a "garage" and "parking area" is determined by whether the space has a door, but the Applicant's assertion that the subject space is a parking area and not a garage simply because it does not have a door is baseless. "Garage" and "parking area" are not defined by the MPD or the Plat, but they are defined by the LMC. Those definitions support that the relevant space is a garage. The LMC definitions are:

> **Garage, Private**. An Accessory Building, or a portion of the Main Building, used for the storage of motor vehicles for the tenants or occupants of the Main Building and not by the general public.[8]

[7] As defined in LMC § 15-15-1: "The most visually prominent roof form viewed from the primary public right-of-way.

[8] LMC § 15-15-1. There are four definitions for Garage in the LMC Defined Terms (Commercial Garage, Front Facing Garage, Private Garage, and Public Garage).

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PARKING AREA. An unenclosed Area or Lot other than a Street used or designed for parking.[9]

The space cannot be a parking area because it is enclosed. The plans for the proposed structure show that at the level where cars will be parked is underground, surrounded by walls on all four sides, and has a ceiling and floor. That is the very definition of enclosed.[10] The argument that a space is not enclosed just because there is an entryway twelve feet above the space at the end of a long tunnel despite the space being surrounded by walls is frivolous. The space does, however, fit the definition of Private Garage. It is a portion of the main building that is intended to be used for the storage of motor vehicles by the occupants. The Applicant's requested edits to Plat Note 2 suggest that even the Applicant knows that this space is a garage and not a parking area. Although Plat Note 2 was amended, the Planning Commission did not acquiesce to all the Applicant's requested changes. The Applicant sought to have "including garages" deleted from the section of Plat Note 2 discussing what is included in the footprint calculation and adding "garages" to the list of new exceptions in the note. If this space is not going to be a garage, there would be no reason for the Applicant to try excluding garages. Since the space is a garage, the proposed structure violates the building footprint requirement, regardless of whether the Plat method or the LMC method is used to calculate the footprint.

Further, the proposed structure violates the design requirements of LMC (beyond the roof design issue discussed above). LMC § 15-13-8(A)(4) requires that "new infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale and proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot." As stated in the report from the from the only Qualified Historic Preservation Profession in the record, the design fails to meet any of the requirements in this LMC section.[11] The report emphasizes that the project is not compatible in size, scale, and proportion and states that the materials and features are compatible with industrial design in the area but not with residential design as required for the HR-1 zone. Likewise, the massing requirements of LMC § 15-13-8(B)(2)(a)(9) were not met since the modules on the primary facades exceed 25 feet in width.

Finally, the approval of the Steep Slope CUP violates the Sensitive Land Overlay Zone (SLO) Regulations.[12] The Applicant is shifting the building envelope into the Very Steep Slope of the Sensitive Land Overlay ("SLO"). Park City's Land Management Code has strict requirements for developing in the SLO. An applicant is required to provide a "Sensitive Lands Analysis" that is then reviewed by Staff who is to issue a "Sensitive Lands Determination."[13] Here, no analysis has been provided and no affirmative determination made. Where steep slopes are involved, an applicant must also "prove that the Development will have no significant adverse impact on adjacent Properties."[14] The Planning Commission can only determine that the steep slope requirements are met "if the Applicant proves: (1) [t]he Density is Compatible with that of adjacent

[9] LMC § 15-15-1.
[10] *See Enclose*, MERRIAM WEBSTER COLLEGIATE DICTIONARY (11th ed. 2003).
[11] *See* Exhibit G. SWCA Memo.
[12] LMC § 15-2.21.
[13] LMC § 15-2.21-2.
[14] LMC § 15-2.21-4 (H)(d).

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Properties; (2) [t]he Architectural Detail, height, building materials, and other design features of the Development are Compatible with adjacent Properties; and (3) [t]he Applicant has adopted appropriate mitigation measures such as landscaping, screening, illumination standards, and other design features to buffer the adjacent Properties from the Developable Land."[15]

The Applicant has not and cannot prove any of these elements. The proposed density of more than 20,000 square feet is not compatible with adjacent properties. The industrial architectural design details with its massing, scale, and height are not compatible with the adjoining residential properties. Nor has the Applicant demonstrated how it is taking any mitigation measures to buffer adjoining properties.

3. *The Planning Commission does not have the authority to exempt the Applicant from the LMC provisions the proposed structure violates.*

While it is possible to attain exceptions from the requirements of the LMC, CUPs and Plat Amendments are not the legally authorized tool for granting these exceptions. Nor is the Planning Commission the body empowered to make such exceptions. LMC § 15-1-11 requires that any such variance (i.e., exception) must be reviewed and approved by the Board of Adjustment, not the Planning Commission. If the Applicant wants to build this non-conforming structure in the HR-1 district, it must use the same process as anyone else seeking to avoid one of the LMC's requirements. Whether or not the Applicant should be allowed to proceed with the proposed structure, with its many LMC violations, should be determined by the Board of Adjustment under the strict standards of LMC § 15-10-8(C)—not the Planning Commission based on subjective personal preferences.

CONCLUSION

Based on the foregoing, we respectfully request that you reverse the Planning Commission's decision on applications # PL-22-05318, # PL-22-05319, # PL-22-05523, and # PL-23-05571 to ensure that the LMC is properly enforced and the appropriate review process is followed. Thank you for your consideration in this matter. Please feel free to contact us if you have any questions.

Very Truly Yours,
HOGGAN LEE HUTCHINSON

Justin J. Keys

Encl.

PENDING APPROVAL

[15] *Id.*

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APPEAL OF A LAND USE DETERMINATION

3

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APPLICATION # _____
DATE RECEIVED _____
EXPIRATION _____

PROJECT BEING APPEALED

PROJECT NAME: 220 King Road Plat Amendment and Conditional Use Permits

ADDRESS: 220 King Rd., Park City, UT 84060

LAND USE AUTHORITY BEING APPEALED: Planning Commission

DATE OF FORMAL ACTION: 2/21/24

APPELLANT INFORMATION

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Signature of Applicant: [signature]

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DATE OF FORMAL ACTION: 2/21/24

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Signature of Applicant: Ed DeSisto

Name of Applicant: Ed DeSisto

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APPELLANT INFORMATION

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APPELLANT REPRESENTATIVE

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Name of Applicant: Ginger Tolman
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PLANNING DEPARTMENT
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PARK CITY, UT 84060
(435) 615-5060

PARK CITY

APPEAL OF A LAND USE DETERMINATION

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BOARD REVIEW
APPROVED _____
DENIED _____
PROJECT PLANNER _____

APPLICATION # _____
DATE RECEIVED _____
EXPIRATION _____

PROJECT BEING APPEALED

PROJECT NAME: 220 King Road Plat Amendment and Conditional Use Permits
ADDRESS: 220 King Rd., Park City, UT 84060
LAND USE AUTHORITY BEING APPEALED: Planning Commission
DATE OF FORMAL ACTION: 2/21/24

CO-APPELLANT INFORMATION

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APPELLANT REPRESENTATIVE

NAME: Justin Keys
MAILING ADDRESS: 1225 Deer Valley Drive, Suite 201
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PHONE #: (435) 714-7676
EMAIL: Justin@hlhparkcity.com

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2. Application Fee: $500 (already paid)

3. Appeals must (a) be by letter or petition, and contain the name, address, and telephone number of the petitioner, their relationship to the project or subject Property, and (b) must contain a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken

4. Any additional information that will assist in clearly understanding the nature of the appeal.

5. An electronic Excel spreadsheet with property owner, Summit County Assessor Parcel Number, and mailing address for all parties who received mailed notice for the action being appealed. Template is available through https://www.parkcity.org/departments/planning.

6. One (1) electronic copy of the required materials in PDF format.

PLEASE NOTE:

STANDING TO APPEAL: The following has standing to appeal a Final Action:

1. Any Person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board, or Planning Commission
2. The Owner of any Property within three hundred feet (300') of the boundary of the subject site;
3. Any City official, Board, or Commission having jurisdiction over the matter; and
4. The Owner of the subject Property

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Signature of Applicant: co- [signature]

Name of Applicant: JAMES A. DOILNEY
PRINTED

Mailing Address: Box 4557 60
PARK CITY UT 84060

Phone: 435-901-8660 Fax:

Email: jdoil, e . com

Type of Application: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

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PROJECT NAME: 220 King Road Plat Amendment and Conditional Use Permits
ADDRESS: 220 King Rd., Park City, UT 84060
LAND USE AUTHORITY BEING APPEALED: Planning Commission
DATE OF FORMAL ACTION: 2/21/24

APPELLANT INFORMATION

NAME: John Vrabel
MAILING ADDRESS: Box 876
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PHONE #: 435 640 5588
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APPELLANT REPRESENTATIVE

NAME: Justin Keys
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Park City, UT 84060
PHONE #: (435) 714-7676
EMAIL: Justin@hlhparkcity.com

1

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Signature of Applicant: John Vrabel

Name of App licant: John Vrabel
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Mailing Addr ess: Box 876

Park City, Utah 84060

Fax: I 435

Phone: 640 5588

Email: jvdesign@comcast.com

Type of App/ication: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

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ADDRESS: 220 King Rd., Park City, UT 84060
LAND USE AUTHORITY BEING APPEALED: Planning Commission
DATE OF FORMAL ACTION: 2/21/24

APPELLANT INFORMATION

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APPELLANT REPRESENTATIVE

NAME: Justin Keys
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PHONE #: (435) 714-7676
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Signature of Applicant: Martiena Stahlke Lewis

Name of Applicant: MARTIENA STAHLKE LEWIS
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Type of Application: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

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LAND USE AUTHORITY BEING APPEALED	Planning Commission
DATE OF FORMAL ACTION	2/21/24

APPELLANT INFORMATION

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APPELLANT REPRESENTATIVE

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Signature of Applicant

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Type of Application: Appeal to Appeal Panel of CUPs and Plat Amendment granted by Planning Commission

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EXHIBIT A

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EXHIBIT B

PENDING APPROVAL

EXHIBIT C

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Snell & Wilmer
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SUITE 1200
GATEWAY TOWER WEST
SALT LAKE CITY, UT 84101
801.257.1900 P
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Wade R. Budge
wbudge@swlaw.com

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January 24, 2023

Park City Planning Commission
Park City Municipal Corporation
445 Marsac Avenue
Park City, UT 84060

Re: 220 King Road items in advance of 1/24/2024 work session. PL-22-05319; PL-22-05318; PL-23-05571

Dear Commission,

This firm represents Pesky Porcupine, LLC ("**Pesky Porcupine**"), the owner of the real property located at 220 King Road, Park City, Utah, known as Lot 2 in the Treasure Hill Subdivision ("**Lot 2**"). As you know from our October 11th work meeting, our client has two pending applications—a plat amendment and another for conditional use permit[1] for a home[2] ("**Applications**"). These Applications, once approved, will improve the neighborhood. This is because the Applications propose one architecturally significant residence to replace two architecturally insignificant homes built in 1997 and 2000, that had previously been used as nightly rentals.

This letter has two main parts. First, the letter offers a brief preview of important items for our upcoming January 24th work session and second, the letter sets forth a summary of corrections to some of misstatements in the January 19th staff report. We will follow up directly with the planning staff and the legal department regarding the misstatements after today's work session and in advance of the February 14th public hearing. As such, we would like to focus our discussion this evening on understanding the site that is Lot 2 and the details related to the new home itself.

[1] According to the Lot 2, Phase I, Treasure Hill Subdivision plat note #9, "[f]inal house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan." Because the city no longer has a Small Scale Master Plan process, we understand we are required to have the house approved through this conditional use permit.

[2] A third application is also pending for a steep slope conditional use permit, which we would anticipate would be rolled into the conditions for approval for the home. The steep slope conditional use permit is numbered PL-23-05571.

A. The Neighborhood.

Lot 2 is one of the seven residential lots in the Treasure Hill subdivision which subdivision was approved by and is included within the Sweeney Large Scale Master Plan Development approved in December 1985. Six lots have residences and one remains vacant. Below is a comparative table that helps orient the Commission to the neighborhood. Of note, the blue field is for the subject Lot 2. The green blocks are the proposed changes to Lot 2 according to the Applications. The Commission will note that our proposal is to reduce the size of the building area by nearly 500 square feet. We also are proposing to reduce the footprint size of the existing structures from 3,936 square feet to the 3,500 square feet. This size of 3,500 square feet meets the requirement in Plat Note 1 of the Lot 2 plat, which notes are attached to this letter as **Exhibit A**.

Plat	Lot #	Building Area Limits (sq ft)	Lot Area (acres)	Building Footprint (approx. sq ft)	Building size (sq ft)
Treasure Hill Subdivision Phase 1 - 1996	Lot 1 (200 KING RD)	12,700	0.86	NA	NA
	Lot - 2 (220 King Rd)	Existing Total - 14,716	1.23	Existing - 3,936 sq ft (survey)	Existing Total - 6,965 sq ft (Summit County Tax Info- both homes)
		Proposed Total - 14,226		Proposed - 3,500 sq ft	Proposed – 7,531 sf (finished) 5,901 sf (unfinished)
	Lot -3 (425 NORFOLK AVE)	17,000	1.31	2,620 sq ft	Total - 3,881 sq ft (Summit County Tax Info)
	Lot - 4 (375 NORFOLK AVE)	7,500	1.1	5,178 sq ft	Total - 10,813 sq ft (Summit County Tax Info)
Treasure Hill Subdivision Phase II - 2003	Lot - 6 (503 1/2 WOODSIDE AVE)	7,650	0.79	4,268 sq ft	Total - 9,161 sq ft (Summit County Tax Info)
	Lot - 7 (503 WOODSIDE AVE)	7,500	0.92	4,182 sq ft	Total 9,214 sq ft (Summit County Tax Info)
Treasure Hill Subdivision Phase III Amd 1 - 2009	Lot - 8 (445 KING RD)	29,083.90	11.9	4,280 sq ft	Total - 8,738 sq ft (Summit County Tax Info)

The proposed footprint for the new Lot 2 home is smaller than all but one lot, Lot 3, in the Sweeney MPD. The proposed finished space is smaller than all homes except for one lot, Lot 3. The unfinished space is larger than the other homes, but there is no restriction (as described below) on unfinished space. As for height, the issue of what standard applies is stated in the plat, which clearly states in plat Note 4 that a home on this lot may have a total height, measured from existing grade, of "thirty (30) feet." Finally, with respect to plat Note 6, which requires massing to be broken up into areas no larger than 1,500 square feet, the proposed home for Lot 2 achieves this

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by including (5) five massing units, the largest one of which is 1,110 square feet and the smallest of which is 345 square feet.

We will present at the work session additional data on the neighborhood so as to assist the Commission's review.

B. Issues Raised by Staff Report

The January 19th staff report attempts to identify issues with the Applications. But, what the report fails to account for is that this home is located in an approved Master Plan Development. This is not a home on a historic, HR-1 lot. Critically, the report does not take into account that the Applications seek, at their essence, to allow a remarkable home, the design of which has garnered written support from significant stakeholders and neighbors, to be built to replace potentially non-conforming homes that all would agree are not architecturally significant. The report also fails to take into account that the new home eliminates existing issues associated with the existing nightly rental of homes on Lot 2. In short, the Applications seek to mitigate the negative impacts associated with bad architecture, bad siting, and bad use and replace it with a conforming, single home with an impeccable design.

Missing from the staff report is the acknowledgment that any item raised as a concern can be fully addressed by this body, the Commission, sitting as the land use authority for these Applications. In both the Sweeney MPD itself, and in plat Note 9 of the Lot 2 plat, it clearly contemplates that each home would be processed using a small scale MPD. But, because small scale MPDs no longer exist in the code, the interpretation, consistent with what was approved first in 1985, is that individual homes would be approved as conditional uses. This is why the Applications here include a conditional use application. Further, with the plat application, we are requesting to modify, and in fact shrink, the buildable area, the Commission is able to make the adjustments to accommodate the design proposed in the Applications.

Another overarching point is that the Sweeney MPD must mean something. It is true that Section III (1) of the MPD states in part that "[a]t the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinance in effect at the time, in addition to ensure conformance with the approved Master Plan." The misunderstanding that is arising, as is reflected in the some of the staff report's comments, is that if the Land Management Code has changed, which it has since 1986, the most restrictive interpretation must apply. This reasoning is circular. The rule of interpretation is that the specific controls. Otherwise, the MPD would have no meaning. Further, as the city has acknowledged with the Treasure settlement, and other actions, the Sweeney MPD includes vested rights on which a party may rely. The language in the actual Sweeney MPDs clearly address height, address footprint, address massing, and address the area appropriate for development. Later adopted rules can apply. But later adopted rules do not apply if they conflict with express approvals in the Sweeney MPD and the plat. Here's a brief summary of the items we intend to address with planning staff and the legal department.

PENDING APPROVAL

1. **Sensitive Land Overlay (SLO).**

For the very first time, the January 19th staff report raised the supposed issue that some of Lot 2 may be subject to restrictions found in the sensitive lands overlay zone. Specifically, the report states that "a portion of the west side of the Lot is within the Sensitive Land Overlay (SLO)." This statement is incorrect for two reasons. First, nearly two years ago, when the Applications were being prepared, the applicant's team consulted with planning staff on this issue. In February of 2022, Gretchen Milliken (former Planning Director) provided the following in an email to a representative of the applicant regarding the SLO:

> *Additionally, because the MPD (and subsequent amendments) considered the Sensitive Lands Overlay, I don't think we need to request additional SLO materials at the time of application. There does not appear to have been this requirement for other Treasure Hill properties with small portions of the lots within the SLO.*

This analysis was discussed with current planning staff over the last two years. At no point did staff change is previously announced view that the SLO is not implicated here. And even if it does touch a small portion of the site, the SLO does not apply because of the approvals granted in the Sweeney MPD and the associated plat approval govern.

Second, the SLO Boundary did not include the single family lots of the Sweeney MPD when adopted. Specifically, by Ordinance 92-17 the City Council adopted the SLO, without a legal description or a map. The map produced two years later, and depicted below, confirms it does not apply to these lots. See below, yellow line purports to be the SLO boundary, and Lots 1 and 2 are labeled "HR-1 MPD":

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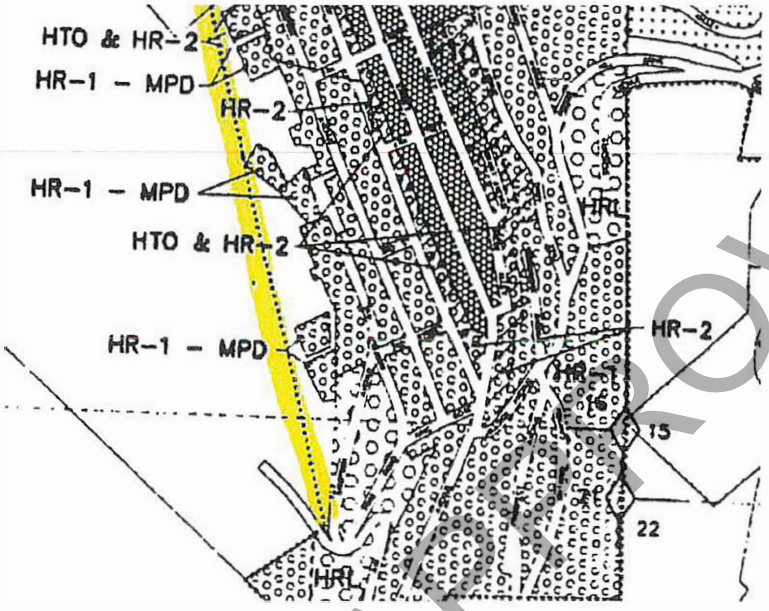

Source: 1994 Park City Zoning Map.

No one has produced a zoning map showing that the SLO applies to Lot 2. What has been attached to the staff report are two depictions, Figure 7 and Figure 8, both of which attempt to project an SLO line on the property, but outside of the building area limits. Moreover, even if the SLO were to apply it at most would apply to a small corner where an accessory structure is contemplated, not the area of the main residence. There are two other things to keep in mind. The SLO does not prohibit development. It merely requires additional consideration. Further, the code plainly states that the SLO boundary should not bisect properties. See LMC Section 15-1-6. The boundaries should follow property lines unless there is an express reason for the SLO to bisect a property. There is no such intent or purpose identified here. In other words, the SLO has never applied to the property and even if it does, it would not impact the main residence or frankly the ultimate inclusion of an accessory structure. Finally, the LMC does not support the SLO applying to just a portion of this lot.

2. **Plat Building Footprint Requirements:**

a. The current LMC definition for Building Footprint uses the furthest exterior wall of the Structure projected to Natural Grade. The Planning Department calculates the Applicant's actual building footprint at approximately 11,300 square feet, using the LMC.

We believe the above analysis is incorrect. The Treasure Hill Subdivision, Phase 1 plat includes "Special Restriction for Single Family Homes to be Constructed on Lots 1 Through 4", or "**Plat Notes**". Plat Note 1, attached as Exhibit A-1, states that: "FOOTPRINT. the maximum

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footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3,500) square feet including garages....". Based on this language, which provides specific instruction on how the footprint is measured, the Project meets the square foot limitation placed on it by the plat. A later adopted rule does not change this right and obligation set forth in the plat. The area of the lowest floor is below 3,500 sq ft. See Exhibit A-2. Additionally, the area of the cantilevered floor is below 3,500 sq ft. See Exhibit A-2. In other words, the Applications carry forward this same 3,500 sq ft maximum to all levels.

The staff report seems to make a claim that the parking area needs to be included within the buildable area. This is not accurate. And this interpretation is contrary to the MPD and its associated plat notes. For example, the area for subgrade access and parking has not been included in the footprint calculation of any other lots in the Sweeney MPD. For instance, the development of the Upper Norfolk lots (Lots 3 and 4) included an area of disturbance over 45,000 sq ft to accommodate the underground access tunnel and subgrade parking. The development of Woodside Ave lots (Lots 6 and 7) included an area of disturbance on 55,250 sq. ft. for the underground access tunnel. The staff report does not account for this fact in its calculations. And as such, the parking area, because it is underground, should not count towards the 3,500 square foot footprint restriction.

b. The primary Structure has been modulated into 4 segments, each under 1,500 square feet, however, 2 of the 4 segments exceed 25 feet in width.

The Project is broken up into multiple massing elements, all of which are under 1,500 square feet, as required by Plat note #6 of the Treasure Hill Subdivision, Phase 1. The footprint includes Level 2 of the portion of the building that runs mainly north/south and Level 1 of the massing element that runs more east/west. The total footprint is measured at 3,370 square feet, as shown in Exhibit A-2. That footprint is broken up into five (5) different massing elements. These massing elements are separated using vertical façade breaks as required by the plat Note 6. There is not a requirement that the massing elements be limited to twenty-five feet. The staff report references an additional restriction applicable in the zone but outside of the Sweeney MPD. That additional restriction is found in LMC Subsection 15-13-8(B)(2)(a)(9) and is intended to apply to the historic twenty-five foot (25') lots in the city. Again, this requirement does not apply to the Sweeney MPD. And if they were to apply, the code permits greater width, in certain circumstances. As such, even if the width criteria were to apply (which it does not), the LMC in Subsection 15-13-8(B)(2)(a)(9) states – "Modules on a primary façade **should generally** not exceed eleven (11) feet to twenty-five (25) feet in width.) (emphasis added). This generally comment recognizes that in some instances the width restriction may not apply. The Sweeney MPD certainly would be one of those instances.

3. **LMC Building Height Requirements:**

Exterior Building Height Complies however the interior Building Height measures 53.5 ft and does not comply.

PENDING APPROVAL

The topic of height is clearly addressed in plat Note 4. Notably, that note does not give an internal height restriction. Rather, it says height is measured from "existing grade". The staff has chosen to read the plat note narrowly to argue that existing grade is only for exterior height. This is not a fair reading. Had the city wanted to limit interior height it could have done so in approving the Sweeney MPD and its plat. It did not.

Nevertheless, if one were to assume that the interior height restriction were to apply, the applicant here has modified its Applications to have the bottom level unfinished. This is because the interior height limit, which only came into existence in November 21, 2013, specifically states that interior height is measured from the "lowest finish floor plane." The phrase "lowest first floor plane" is not a defined term. This means that if two meanings are available, the one that supports the land owner's request must be followed. U.C.A. 10-9a-306(2). Here, the Applications have been updated to leave the below ground level unfinished. We think this is a non sensical result given the plat note is specific on items of height and does not require an interior limit. But if the city believes it can apply this later adopted interior restriction on the same topic covered by the Sweeney MPD and the plat to this site, then leaving the bottom level unfinished means the planning staff is measuring the interior height from the wrong beginning point. The applicant's interpretation is bolstered in that the phrase "lowest finish floor plane" must mean the floor of the "First Story", which is a defined term[3]. To achieve another result means one must ignore the words "finish floor" and also ignore the relevant definition of "First Story."

In short, the interior height restriction does not apply to this MPD or plat. If it were to apply, leaving the bottom floor unfinished addresses any issue. The planning staff interpretation is not supportable. And this issue can be addressed in the approval of the Applications.

4. **Sub-Grade Development:**

"The Planning Department is concerned that the proposed amendments promote sub-grade development inconsistent with the MPD's intent . . ."

This comment in the report is problematic for a number of reasons as well. First, sub-grade development is allowed in the Sweeney MPD. Lots, 3, 4, 6 and 8 all have subgrade development, including a tunnels, parking areas, and basements, to name a few. Second, the planning department is aware that a land use regulation must plainly restrict a use to be enforceable. Even if there were an intent to prevent sub-grade development, which there is not, an intent is not controlling unless a land use regulation or control is created that specifically restricts a use. Here, there is no such control.

[3] Park City LMC 15-15: FIRST STORY. The lowest Story in a Building provided the floor level is not more than four feet (4') below Final Grade for more than fifty percent (50%) of the perimeter. Can include habitable or uninhabitable Floor Area.

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Finally for your consideration, we have attached a table as Exhibit B showing the Applications meet all of the requirements in the code. We ask that you review these before the February 14th hearing.

We are happy to schedule a time to sit down and meet to walk through the plans for the Project to ensure all of the concerns that have been identified are resolved. We would like to involve the architect and other representatives as needed. Please coordinate such a meeting with Jason Boal.

As always, thank you for your professionalism and attention to this matter.

Very truly yours,

SNELL & WILMER

Wade R. Budge, P.C.

WRB:jcb

Cc: Rebecca Ward
Mark Harrington
Client
Jason Boal
Bruce Baird

PENDING APPROVAL

Exhibit A-1

FIRST AMENDED RECORD OF SURVEY MAP

LOT 2, PHASE 1, TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED ON LOTS 1 THROUGH 4 SHOWN HEREON.

1 FOOTPRINT. The maximum footprint, calculated from the outside face of walls and subject to the massing requirements of Note 7, shall be three thousand five hundred (3500) square feet including garages. The following shall not count towards the foot print calculations:

(a) Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them.
(b) Exterior walkways;
(c) Exterior stairs.
(d) Driveways

2 BUILDING AREA LIMITS. Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on the Plat or as consistent with the approved construction drawings of the driveways, Upper Norfolk turnaround, King Road turnaround, ski bridge and utility plans) shall be limited to the Building Area Limits noted on the Plat. Notwithstanding the forgoing, flat areas located on the Ski Trail Easements where they cross Lots 3 and 4 and are directly adjacent to the Building Area Limits of Lots 3 and 4 may be landscaped with irrigated groomed grass.

3 CONSTRUCTION DISTURBANCE. Unless otherwise provided in agreements with Park City Municipal Corporation which are of record, temporary construction disturbance shall be limited to twenty (20) feet beyond the Building Area Limits or to adjoining lot property lines which ever is closer. Such disturbed area shall be revegetated with native landscaping.

4 HEIGHT. The building height shall be measured from existing grade to the top of flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access, i.e. stairwells and/or elevators between floor levels.

5 FACADE HEIGHT, EASTERLY FACING. The maximum facade height for the Easterly facing facades without a step back of at least five (5) feet shall be twenty five (25) feet from existing or reestablished grade whichever is greater.

6 MASSING. House designs may be comprised of one or more connected or unconnected building masses. No one building mass within the 3500 square foot footprint referenced in Note 1 above, shall have a footprint that exceeds 1,500 square feet. Massing elements shall be separated by horizontal and/or vertical facade breaks.

7 SEWER LATERALS. Maintenance and replacement of sewer laterals shall be the responsibility of their respective owners and not that of the Snyderville Basin Sewer Improvement District.

8 FIRE SPRINKLING. Internal and external modified 13d fire sprinklers shall be provided for the homes. Wood roofing material shall be prohibited.

9 PRECEDENCE. The above special restrictions are consistent with the Sweeney Master Plan approved by the Park City Municipal Corporation on October 16, 1986 and as subsequently amended on October 14, 1987 and December 30, 1992. Final house design shall be reviewed under the Small Scale Master Plan Process in accordance with the Sweeney Master Plan.

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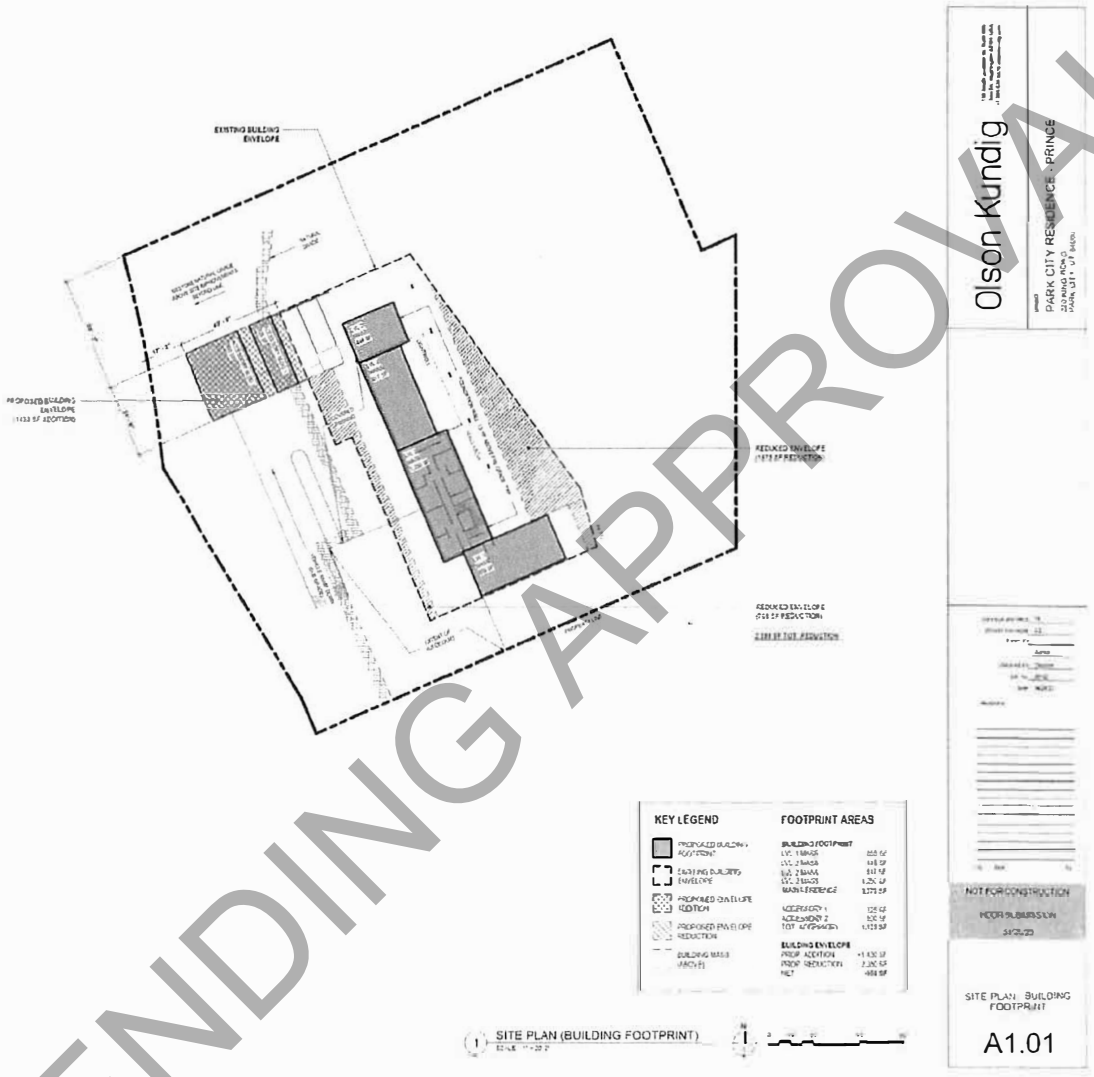
Exhibit A-2



PENDING APPROVAL

EXHIBIT B

Single Family CUP Compliance		
Code Section	**Review Item**	**Owner's Explanation of Compliance**
15-1-10.E.1	size and location of the Site;	**Complies** Existing on the site today are two Single-Family Dwellings, one of which was permitted as a guesthouse. The application is for one Single-Family Dwelling on a 1.24-acre Lot (Lot 2 of the treasure Hill Subdivision, Phase 1). It has already been determined that this location is appropriate for this use, through the MPD, plat review and previous CUP approval. It should be noted that the Lot on which the development is proposed, is much larger than the other lots/parcels in the vicinity. Due to the size of the lot, the structure will be more than adequately setback and buffered from the surrounding properties. The nearest adjacent residence is approximately 120 feet away, on Norfolk Avenue. The size and location of the Site is consistent with other Single-Family Lots in the Sweeney MPD which generally range from 0.79- 1.31 acres and are also located towards the top of the Historic District.
15-1-10.E.2	traffic considerations including capacity of the existing Streets in the Area	**Complies** The new home will utilize the same access point, 220 King Road. There will be no additional traffic or traffic impacts from what is being proposed. The capacity of existing streets in the area is sufficient to accommodate the proposed development and the new development does not meet the Engineering Department's threshold to warrant a Traffic Impact Study.
15-1-10.E.3	utility capacity, including Storm Water run-off;	**Complies** All utilities to the Site were installed during construction of the existing Dwellings. It is anticipated that utility usage will be decreased with- i) the construction of a newer home, ii) the removal of a dwelling on the property, and iii) the removal of the use of the property as a short-term rental. Proposed Condition- All Storm Water runoff from new impervious surfaces must be contained

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		on-site and the Applicant must submit a Soil Investigation Report and a Geotechnical Report prior to the Application being considered complete.
15-1-10.E.4	emergency vehicle Access	**Complies** The proposed development meets fire turnaround and driveway slope requirements.
15-1-10.E.5	location and amount of off-Street parking;	**Complies** The site will meet the requirements of LMC § 15-3-6(A) Off-Street Parking Requirements for Residential Uses (2 parking stalls).
15-1-10.E.6	internal vehicular and pedestrian circulation system;	**Complies** Vehicle Circulation: Vehicles accessing the site will utilize the exiting access point on King Road. The Site is designed to allow vehicles to turn around and park via the private driveway, as it has been done in the past. Pedestrian Circulation: King Road does not have sidewalks and is not ideal road for pedestrians. There is a ten foot (10') public non-motorized bike and pedestrian trail and a ski and pedestrian easement exist on this Property for the benefit of a neighboring lot, per the Amended Treasure Hill Subdivision, Phase 1 Plat. That trail will continue to be on the property; no change to the easements are proposed with this Application.
15-1-10.E.7	Fencing, Screening, and landscaping to separate the Use from adjoining Uses;	**Complies** No additional Fencing is being proposed on the site at this time. The landscaping and revegetation is proposed to be native grasses to blend in with existing vegetation, foliage and trees. The existing vegetation on and around the perimeter of the lot will be maintained and managed with Firewise principles. The perimeter vegetation provides and will continue to provide a visual barrier of the Site and/or structure and assists in mitigating the visual impact.
15-1-10.E.8	Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;	**Complies** 1. The structure has been broken up into separate massing elements to break up the perceived mass, as required by the plat notes. The most visible side of the house is the rear of the house, not the front facade of the home. The footprint of the home meets the requirement found on the plat. 2. Building and site design shall respect the existing topography, the

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		character-defining site features, including existing trees and vegetation, and shall minimize cut, fill, and the use of retaining walls, by locating the retaining wall and hillside cut behind the house, so that it is not visible. 3. Building Height of structure meets the limitation placed on the plat; 30 feet measured from Existing Grade. Additionally, the roof has been reduced and secondary roof form has been incorporated in the design. 4. The proposed Structure is consistent with other Single-Family Lots in the Sweeney MPD. The MPD, plat and previous CUP approvals never considered this lot as a "historic lot".
15-1-10.E.9	usable Open Space;	**Complies** The proposed Single-Family Dwelling does not substantially change the Site's Open Space. The area proposed to be added to the "Buildable Area" is on the up-hill side of the Dwelling and not visible from King Rd, or across the valley. The lot will be restored after construction to existing grade and is proposing native grass, shrubs, Pine, and Aspen trees. There are existing trail easements on the Lot and proposed development does not disturb any of these trail easements. There are also several landscape easements on the east side of the property which will be maintained.
15-1-10.E.10	signs and lighting;	**Complies** No signs are proposed for the Single Family Lot. The site will be required to comply with LMC § 15-5-5(J), Outdoor lighting.
15-1-10.E.11	physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;	**Complies** The proposed Structure is consistent with other Single-Family Lots in the Sweeney MPD.
15-1-10.E.12	noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;	**Complies**The proposed Single-Family Dwelling is not expected to generate noise or other factors that will affect people and Property Off-Site.
15-1-10.E.13	control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;	**Complies** The Vehicle Control Gate will control delivery and service vehicles. The Applicant will provide plans where trash and recycling bins will be stored.
15-1-10.E.14	expected Ownership and management of the project as primary residences, Condominiums,	**Complies** The Lot will continue to be owned as a Single Family Lot.

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	time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;	
15-1-10.E.15	within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site; and	**Complies** The site has already been graded for the existing Dwellings. The intent is to utilize the existing site, so that grading will be minimized . Steep Slope CUP information, including a grading plan has been submitted. This Site is not within the Soil Ordinance boundary or within the Sensitive Lands Overlay (SLO). The location and construction of the existing structures was previously approved. It is anticipated this location provides minimal impact on the Slope and Ridge Line of the Site, overall hillside, and adjacent properties and neighborhoods. The height and building size limitations placed on the Plat, along with the existing screening preserve the view from surrounding Sites. There are no wetlands or streams on the Site. This Site includes a trail and/or ski connection for human activity all year long, so impact on wildlife would not be greatly varied by the construction of a new Single-Family Dwelling. The Site is already utilized by the Property owner and the "Building Zone" does not have environmentally sensitive lands. Visibility of the site was contemplated at the time of the MPD and the Plat approval.
15-1-10.E.16	reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding	**Complies** The site and structure are not historically significant. The proposed design complies with design criteria as contemplated during the MPD approval.

Steep Slope CUP Compliance		
Code Section	**Review Item**	**Owner's Explanation of Compliance**
15-2.2-6.B.1	LOCATION OF DEVELOPMENT. Development is located and designed to reduce visual and environmental impacts of the Structure.	**Complies** The lot does contain Very Steep Slopes, which the CUP was submitted for. The location of the Lot is visible, however the cuts to the hillside and impact to the very steep slopes will be located behind the house and not visible from downtown. The SLO is not applicable to this lot. The lots in the Sweeney MPD have not been limited to site improvements only in the "Building Area Limits".
15-2.2-6.B.2	VISUAL ANALYSIS. The Applicant must provide the Planning Department	**Complies** A visual analysis was submitted. The site is visible with the current development. A

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	with a visual analysis of the project from key Vantage Points: a) To determine potential impacts of the proposed Access, and Building mass and design; and b) To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities	landscaping plan that identifies additional plantings has been submitted. The impacts to the hillside will be behind the home and not visible from downtown.
15-2.2-6.B.3	ACCESS. Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Shared Driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible.	**Complies** Access to the Site is not changing and the existing driveway will be used and improved. Improvements include widening the driveway to approximately 27 feet and retaining walls not to exceed eight feet (8'). Submitted plans indicate the grade of the driveway will not exceed 14%, in compliance with LMC § 15-3-3(A)(4).
15-2.2-6.B.4	TERRACING. The project may include terraced retaining Structures if necessary to regain Natural Grade.	**Complies** The proposed residence is going through Historic District Design Review. Conceptual grading and drainage plans from Alliance Engineering have been submitted.
15-2.2-6.B.5	BUILDING LOCATION. Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.	**Complies** The "perceived natural topography" of the site will remain as it is today. The cuts to the hillside will be located behind the home and will not be visible. The design, including the footprint, meet the criteria identified on the plat and in the Sweeney MPD.
15-2.2-6.B.6	BUILDING FORM AND SCALE. Where Building masses orient against the Lot's existing contours, the	**Complies** Proposed home is divided into several massing elements. Portions of the home are located below grade in order to reduce visibility and reduce the perceived bulk.

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	Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Commission may require a garage separate from the main Structure or no garage.	
15-2.2-6.B.7	SETBACKS. The Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.	**Complies** There will not be any development along a road frontage.
15-2.2-6.B.8	DWELLING VOLUME. The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.	**Complies** The volume and/or massing requirements for home in the Sweeney MPD were established when the MPD and Plat were approved. These requirements included footprint, façade height, and massing. The proposed design meets each of the requirements.
15-2.2-6.B.9	BUILDING HEIGHT (STEEP SLOPE). The Zone Height in the HR-1 District is twenty-seven feet (27')	**Complies** The proposed design meets the height requirements identified in the Sweeney MPD and Treasure Hill Subdivision plat approvals.

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	and is restricted as stated above in Section 15-2.2-5. The Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and the Historic character of the neighborhood's existing residential Structures.	

PENDING APPROVAL

EXHIBIT D

PENDING APPROVAL

When Recorded, Mail To:
Geoffrey W. Mangum
Prince, Yeates & Geldzahler
175 East 400 South
Suite 900
Salt Lake City, Utah 84111

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ALAN SPRIGGS, SUMMIT COUNTY RECORDER
1996 APR 15 17:00 PM FEE $45.00 BY DMG
REQUEST: COALITION TITLE

DECLARATION OF RESTRICTIVE COVENANTS (KING ROAD LOTS)

THIS DECLARATION OF RESTRICTIVE COVENANTS is made on the 15th day of April, 1996, by **EDMUND J. BEAULIEU, CLYDE CARLIG** and **SWEENEY LAND COMPANY**, a Utah general partnership (collectively, the "Declarant").

RECITALS:

A. Declarant is the Owner of certain real property comprised of two (2) lots located in Summit County, Utah, more particularly described and depicted on Exhibit "A" to this Declaration, which is incorporated herein and which real property shall be covered by this Declaration (the "Covered Property"). Simultaneously herewith, Declarant is recording a subdivision plat ("Plat") of the real property described in Exhibit "A," which plat subdivides the Covered Property as indicated thereon and is entitled "Treasure Hill Subdivision, Phase I". The plat is being recorded as Entry No. 452295 ~~at Book No. _____, pages _____~~ (to be filled in by Coalition Title Agency) in the office of the Summit County Recorder.

B. Declarant intends to sell or deed the two (2) lots (collectively, the "Lots"), shown on the Plat as Lots 1 and 2, comprising the Covered Property for the construction of single-family residential homes. Declarant will develop and/or convey all of the lots within the Covered Property subject to the protective covenants, conditions, and restrictions set forth in this Declaration, and which are deemed to be covenants running with the land mutually burdening and benefiting each of such lots.

NOW THEREFORE, Declarant declares as follows:

1. **Scope and Existence of Declaration**. Declarant hereby declares that all of lots within the Covered Property shall be held, sold, conveyed, encumbered, used, occupied, and improved subject to the protective covenants, conditions, restrictions set forth in this Declaration. It is the intention of the Declarant in imposing these covenants,

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PENDING APPROVAL

conditions, and restrictions to create a general plan of development, to protect and enhance the property values and aesthetic values of the Covered Property, all for the mutual protection and benefit of owners of the Lots. The covenants, conditions, and restrictions contained herein are intended to, and shall in all cases run with the title of the land, be binding upon the successors, assigns, heirs, and any other person holding any ownership or possessory interest in the Covered Property, and shall inure to the benefit of all of the Lots in the Covered Property.

The covenants, conditions, and restrictions shall be binding upon each and all of the Owners, as well as their successors in interest, and may be enforced by the Declarant or by any Owner, as hereinafter defined. Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant (for so long as the Declarant or any of the Declarant is the Owner of any Lot) or any Owner from adding adjacent real property as Covered Property under this Declaration.

For purposes of this Declaration, the term "Owner" or "Owners" shall mean the person(s) or entity holding fee simple title to any Lot, including buyers under any contract for deed, but excluding any person or entity holding title for purposes of securing performance of an obligation, such as a trustee and/or beneficiary under a deed of trust or lender under a mortgage.

2. Restrictions On All Lots. The following restrictions on use shall apply to all Lots within the Covered Property:

(a) Zoning Regulations. The lawfully enacted zoning ordinances of Park City and Summit County and any building, fire, and health codes are in full force and effect in the Covered Property, and no Lot shall be occupied or used in a manner that is in violation of any such ordinance or code.

(b) Limited Business and Commercial Uses. No portion of the Covered Property shall be used for any mining or business use other than home occupations or nightly rentals. Either one guest house or one lockout room or one accessory apartment (with only one of such three possibilities being allowed), in addition to the main residence, shall be permitted per lot.

(c) Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Covered Property shall be underground, including lines within any Lot which service installations entirely within that Lot.

(d) Maintenance of Property. All lots, and the improvements on them, shall be maintained in a clean, sanitary, attractive, and marketable condition at all times. No Owner shall permit his Lot or the improvements on it to fall into disrepair.

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(e) **No Noxious or Offensive Activity.** No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

(f) **No Hazardous Activity.** No activity shall be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, which would cause the cancellation of conventional homeowners insurance policy. This includes, without limitation, the setting of open fires (other than properly supervised and contained barbecues) and the storage of caustic, toxic, flammable, explosive or hazardous materials in excess or those reasonable and customary for home hobbies, maintenance and household uses.

(g) **No Unsightliness.** No unsightliness shall be permitted on any Lot. This shall include, without limitation, accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is visible from any other Lot or any public street.

(h) **No Annoying Lights.** No outdoor lighting shall be permitted, except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. Notwithstanding the above, Christmas lights shall be permitted in season and on special occasions.

(i) **No Annoying Sounds.** No speakers, wind-bells, wind chimes, or other noise making devices shall be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.

(j) **Transient Lodging Uses.** The Lots may be rented in whole or in part for nightly rentals, a boarding house or "bed and breakfast," or other uses for providing accommodations to travelers.

(k) **No Re-Subdivision.** No lot shall be re-subdivided, and no re-subdivision of any Lot shall result in the construction of any additional Dwelling units within the Covered Property.

(l) **Drainage.** No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using

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reasonable means to dissipate the flow energy. In no case shall water be allowed to be dumped or drained on adjoining lots, other than natural drainage.

(m) Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Such trash, rubbish, garbage or other waste shall not be kept except in sanitary containers. No rubbish, trash, papers, junk or debris shall be burned upon any lot except that trash may be burned inside homes that are properly equipped with inside incinerator units. Garbage and trash receptacles shall be permitted when kept in an enclosure or are visually screened.

(n) Vehicles Restricted to Roadways, Driveways and Designated Parking Areas. No motor vehicle shall be operated on the Covered Property, except on improved roads and driveways and as provided to the contrary below. No motorcycles shall be operated on any Lot except for ingress and egress or while loading the equipment for lawful transport on public streets. No vehicle parking shall be permitted except on that portion of designated driveways which will not block ingress and egress to and from such driveways by other vehicles and in designated parking areas and in NO CASE SHALL PARKED VEHICLES AT ANY TIME BLOCK ACCESS TO ANY LOT. The Owner of Lot 2 shall in no event park vehicles, campers, boats or store materials in the non-exclusive driveway access and underground utilities easement ("Lot 2 Driveway Easement") provided for the benefit of Lot 2, as shown on page 1 of the Plat. Notwithstanding the foregoing, temporary parking shall be allowed for visitors and party guests on the Lot 2 Driveway Easement. No automobiles, trucks, motorcycles, trail bikes, snowmobiles, four-wheel drive vehicles or vehicles of any kind shall be operated on any of the Declarant's property wherever the same may be situated or any place in the subdivision other than the public roadways and private driveways unless for the express purpose of maintenance or construction.

3. Architectural Restrictions. All improvements and construction on the Covered Property is subject to the applicable existing architectural and other design and building restrictions in effect now and from time to time in the future.

4. King Road Improvements.

(a) Each Lot Owner shall share equally in the cost of construction and maintenance (including snow removal) for the common King Road improvements ("Improvements") shown on Alliance Engineering Drawings, 1 thru 8, entitled King Road Subdivision Improvements ("Construction Drawings"), attached hereto as Exhibit "B." All of said Improvements are not located on the Covered Property. All decisions regarding the timing, financing, construction management for the improvements shall be made jointly by the Owners. The Owners, acting in good faith and according to the intentions of this agreement, shall devise a joint plan to accomplish the above and shall move expeditiously to pursue said plan. Each Owner shall promptly pay his equal share of costs.

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(b) In the event the Lot Owners cannot agree with respect to the decisions to be made as referenced in subsection (a) above, any dispute shall be submitted to binding arbitration before an arbitrator selected by the American Arbitration Association ("AAA"). The arbitration shall be conducted under the rules of the AAA. Said arbitration shall take place in Park City, Utah and the cost of arbitration shall be shared equally by the Lot Owners. Notwithstanding Section 6(b) below, each party shall bear the cost of its own attorney's fees with respect to the arbitration. The arbitrator's decision shall be final and binding upon the Lot Owners and suit may be filed in any court of appropriate jurisdiction to enforce the arbitrator's decision. In any action brought to enforce the arbitrator's decision, the prevailing party shall be entitled to recover its costs of enforcement including attorney's fees and costs of court from the other party.

5. Access Control Gate. An access control gate currently exists as shown on the Construction Drawings, providing access to Lots. Said access control gate is not located on the Covered Property. It is anticipated that such access control gate will ultimately be removed with a new control gate being built, albeit at a different location. The Owners shall share equally in the cost of removing such gate and in the erection of a new control gate. All decisions regarding the timing of the removal of the access control gate, the location, design, cost and erection of a new access control gate shall be made jointly by the Owners. The Owners, acting in good faith and according to the intentions of this agreement, shall devise a joint plan to accomplish the above and shall move expeditiously to pursue said plan. Each Owner shall promptly pay his equal share of costs.

6. General Provisions. The provisions contained in this Declaration may be enforced as follows:

(a) Violation Deemed a Nuisance. Any violation of this Declaration which is permitted to remain on all or any portion of the Covered Property is deemed a nuisance and is subject to abatement by any Owner.

(b) Remedies.

(i) Without limitation as to any other remedy, any single or continuing violation of the provisions contained in this Declaration may be enjoined in an action brought by the Declarant or any of Declarant (for so long as the Declarant or any of Declarant is the Owner of any Lot) or by any other Owner in its own name. In any action brought to enforce this Declaration, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorneys fees and costs of court. Furthermore, Declarant or any of the persons or entities comprising Declarant (for so long as Declarant or any of the persons or entities comprising Declarant is the Owner of any Lot) or any other Owner of any Lot shall be entitled to lien the Lot of any Owner for any amounts owed by an

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PENDING APPROVAL

Owner (including damages caused by such Owner) as a consequence of said Owner's failure to observe the terms herein.

(ii) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.

(iii) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(iv) The failure to take enforcement action shall not be construed as a waiver of the Covenants contained in this Declaration in the future or against other similar violations.

(c) Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

(d) Amendment. At any time while this Declaration is in effect, the Owners of the Lots may amend the provisions of this Declaration. Any amendment must be in writing and be approved by the Owners at the time of the amendment. No such amendment will be binding upon the holder of any mortgage or trust deed unless, the holder joins in the amendment.

(e) Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Covered Property is conclusively deemed to have notice of this Declaration and its contents and to have consented to the application and enforcement of each of the covenants, conditions, and restrictions against this Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

(f) Notices. All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage prepaid and be sent to the last known address of the party to receive notice. Notices delivered by hand or by a nationally recognized courier service are effective upon delivery.

(g) Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Covered Property. Paragraph headings are inserted for convenience only and shall not be

PENDING APPROVAL

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considered an interpretation of the provisions. The singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

(h) Mortgagee Protection Provision. The breach of any of the foregoing covenants shall not defeat or render invalid the lien of any mortgage or deed of trust lien on the Covered Property that is made in good faith and for value; provided, however, that all of the covenants contained herein shall be binding upon and effective against any owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale or other foreclosure proceeding, from and after the date of such foreclosure, trustee's sale or other foreclosure proceeding.

(i) Other Limitations. This Declaration of Restrictive Covenants does not purport to define all restrictions against the Covered Property. The Covered Property is also subject to such restrictions as are disclosed on the Plat or which are of record.

(j) Benefits and Burdens. This Agreement and the benefits and burdens of the restrictions and covenants contained herein shall run with and bind the Covered Property and shall be binding upon and inure to the benefit of and shall be enforceable by any current and future owners or lessees of the Covered Property, the holders of any deeds to secure debt on such Covered Property, any purchaser at foreclosure on any such deed to secure debt, and their respective heirs, successors, successors in title, assigns and personal representatives.

Executed on the date stated above.

EDMUND J. BEAULIEU

STATE OF ILLINOIS)
COUNTY OF Cook)

On the 16th day of April, 1996, personally appeared before me EDMUND J. BEAULIEU, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC
Residing at: 6652 N. Chicora
Chgo. IL 60646

My Commission Expires:

OFFICIAL SEAL
JAMES H. WOLF
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4-13-98

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PENDING APPROVAL

CLYDE CARLIG

STATE OF NEW MEXICO)
:
COUNTY OF SAN JUAN)

On the 11th day of APRIL, 1996, personally appeared before me CLYDE CARLIG, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Silvia E. Day
NOTARY PUBLIC
Residing at: 220 N. AUBURN
FARMINGTON, N.M. 87401

My Commission Expires:

NOV. 15th 1998

SILVIA E. DAY
NOTARY PUBLIC
STATE OF NEW MEXICO

SWEENEY LAND COMPANY,
a Utah general partnership

By Patrick J. Sweeney
Patrick J. Sweeney
Its Managing General Partner

STATE OF UTAH)
:
COUNTY OF ~~SALT LAKE~~)

On the 15 day of APRIL, 1996, personally appeared before me Patrick J. Sweeney, who being by me duly sworn, did say that he is the Managing General Partner of SWEENEY LAND COMPANY, a Utah general partnership, and that the foregoing instrument was signed on behalf of said partnership, and said Patrick J. Sweeney acknowledged to me that said partnership executed the same.

NOTARY PUBLIC
ROBERT C RODMAN
1700 PARK AVE. P.O BOX 2033
PARK CITY, UT 84060
My Commission Expires NOV 27 1997
State of Utah

Robert C Rodman
NOTARY PUBLIC
Residing at: Summit Co Utah

My Commission Expires:
NOV 27, 1997

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PENDING APPROVAL

Exhibit "A"

Lot 1, (King Road South Lot), Treasure Hill Plat Phase I

Beginning at a point on the North-South 40 Acre Line of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian which is South 66°22' West, 21.67 feet and South 0°08'50" East, 218.03 feet along said 40 Acre Line, more or less from the Northeast Corner of Lot 32, Block 78, Millsite Reservation to Park City, Utah said point also being South 66°40' West, 240.50 feet and South 0°08'50" East, 735.34 feet from a Park City Monument at the Intersection of Park Avenue and 4th Street;

and running thence South 0°08'50" East, 442.70 feet along said 40 Acre Line to a point on a 515.00 foot radius curve to left (Long chord bears North 23°17'42" West, 211.60 feet); thence running Northwesterly along the arc of said curve 213.12 feet (Delta=23°42'38"); thence North 35°09'01" West, 117.10 feet to point of curvature of a 135.00 foot radius curve to the right (Long chord bears North 29°20'18" West, 27.34 feet); thence running Northwesterly along the arc of said curve 27.39 feet (Delta=11°37'27"); thence North 23°31'34" West, 52.48 feet; thence North 66°22' East, 201.18 feet to the point of beginning.

Containing 0.86 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

Lot 2, (King Road North Lot), Treasure Hill Plat Phase I

Beginning at a point which is South 66°22' West, 21.67 feet and South 0°08'50" East, 81.95 feet, more or less, from the Northeast Corner of Lot 32, Block 78, Millsite Reservation to Park City, Utah said point also being South 66°40' West, 240.50 feet and South 0°08'50" East, 599.26 feet from a Park City Monument at the Intersection of Park Avenue and 4th Street;

and running thence South 0_08'50"East, 136.08 feet; thence South 66°22' West, 201.18 feet; thence North 23°31'34" West, 17.11 feet; thence North 31°26'11" West, 116.94 feet to a point on a 605 foot radius curve to the left (Long chord bears North 11°00' West, 94.07 feet; thence running northwesterly along the arc of said curve 94.16 feet (Delta=8°55'04"); thence North 66°22' East, 234.29 feet; thence South 23°38' East, 100.00 feet; thence North 66°12' East, 16.39 feet to the point of beginning.

Containing 1.24 Acres, more or less.

(Basis of bearing for the above description is the Park City Monuments at the Intersections of Park Avenue and 4th Street and Park Avenue and 6th Street whose bearing is South 23°38' East.)

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KING ROAD LOTS
TREASURE HILL SUBDIVISION
PHASE 1
MARCH 1996

DEVELOPER

MPE, INC
P.O. BOX 2429
PARK CITY, UTAH 84060
FAX 649-6215
(801) 649-7077

CIVIL ENGINEER

ALLIANCE ENGINEERING INC.
323 MAIN STREET
PARK CITY, UTAH 84060
FAX 649-9475
(801) 649-9467

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PAGE INDEX

1. TITLE SHEET
2. GRADING/SITE DISTURBANCE/UTILITIES/REVEG
3. ACCESS AND WATER
4. DETAILS
5. DETAILS
6. PLAT
7. PLAT
8. PLAT

GENERAL SPECIFICATIONS

LOCATION

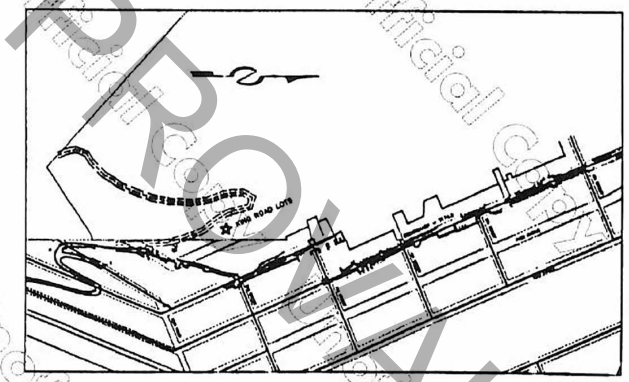

Exhibit "B"

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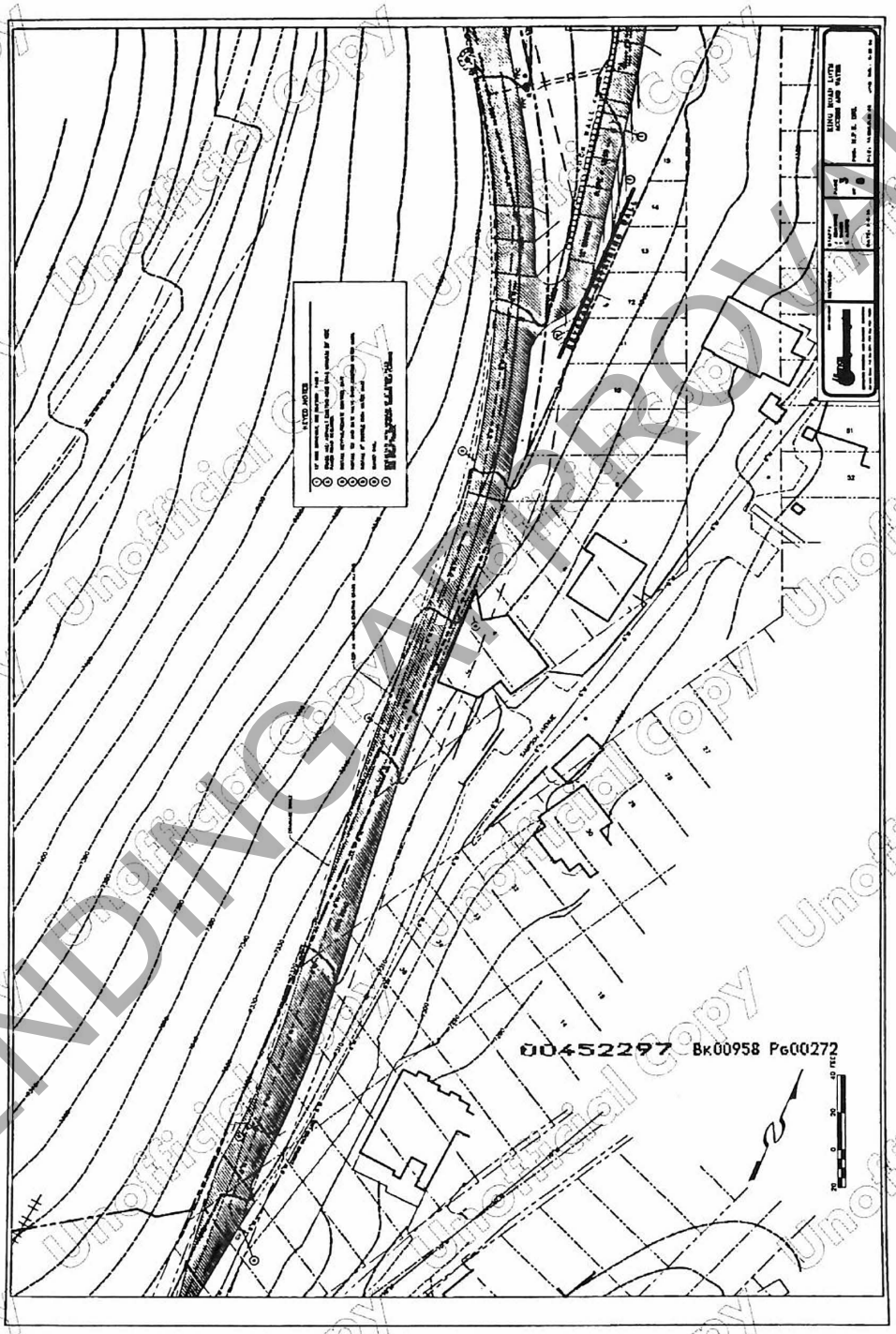

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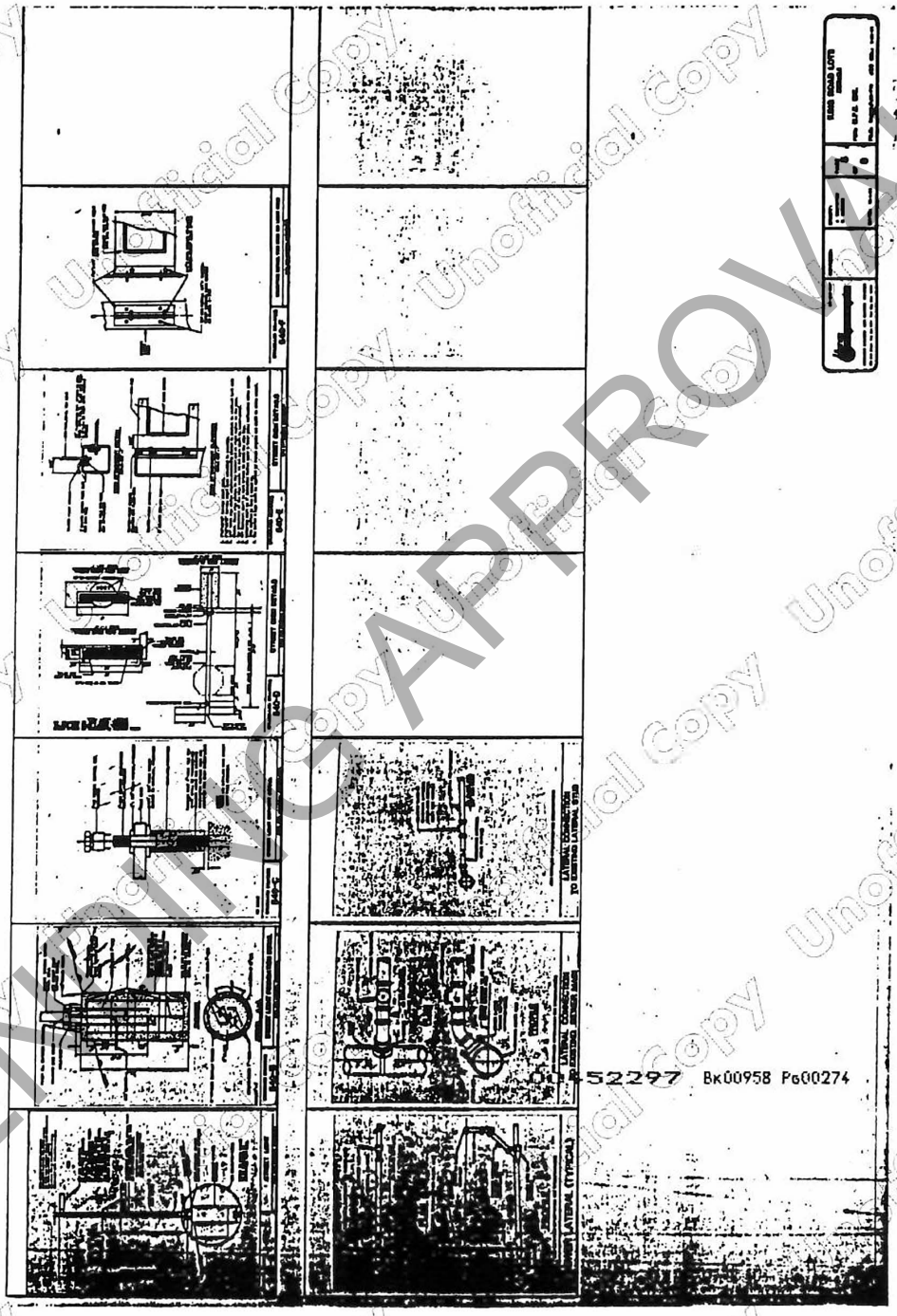

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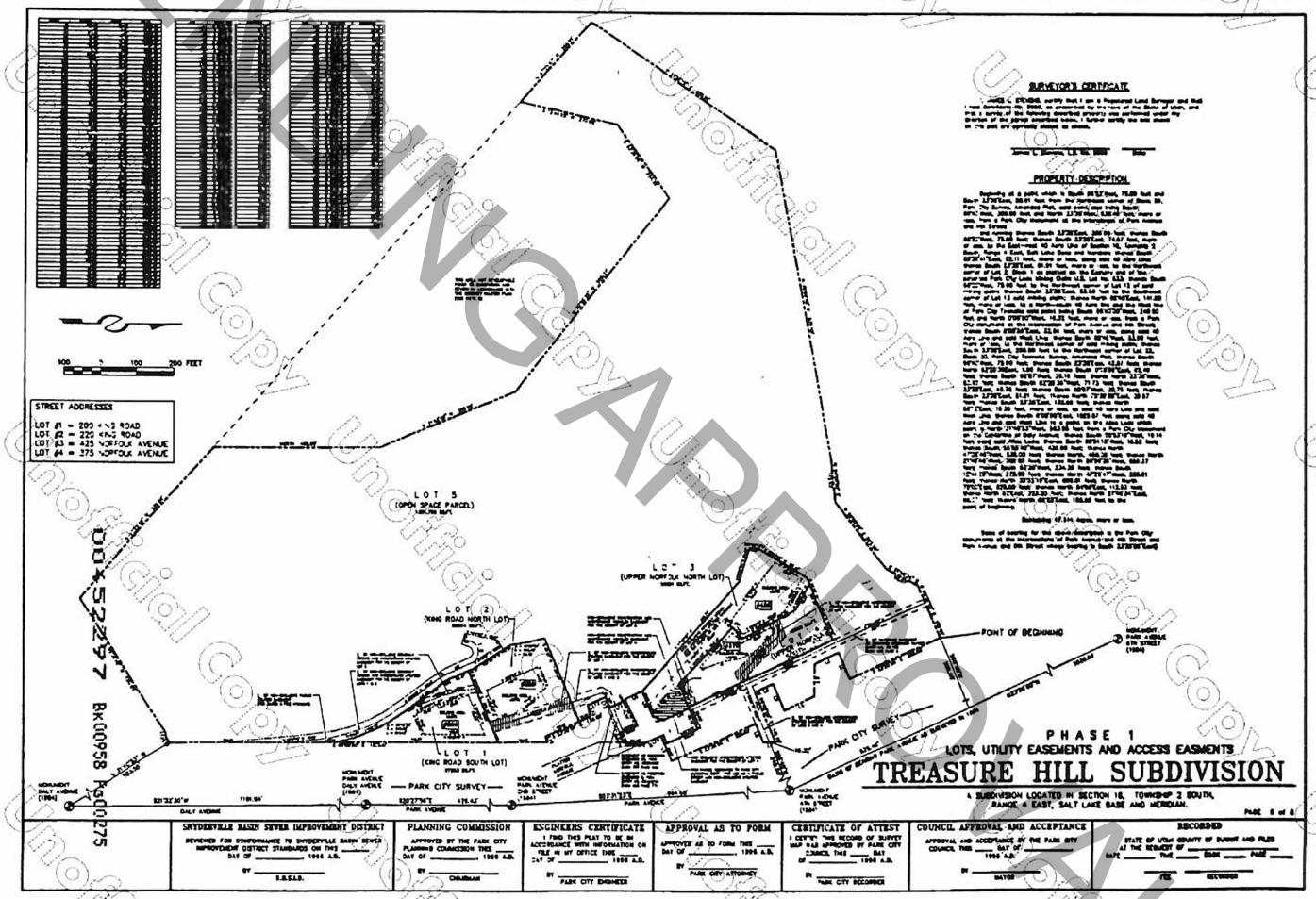

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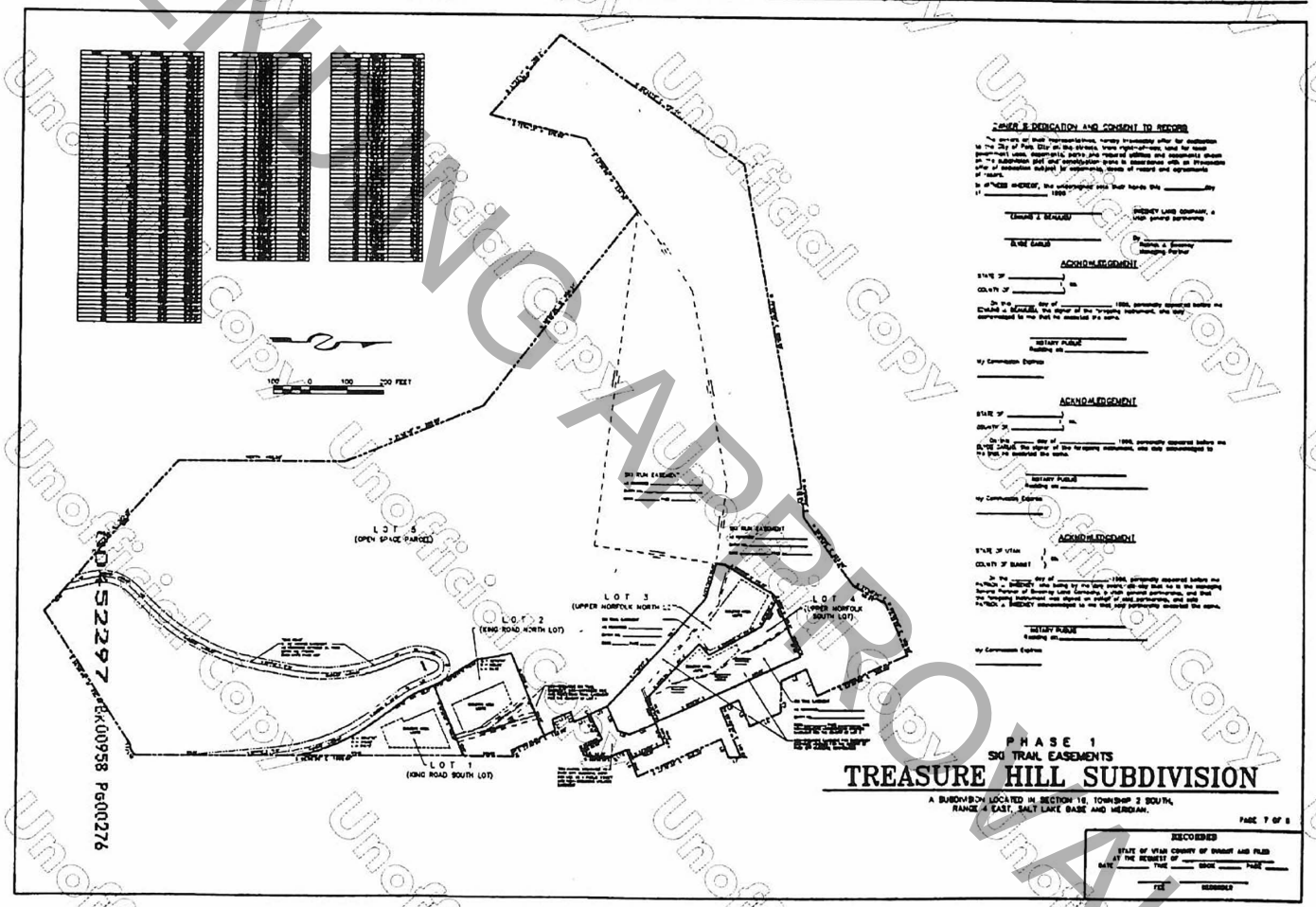

OWNER'S DEDICATION AND CONSENT TO RECORD

ACKNOWLEDGEMENT

ACKNOWLEDGEMENT

ACKNOWLEDGEMENT

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PHASE 1
SKI TRAIL EASEMENTS

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

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STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ BOOK _____ PAGE _____

DATE _____ TIME _____

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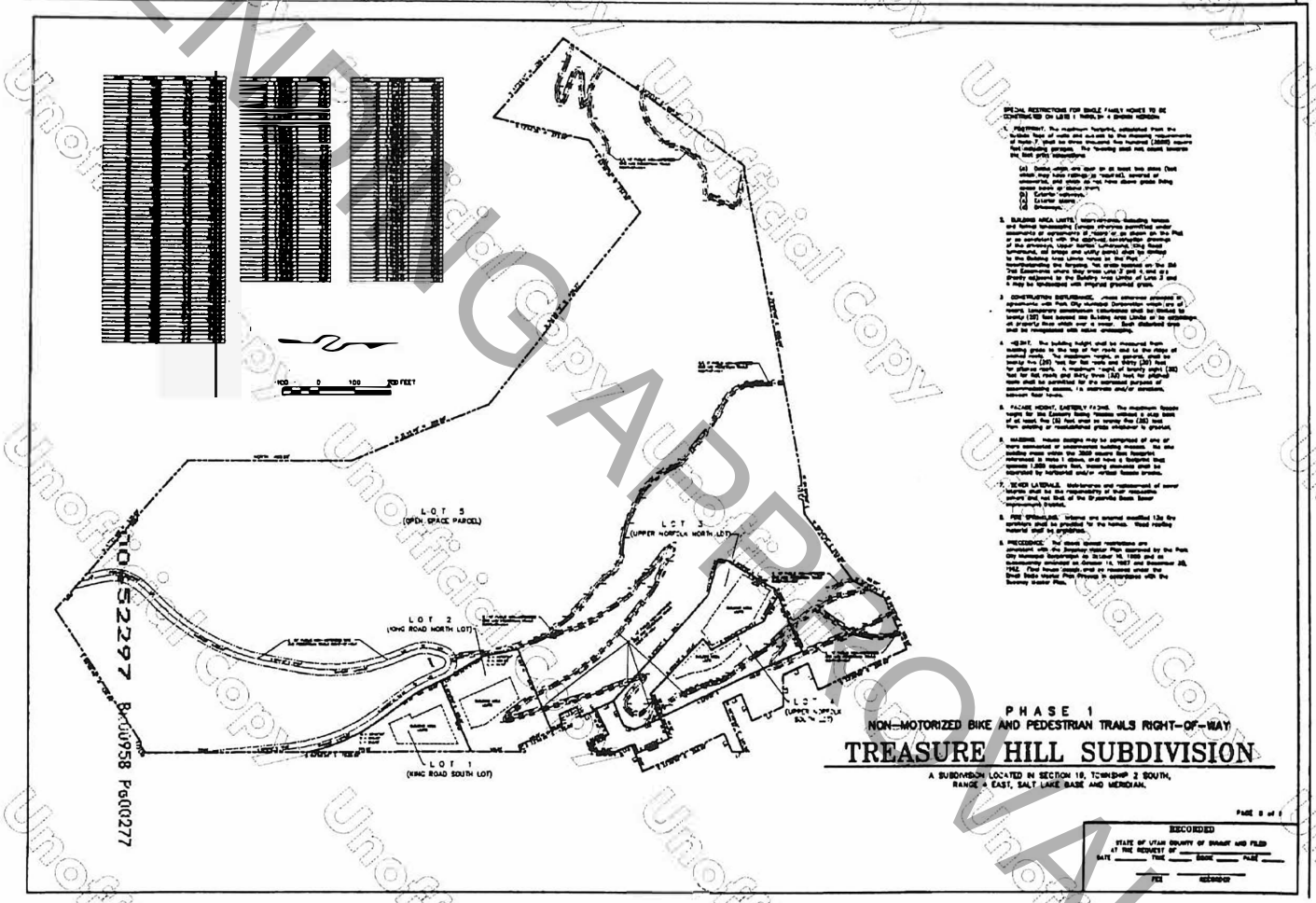

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED ON LOTS 1 THROUGH 4 SHOWN HEREON.

1. FOOTPRINT. The maximum footprint, calculated from the outside face of walls and roof to the ground, of any home (1) shall not exceed the square footage of the building envelope. The building shall not exceed maximum (no) feet (plus) height.

(a) Dwelling units shall be one or at least two stories (but which may have cellings or mezzanines) comprised of compatible, and shall be not less than eleven gross living square feet of above (plus).
(b) Exterior materials.
(c) Exterior colors.
(d) Driveways.

2. BUILDING AREA LIMITS. Notwithstanding building footprint and height limitations contained elsewhere herein, under no circumstances shall any building or improvement be placed on the Plat in contravention with the applicable zoning ordinance of the community, except building, including roof overhangs, of bridges and utility poles) above the average of the Existing Lot Limits noted on the Plat. Notwithstanding the foregoing, no cross located on the Plat and adjacent to the Existing Lot Limits of Lot 1 and 2 shall be directly adjacent to the Existing Lot Limits of Lots 3 and 4 may be constructed with improved grade(s).

3. CONSTRUCTION DISTURBANCE. Unless otherwise approved in accordance with Park City Municipal Corporation ordinances or permits, Lot owners, Lot owner's contractors, subcontractors shall be limited to (20) feet outward into Building Area Limits of the construction of the dwelling unit and any garage, and (10) feet of all property lines which exist at a minor. Such disturbed areas shall be revegetated with native vegetation.

4. HEIGHT. The building height shall be measured from the existing grade at the top of the roads and to the slope of proposed roofs. The height of roofs, as governed by the Building Area (20) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty three (33) feet for pitched roofs shall be permitted for the architectural purposes of chimneys, vents, elevator penthouses, and/or mechanical equipment rooms.

5. FACADE HEIGHT, EASTERLY FACING. The maximum facade height for the Easterly facing facades adjacent to King Road of all lots in the (5) Plat shall be twenty five (25) feet, from existing or residential grade whichever is greater.

6. GARAGES. Private garages may be constructed of any of the same materials as the dwelling and shall be limited to the parking areas within the Building Area(s). Garages shall accommodate a maximum of three (3) automobiles. Garages exceeding 1,000 square feet, as measured from the interior, shall be counted for purposes of determining maximum floor area.

7. SOILS MATERIALS. Maintenance and replacement of soils materials shall be the responsibility of the individual owners and not that of the Silverado Ranch Owners Association(s).

8. FIRE SPRINKLERS. Interior are required installed (2) by ordinance shall be provided for the homes. Wood roofing material shall be prohibited.

9. PRECEDENCE. The above stated restrictions are consistent with the Design Review Plan approved by the Park City Municipal Corporation on October 15, 1987 and December 20, 1988. Final Design Details shall be reviewed and approved by the Silverado Master Plan Architect in accordance with the Planning Master Plan.

PHASE 1
NON-MOTORIZED BIKE AND PEDESTRIAN TRAILS RIGHT-OF-WAY

TREASURE HILL SUBDIVISION

A SUBDIVISION LOCATED IN SECTION 18, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

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STATE OF UTAH, COUNTY OF SUMMIT AND FILED
AT THE REQUEST OF _____
DATE _____ TIME _____ BOOK _____ PAGE _____
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LOT S2297 Bk00958 Pg00277

EXHIBIT E

PENDING APPROVAL

PARK CITY PLANNING DEPARTMENT
REVISED Staff Report

TO: Planning Commission
FROM: Planning Staff
DATE: December 18, 1985
RE: SWEENEY PROPERTIES MASTER PLAN

I. PROJECT STATISTICS:

Applicant:	MPE, Inc. Sweeney Land Company, owner
Proposal:	Large Scale Master Planned Development
Location:	Various parcels throughout Historic District
Parcel Size:	125.6 acres
Existing Zoning:	Historic Residential (HR-1); Estate (E); and, Historic Recreation Commercial (HRC) currently, although Historic Commercial Business (HCB) at the time of formal application
Comprehensive Plan:	Historic Residential and Estate
Surrounding Uses:	Ski area, residential, vacant
Application Date:	May 21, 1985

II. STAFF'S RECOMMENDATION and FINDINGS

The Planning Department Staff recommends that the Planning Commission APPROVE, and forward a positive recommendation to the City Council on the proposed height variation required and rezoning of the hillside (approximately 110 acres) to Recreation Open Space, the proposed Sweeney Properties Large Scale Master Planned Development. The project has been considered in accordance with the review procedures and criteria outlined in Sections 1 and 10 of the Park City Land Management Code, effective January 1, 1984, as amended. The following plans and exhibits, in addition to this report and the project file, constitute the complete development permit.

1. Sweeney Properties Master Plan, sheets 1-16, 19-26, and 38-43 prepared by DelaMare, Woodruff, Stepan Associates, Inc.

2. Sweeney Properties Master Plan document and Fact Sheet, dated May 15, 1985, and subsequent amendments.

3. Sweeney Properties Master Plan Application.

4. Sweeney Properties Master Plan Phasing Exhibit.

5. Sweeney Properties Master Plan Density Exhibit.

6. Sweeney Properties Master Plan Development Restrictions and Requirements Exhibit.

In support of our recommendation to the Planning Commission to approve the proposed Large Scale Master Planned Development, the staff has made the

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following Findings based upon the information submitted in conjunction with this application.

1. The proposed clustered development concept and associated projects are consistent with both the Park City Comprehensive Master Plan and the underlying zoning.

2. The uses proposed and general design of the project is or will be compatible with the character of development in the surrounding area.

3. The open space preserved and conceptual site planning attributes resulting from the cluster approach to the development of the hillside is sufficient justification for the requested height variation necessary, and that the review criteria outlined in Section 10.9 (e) have been duly considered.

4. The commercial uses proposed will be oriented and provide convenient service to those residing within the project.

5. The required parking can readily be provided on-site and in enclosed structures.

6. The proposed phasing plan and conditions outlined will result in the logical and economic development of the project including the extension of requisite utility services.

7. The proposed setbacks will provide adequate separation and buffering.

8. The anticipated nightly/rental and/or transient use is appropriate and compatible with the surrounding area.

9. The provision of easements and rights-of-way for existing utility lines and streets is a benefit that would only be obtained without cost to the residents of Park City through such a master planning effort.

10. The site planning standards as set forth in Section 10.9(g) of the Land Management Code have either been satisfied at this stage of review or practical solutions can be reasonably achieved at the time of conditional use review/approval.

PENDING APPROVAL

III. DEVELOPMENT PARAMETERS and CONDITIONS

The staff's recommendation that the Sweeney Properties Large Scale Master Planned Development be approved by the Planning Commission, and subsequently by the City Council, is predicated upon the following terms and conditions. Upon approval, MPE Inc./Sweeney Land Company, its successors or assignees, shall become bound by and obligated for the performance of the following:

1. The Sweeney Properties Master Plan is approved based upon the information and analysis prepared and made a part hereof. While most of the requirements imposed will not be imposed until individual parcels are created or submitted for conditional use approval, certain specific obligations are also identified on the approved phasing plan. At the time of conditional use or subdivision review, the staff and Planning Commission shall review projects for compliance with the adopted codes and ordinances in effect at the time, in addition to ensuring conformance with the approved Master Plan.

2. Upon final approval of the proposed Master Plan, a recordable document (in accordance with the Land Management Code) shall be prepared and submitted. The Official Zone Map will be amended to clearly identify those properties included within the Master Plan, and the hillside property not included within either the Town Life Mid-Station or Creole Gulch sites (approximately 110 acres) shall be rezoned to Recreation Open Space. At the time of conditional use review, final building configurations and heights will be reviewed in accordance with the approved Master Plan, applicable zoning codes and related ordinances. A minimum of 70% open space shall be provided within each of the development parcels created except for the Coalition properties.

3. The approved densities are those attached as an Exhibit, and shall be limited to the maximums identified thereon. Parking shall be provided on-site in enclosed structures and reviewed in accordance with either the table on the approved Restrictions and Requirements Exhibit or the adopted ordinances at the time of project approval. All support commercial uses shall be oriented and provide convenient service to those residing within the project and not designed to serve off-site or attract customers from other areas.

4. Access to the Town Lift and Creole sites shall be provided by a private roadway with acceptable emergency access and utility easements provided. No city maintenance of these streets is expected. All utility lines shall be provided underground with private maintenance required wherever located in inaccessible locations or outside approved easements.

5. Building heights shall be limited to the maximum envelope described on the Restrictions and Requirements Exhibit. At the time of conditional use approval, projects shall be reviewed for conformance with the heights prescribed thereon, and the following:

   (a) The various parcels located within the Historic Residential (HR-1) zone district shall abide by the Land Management Code and no height exceptions will be considered. Maximum building height on the single

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family lots shall be limited to 25' in order to reduce potential visibility.

(b) The Coalition East sites are limited to a maximum building height of 55', subject to compliance with the stepped facade (as shown on the applicable plans) concept submitted and the setbacks provided.

(c) The Coalition West properties are limited to a 35' maximum building height adjacent to Park Avenue and a 28' height along Woodside Avenue; subject to the footprints defined, common underground parking and access, and no commercial uses allowed.

* Reflects City Council 10.16.86 modifications. *

(d) The Town Lift Mid-Station development is restricted to a maximum height of 35' for at least 90% of the total unit equivalent volume of all above-grade buildings (exclusive of elevator shafts, mechanical equipment, and non-habitable areas) and an overall average height of less than 25' measured from natural, undisturbed grade. Additionally, no portion of any building shall exceed the elevation of 7240' above mean sea level.

(e) The Creole Gulch site shall be limited to a maximum building height of 75' for at least 83% of the total unit equivalent volume of all above-grade buildings combined. An average overall height of less than 45' shall be provided and no portion of any building shall exceed either elevation 7250' for the eastern-most building or the elevation of 7275' for the balance of the project (above mean sea level).

*

The above building height restrictions are in accordance with the approved Restrictions and Requirements Exhibits submitted, and are in addition to all other codes, ordinances, and standards.

6. At the time of project review and approval, all buildings shall be reviewed for conformance with the Historic District Design Guidelines and related architectural requirements. No mechanical equipment or similar protuberances (i.e: antennae, flags, etc.) shall be permitted to be visible on any building roof-tops or shall any bright or flashing lights be allowed.

7. All easements, deeds, and/or rights-of-way shall be provided without cost to the city and in accordance with the master plan documents and phasing plan approved. Likewise, it shall be the developer's sole responsibility to secure all easements necessary for the provision of utility services to the project.

8. Master Planned Development approval only conceptually established the ability of local utility service providers to supply service to the projects. It does not constitute any formal approval per se. The applicant has been notified that substantial off-site improvements will be necessary and that the burden is on the future developer(s) to secure various easements and upsize whatever utility lines may be necessary in order to serve this project. Prior to resale of this property in which this MPD approval is carried forward, or prior to any conditional use application for any portion of the MPD, a utility plan addressing water, fire flows, and sanitary sewer, storm drainage, cable utilities, and natural gas shall be prepared for review and approval by City Staff and the

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Snyderville Basin Sewer Improvement District. Part of the plan shall be cost estimates for each item of utility construction as it is anticipated that major costs for these utilities will be necessary. All such costs shall be paid by the developer unless otherwise provided. If further subdivision of the MPD property occurs, the necessary utility and access improvements (see below) will need to be guaranteed in accordance with city subdivision ordinances. Public utilities, roads, and access questions which will need to be resolved or upgraded by the developers at their cost (in addition to impact fees, water development and connection fees, and all other fees required by city ordinances) are as follows:

(a) Empire Avenue and Lowell Avenue will be the main access routes to the Creole Gulch site. As such, during construction these roads will need to carry heavy traffic, probably in the vicinity of up to 300 heavy trucks per day. At the present time and until the Creole Gulch site develops, Empire and Lowell south of Manor Way are and will be low-volume residential streets, with a pavement quality, width, and thickness that won't support that type of truck traffic. The City will continue to maintain the streets as low-volume residentials streets, including pavement overlays and/or reconstruction. None of that work will be designed for the heavy truck traffic, but in order to save money for the developer of the Creole Gulch site, he or she is encouraged to keep the City Public Works Director notified as to the timetable of construction at Creole Gulch. If the City is notified that the construction is pending such that an improved pavement section can be incorporated into normal City maintenance projects, then it is anticipated that the incremental additional cost of the additional pavement thickness (which is likely to be in the vicinity of 3 additional inches of asphalt over the entire 4,6000 linear feet [25-foot asphalt width] of Lowell/Empire south of Manor Way, or approximately $80,000 additional cost in 1986 dollars) could be paid by the developer with said amount deducted from future impact fees paid to the City as long as it did not exceed the total future impact fees. However, if the increased pavement section is not coordinated with the City by the developer such that the pavement of Lowell and Empire south of Manor Way remains inadequate at the time the Creole Gulch site is developed, then the developer shall essentially reconstruct the entire 4,600-foot length of Lowell and Empire south of Manor Way at his or her cost, which with excavation and reconstruction of an anticipated 6-inch asphalt thickness on top of 10 inches of roadbase, plus all other normal construction items and costs, would be in the approximate cost range of $300,000 to $400,000 in 1986 dollars. Further, because that reconstruction would be inconvenient to residents and the City, and because delays, impacts, and potential safety hazards would be created over and above normal City maintenance of existing streets, that action by the developer would be a new impact on City residents and the cost therefore would not be deductible from any developer impact fees.

(b) Contribute to the Park City Village, or other water tanks, determined to be necessary by the City Engineer in order to serve the project with culinary and fire storage. Based on a Type 1 fire resistive construction, it is assumed that the contribution would be on the order of 500,000 gallons at a cost of approximately $300,000.00,

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although the exact figures would need to be determined in a detailed study using adopted City standards.

(c) Construct pumped pressure system(s) with backup emergency power to provide a means of delivery of fire flows to the project. Construct a meter vault at the edge of the road adjacent to the project, beyond which all water facilities would be privately maintained. It is anticipated that in the vicinity of 2,500 feet of 12-inch water line with appurtenances may be required. Such pipe would cost about $70,000 in 1986 dollars exclusive of the pumps and backup power, which are even more expensive.

(d) Provide an easement, or pay all costs related to condemnation by Park City of an easement, suitable for construction and maintenance of a storm drain from the project site to Silver Creek or McLeod Creek. All City streets and any public utility drainage easements normally provided in the course of other private development shall be available for utility construction related to this MPD subject to reasonable construction techniques and City standards.

(e) Pay for downstream detention basin construction costs in accordance with the ratio of increased runoff from the project during the 50-year flood event to the total design volume of the basin.

(f) Construct a storm drain line to Silver Creek or McLeod Creek adequate to contain the runoff running through and off the site during the 50-year flood event. It is assumed that a minimum of 36-inch concrete storm drain line will need to be installed solely for Creole Gulch drainage. It is further assumed that special cleanout boxes and inlet boxes will need to be designed to address difficult hydraulic problems. Such boxes are expensive.

(g) Provide revegetation over all on-site and off-site areas disturbed for project-related utilities.

(h) Sanitary sewer improvements are assumed to involve replacing in the vicinity of 3,000 feet of sewer line, with new manholes included. Such construction will cost in the vicinity of $100,000, is subject to the approval of SBSID, and is further subject to all District fees and agreements necessary for extension of lines.

9. To minimize additional construction traffic impacts, on-site material stockpiling/staging and parking shall be provided during the course of construction. Similarly, cut and fill shall be balanced and distributed on-site whenever practicable, with any waste material to be hauled over City specified routes. Also at the time of conditional use review/approval, individual projects or phases shall provide detailed landscaping, vegetation protection, and construction staging plans.

10 As projects are submitted for conditional use approval, the city shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application.

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IV. BACKGROUND

An application for Large Scale Master Planned Development was submitted on May 21, 1985, in accordance with Sections 1 and 10 of the Park City Land Management Code. The applicant requested that only general development concept and density be approved at this juncture. Final unit configuration and mix may be adjusted by future developers at the time of conditional use review. A legal description of the total property involved in the area being master planned shall be recorded with Summit County. The general nature of the development and pertinent details of the transferring of densities from one area to another shall be adequately described and of sufficient depth to apprise potential land purchasers or developers that the property has been included within a Master Plan.

A variety of development concepts were submitted during the course of reviewing the proposed Master Plan. A total of eight distinct approaches to the development of the Hillside Properties were evaluated. The alternative concepts ranged from a "conventional" subdivision approach involving the extension of Norfolk Avenue, to a modern high-rise concept. The staff, Planning Commission and general public have all favored the clustering of development as opposed to spreading it out. Several of the alternatives prepared were in response to specific concerns expressed relative to the scale and mass of buildings necessary to accommodate the density proposed. The latest concept developed represents a refined version of the cluster approach originally submitted.

V. NARRATIVE

The Sweeney Properties Master Plan involves a number of individual development parcels. Combined, a total of 277 unit equivalents are proposed; including, 258 residential and 19 unit equivalents worth of support commercial space. Based upon the zoning in effect at this time, in excess of 450 units could be requested. While this may be somewhat misleading due to certain physical and technical constraints (i.e: access, slope, utilities), it does reveal that a significant reduction in total density proposed has been incorporated into the project. Each area proposed for development has been evaluated on its own merits. During the course of review, numerous concepts were considered with densities shifted around.

The various parcels of land included within the Sweeney Properties Master Plan are scattered about the Historic District and are detailed on the attached Exhibit. For additional clarity a brief narrative description of each development area follows:

Coalition Properties

The three sites comprising the Coalition Properties are located adjacent to the new Town Lift base station on Park Avenue at 8th Street, and contain a total of 1.73 acres (1.46 acres HRC, .27 acres HR-1).

The Coalition East North and South parcels are separated by an easement granted for the ski liftway. Although this property was included within the recent rezoning of the Depot Area from Historic Commercial Business (HCB) to Historic Recreation Commercial (HRC), the application was submitted prior to this action and the former zoning is thereby "grandfathered" (if, in fact, the

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application is approved). The development concept proposed entails a predominantly residential project with some ground level commercial uses anticipated. In an effort to reduce densities elsewhere within the Master Plan, the originally proposed density has been increased from 37 to 40 unit equivalents. Preliminary building footprints and massing drawings show structures with a stepped facade reaching a maximum height of fifty-five feet. Parking will be provided within an enclosed structure beneath the buildings and in accordance with the Table on the Restrictions and Requirements Exhibit or the Land Management Code (to be determined at the time of conditional use approval).

The Coalition West property is located south of and adjacent to 8th Street in the Historic Recreation Commercial (HRC) zone recently created. The concept for this particular site is in keeping with the previous zoning (Historic Residential, HR-1) and provides a buffer for properties located to its west. Also in response to preferred reductions in density elsewhere in the Master Plan, the originally proposed ten unit equivalents have been increased to thirteen total. In order to accommodate this additional density, a floor was added to several of the buildings. Building heights adjacent to Park Avenue have been shown at 35', while those abutting Woodside Avenue will be restricted to a 28' height. Individual structures have been conceptually designed in keeping with the scale of the Historic District will all code required parking to be provided below the buildings and accessed from a single common driveway.

HR-1 Properties

These project parcels consist of the MPE and Carr-Sheen properties and total less than ½ acre (.45) in size. Zoned HR-1 at present, the Master Plan proposes to limit densities on these sites to 2 and 3 unit equivalents accordingly, or a reduction of 44% (i.e: 4 units total). In addition, easements shall be provided for a stairway connecting the Empire-Lowell switchback to the Crescent walkway. The Fletcher parcel included within the Master Plan will be preserved as open space in addition to several quit claim deeds provided to the city for existing streets located outside platted rights-of-way.

Hillside Properties

By far the largest area included within the proposed Master Plan, the Hillside Properties involve over 123 acres currently zoned HR-1 (approximately 15 acres) and Estate (108 acres). The development concept proposed would cluster the bulk of the density derived into two locations; the Town Lift Mid-Station site and the Creole Gulch area. A total of 197 residential and an additional 19 commercial unit equivalents are proposed between the two developments with over 90% of the hillside (locally referred to as Treasure Mountain) preserved as open space. As part of the Master Plan, the land not included within the development area boundary will be rezoned to Recreation Open Space (ROS).

The Town Lift Mid-Station site contains roughly 3.75 acres and is located west of Woodside Avenue at approximately 6th Street. The majority of the developable area is situated southeast of the mid-station loading area. A total of 35.5 residential unit equivalents are proposed with 3.5 equivalents worth of support commercial space as well. The concept plan shows a number of low profile buildings located on the downhill side of the access road containing 9 unit equivalents. Two larger buildings are shown above the road with 9.5 and 17

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units envisioned. The average building height for the Town Lift site is less than 25' with over 85% of the building volume fitting within a 35' height envelope. Parking will be provided within enclosed structures, accessed via a private road originating from the Empire-Lowell switchback. The closest neighboring residence is currently located in excess of 200 feet away.

The Creole Gulch site is comprised of 7.75 acres and situated basically south of the Empire-Lowell switchback at approximately 8th Street. The majority of the property is currently zoned Estate (E). A total of 161.5 residential unit equivalents are proposed. In addition, 15.5 unit equivalents of support commercial space is included as part of the Master Plan. Average building heights are proposed to be less than 45' with a maximum of 95' for the highest point. As conceptually proposed, in excess of 80% of the building volume is within a 75' height envelope measured from existing grade. It is expected that the Creole Gulch site will be subdivided into specific development parcels at some future date. Parking is accessed directly from the Empire-Lowell switchback and will be provided within multi-level enclosed structures. Depending upon the character of development and unit configuration/mix proposed at conditional use approval, the actual numbers of parking spaces necessary could vary substantially. Buildings have been set back from the adjacent road approximately 100' and a comparable distance to the nearest adjoining residence.

Miscellaneous Properties

In addition to the development areas described above, the proposed Master Plan identifies three distinct single-family lots; one of which is located above Woodside Avenue adjacent to and north of platted 5th Street, a second to be accessed from Upper Norfolk, and a third lot to be situated up on top of Treasure Mountain (possible future access predicated on United Park City Mines Company's plans for development off of King Road). Development would be restricted to single-family homes with no greater than 3500 square foot footprints and maximum building heights of 25 feet.

VI. MAJOR ISSUES

Many concerns were raised and issues identified through the review process. A project of this scale and complexity would pose similar and considerable consternation no matter where it was proposed to be built. Because this particular site is located both within and adjacent to the Historic District, many of the concerns expressed related to the more subjective kinds of considerations. The Master Planned Development procedure attempts to deal with the general concept of the proposed development and defer or relegate the very detailed project review elements to the conditional use stage of review. At conditional use review, the following issues will be examined in considerable detail with technical solutions sought.

Comprehensive Plan - The city's Comprehensive Master Plan identifies the Hillside property as a key scenic area and recommends that development be limited to the lower portions of the mountain. The existing HR-1 ground included in the Sweeney Master Plan is shown as being retained for residential use similar to the existing pattern of development. The Coalition West site is also recommended for Historic Residential use with the East parcels included within a Historic Commercial area. The proposed Sweeney

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Properties MPD is in conformance with the land use designations outlined in the Park City Comprehensive Master Plan.

Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding neighborhood. The relocation of density from the Town Lift site was partly in response to this issue. The concentration of density into the Creole Gulch area, which because of its topography and the substantial mountain backdrop which helps alleviate some of the concern, and the requested height variation necessary in order to reduce the mass perceived (higher versus lower and wider), have greatly improved the overall scale of the cluster approach. The sites along Park Avenue have been conceptually planned to minimize scale and have provided stepped facades and smaller-scale buildings to serve as a transition.

Zoning - Currently, the land involved in the proposed MPD is comprised of three (actually four) distinct zoning designations. The Coalition East parcel is currently zoned Historic Recreation Commercial (HRC) although it was zoned (and is therefore, technically "grandfathered" or vested) Historic Commercial Business at the time the application was submitted. The West site is also now zoned HRC. The Hillside Properties (i.e: Town Lift Mid-Station and Creole Gulch sites) are zoned Historic Residential (HR-1) and Estate (E). The Carr-Sheen, MPE, and two of the three single-family lots are all zoned HR-1 as well. The single-family lot adjacent to property owned by United Park City Mines is zoned Estate.

The current zoning will basically remain unaltered as a result of the proposed Master Plan except that over 110 acres of the mountain will be rezoned to Recreation Open Space (ROS), and the hillside properties will be designated as being subject to a Master Planned Development document/approval (i.e: E/HR1-MPD).

Neighborhood Compatibility - In reviewing the general compatibility of a project of this scale, an evaluation of possible alternative approaches was undertaken. In light of those other development concepts and associated impacts, the proposed clustering approach was deemed the most compatible. Rather than spread the density out and thereby impact the entire old town area, the cluster concept afforded the ability to limit the impacts to smaller areas. Efforts to minimize scale have been directed toward this issue as have the solutions to other problems related to traffic, site disturbance, and the preservation of open space. The non-hillside project sites have also been planned in accordance with both the Historic District guidelines and in keeping with the scale of existing residences. The long build-out period envisioned will also enable a more detailed review at the time when specific project proposals are developed. A number of the staff's recommended conditions are directed toward minimizing the potential conflicts related to neighborhood compatibility considerations.

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Open Space - A key element of the proposed cluster approach is to preserve usable open space in perpetuity. A total of 97% (120 acres) of the hillside will be maintained as open space as a part of the proposed Master Plan. In excess of 110 acres will actually be rezoned to Recreation Open Space (ROS) in addition to 70% open space provided within each of the development parcels. Alternative concepts reviewed involving the extension of Norfolk Avenue would significantly have reduced the amount of open space retained. The potential for the subdivision and scattered development of the hillside would also have drastically affected the goal of preserving the mountain substantially intact and pristine.

Access - All of the different concepts reviewed would result in similar access concerns. The Coalition properties along Park Avenue have excellent access as a result and efforts were, therefore, limited to combining driveways to minimize the number of curb cuts (i.e: ingress/egress points). The development of the Hillside Properties will undoubtedly impact not only Empire and Lowell Avenues but other local streets as well. While certain assumptions could be made as to the type or character of development proposed and possible corresponding differences in traffic patterns, many of the questions raised would remain unanswered. While it is true that the Norfolk Avenue extended alternative would best deal with the current problem of poor access to that area, it would not have solved all of the access issues. The proposed Master Plan will provide sufficient ground, to be dedicated to the city, for purposes of developing a reasonable turnaround for Upper Norfolk.

Visibility - The issue of visibility is one which varies with the different concepts proposed and vantage or view points selected. The very detailed visual analyses prepared graphically demonstrated how the various proposals might look from key points around town. The cluster approach, although highly visible from certain areas, does not impose massive structures in the most prominent areas. Instead, the tallest buildings have been tucked into Creole Gulch where topography combines with the densely vegetated mountainside to effectively reduce the buildings' visibility. The height and reduction in density at the Mid-Station site has been partly in response to this concern. The staff has included a condition that an exhibit be attached to the Master Plan approval that further defines building envelope limitations and architectural considerations.

Building Height - In order to minimize site disturbance and coverage, the clustering of density necessitated consideration of building heights in excess of that which is permitted in the underlying zoning (28' to the mid-point of a pitched roof with a maximum ridge height of 33'). The various iterations submitted for review demonstrated the trade-offs between height and site coverage. The proposed concept for the Mid-Station area results in buildings that would average only 18' above grade with portions (primarily the elevator access shafts likely to be required) approaching 75' in the worst-case situation. The concept reviewed for the Creole Gulch area entails portions of buildings as high as 100', but with an overall average of less than 40'. The Coalition East property, as a result of transferring additional density to it, is proposed to go as high as 55'; whereas, the Coalition West site approaches 35' along the Park Avenue frontage and 28' adjacent Woodside Avenue. As a part of the Master Planned Development process, height variations can be approved in light of other

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planning considerations (see Section 10.9(e) of the Land Management Code). Throughout the review, considerable effort has been directed at minimizing overall building height and related impacts while still accommodating the proposed density in a cluster type of development.

These recommendations were approved by City Council

The staff has developed a number of recommended conditions in response to the concerns expressed over building heights. An exhibit defining building "envelopes" has been developed to define areas where increased building heights can be accommodated with the least amount of impact. It is our recommendation that maximum building heights be restricted to 35' and 75' at the Town Lift Mid-Station and Creole Gulch sites, respectively, for the bulk of (at lease 83%) the building volumes. Similarly, we recommend that the building envelope proposed for the Coalition properties be limited in accordance with the exhibits prepared and made a part of the approval documents.

Overall Concept - The concept of clustering densities on the lower portion of the hillside with some transferring to the Coalition properties has evolved from both previous proposals submitted and this most recent review process. The Park City Comprehensive Master Plan update that was recently enacted encourages the clustering of permitted density to those areas of the property better able to accommodate development. In order to preserve scenic areas in town and mitigate potentially adverse impacts on the environment, the Master Planned Development concept was devised. The Sweeney Properties MPD was submitted after a number of different development concepts had been reviewed; including, several versions of the Silver Mountain proposal and various designs that were predicated on the extension of Norfolk Avenue through to the Empire-Lowell Avenues area. After considerable staff discussion and input, the cluster concept was developed. Because of the underlying zoning and resultant density currently in place, the cluster approach to developing on the hillside has been favored throughout the formal review and Hearing process.

Land Uses - The predominant land uses envisioned at this time are transient-oriented residential development(s) with some limited support commercial. The building forms and massing as well as location lend themselves to hotel-type development. Although future developers of projects within the Master Plan have the flexibility to build a variety of unit types in different combinations or configurations, the likelihood is that these projects will likely be geared toward the visitor looking for more of a destination-type of accommodation. The property involved in the Master Plan is directly connected to the Park City Ski Area and as such can provide ski-to and ski-from access. A number of smaller projects in the area are similarly oriented to the transient lodger. Although certainly a different kind of residential use than that which historically has developed in the old town area, it is still primarily residential in nature. The inclusion of attached townhomes serving to buffer between the existing residences and the denser areas of development will also help provide a transition of sorts. The amount of commercial space included within the Master Plan will be of the size and type to provide convenient service to those residing within the project, rather than possibly be in competition with the city's existing commercial areas.

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Traffic - Any form of development proposed in this area of town would certainly impact existing streets. Although the majority of traffic generated will use Empire and Lowell Avenues, other roads will also be affected. The concept of extending Norfolk Avenue would have improved access to the south end of old town, but would also have added additional traffic to Empire and Lowell as a result. It is expected that both Empire and Lowell will be improved in several years in order to facilitate traffic movement in general. Even without this project, some upgrading has been planned as identified through the development of the Streets Master Plan.

In evaluating traffic impacts, both construction and future automobile demand are considered. Many related issues also come into play, such as efforts to minimize site grading and waste export. The Master Plan review process affords the opportunity to address these issues in considerable detail whereas other reviews would not. Several of the conditions proposed deal with the issue of traffic and efforts directed at mitigating the impacts created. Traffic within the project will be handled on private roadways with minimal impact.

Utilities - The various utility providers have all reviewed the proposed development concept and do not oppose granting Master Plan approval. Substantial improvements to existing infrastructure will be necessary, however, and the developer has been apprised of his responsibility. Considerable off-site work will be required, the details of which will be resolved at the time of conditional use approval. Depending upon the timing of actual development or the possible subdivision of the property, participation in upgrading existing utility lines and roadway improvements may be required ahead of schedule. A number of parameters/conditions recommended further detail these issues and serve to verify the nature of MPD concept approval.

Fiscal - The proposed dense clustering of development is by far the most economic to service. In contrast to other concepts proposed involving the extension of Norfolk Avenue and possible scattered development of the hillside, the cluster approach represents a positive impact on the city's and other public entities budgets. The nature of development anticipated and lack of additional roadway and utility line extensions requiring maintenance will not create significant additional demands for service.

Tenancy - The likely occupancy and tenancy of the projects comprising the Master Plan will be transient in nature. Rather than housing significant numbers of year-round permanent residents, it is expected that the orientation will instead be toward the short-term visitor.

Circulation - Circulation within the primary development sites will be on foot. Private roadways/drives access the project parking areas with vehicular circulation provided between projects and for service/delivery, construction, and emergency purposes. Pedestrian circulation within the projects will be provided via walkways and plazas with off-site improvements made to facilitate area-wide access. Several nearby stairways will be (re)constructed in accordance with the approved phasing and project plans.

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Easements/Rights-of-Way - The Sweeneys have included the dedication and and/or deeding of several easements and sections of rights-of-way to improve the city's title. As a part of the Master Plan, several roadway sections and utility/access corridors will be deeded over. In addition, a right-of-way will be supplied for the construction of a hammerhead-type turnaround for Upper Norfolk Avenue.

Norfolk Avenue - Although several staff members supported the idea of extending Norfolk Avenue through to Empire-Lowell, the consensus was in support of the clustering approach to development. Technical as well as fiscal concerns were discussed relative to the access benefits that would result. Similarly, although the resultant scale of HR-1 development that would have been likely is closer to that prevalent in the Historic District today, the spreading-out of the impacts of road and development construction would have been exacerbated. In lieu of extending Norfolk Avenue, the Sweeney's have consented to deed to the city sufficient land for a turnaround and to participate in the formation of a special improvement district for roadway improvements (in addition to providing an easement for the existing water line).

Grading - The proposed cluster concept will result in less grading than the alternatives considered. The MPD review enabled the staff, Planning Commission, and developer the opportunity to consider this kind of concern early in the project design process. The concept plans developed have examined the level of site work required and how potential impacts can be mitigated. Various conditions supported by staff have been suggested in order to verify the efforts to be taken to minimize the amount of grading necessary and correlated issues identified.

Disturbance - The eight distinct development scenarios presented each had a varying degree of associated site disturbance. The current concept results in considerably less site clearing and grading than any of the others presented (except the total high-rise approach). A balance between site disturbance and scale/visibility has been attained through the course of reviewing alternate concepts. General development parameters have been proposed for Master Plan approval with the detailed definition of "limits of disturbance" deferred until conditional use review.

Density - The proposed densities are well within the maximum allowed and actually about one-half of that which the underlying zones would permit. While it would not be practical or feasible to develop to the full extent of the "paper density", the proposed Master Plan does represent a considerable reduction from that which could be proposed. During the course of review, numerous comparables were presented which demonstrated that the overall density proposed (1.77 unit equivalents per acre of the Hillside Properties and 2.20 for the entire MPD) is the lowest of any large scale project recently approved. The net densities proposed for the hillside properties, while seemingly quite high, are in actuality lower than the density of the surrounding area. Thus, even though a transferring and congregation of development density is occurring, the overall gross and net densities are well within ranges approved for other projects.

Phasing - The build-out of the entire Master Plan is expected to take somewhere between 15-20 years. The Coalition properties will likely be

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developed within 5-10 years with development of the Hillside area not expected for at least 10 years. Because of the scope of the project and the various related improvements necessary to accommodate a project of this nature, a detailed time line has been developed as an attachment to the MPD approval documents. While some flexibility is built-into the approved Master Plan, any period of inactivity in excess of two years would be cause for Planning Commission to consider terminating the approval.

Setbacks - All of the development sites provide sufficient setbacks. The Coalition properties conceptually show a stepped building facade with a minimum 10' setback for the West site (in keeping with the HRC zoning) and a 20' average setback for the East sites. The Hillside properties provide substantial 100'+ setbacks from the road, with buildings sited considerably farther from the closest residence.

Fire Safety - The clustering of development proposed affords better overall fire protection capabilities than would a more scattered form. Buildings will be equipped with sprinkler systems and typical "high-rise" fire protection requirements will be implemented. The proposed development concept locates buildings in areas to avoid cutting and removing significant evergreens existing on the site. Specific parameters have been recommended by the staff with actual details proposed to be deferred until conditional use review.

Snow Removal/Storage - The cluster approach to development results in less roadway or associated hard-surfaced area and thereby reduces the amount of snow storage/removal necessary. Considerable effort has been devoted in looking at everything from snow melting systems to where pitched roofs will shed. No additional snow removal will be required of the city. At conditional use approval, additional consideration will be appropriate to ensure that snow storage can safely and reasonably be handled on-site.

Employee Housing - At the time of conditional use approval, individual projects shall be reviewed for impacts on and the possible provision of employee housing in accordance with applicable city ordinances in effect.

Landscaping/Erosion Control - Detailed landscaping plans and erosion control/revegetation methodologies for minimizing site impacts will be required at the time of conditional use review. Plantings shall be reviewed for their ability to provide visual interest and blend with existing native materials.

Trails - The proposed phasing plan identifies the timing of construction for summertime hiking trails and related pedestrian connections. Trails, stairways, and sidewalks accessing or traversing the various properties will be required in accordance with both the approved phasing plan and at the time of conditional use review/approval.

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SWEENEY PROPERTIES MASTER PLAN DENSITY EXHIBIT

Parcel	Acreage	Residential Unit Equivalents	Commercial Unit Equivalents	Maximum Building Height[2]	Minimum Open Space (%)
Coalition Properties					
East	0.986	40	Maximum Commercial space not to exceed FAR of 1:1	55'	39.8[1]
West	0.543	13	---	35'	54.9
Hillside Properties					
Creole Gulch	7.75	161.5	15.5	~~98'~~ * 75	70
Town Lift Mid-Station	3.75	35.5	3.5	~~55'~~ * 45	70
Three ½-acre Single Family Lots	1.5	3	---	25'	83.9
Develop HR-1 Properties					
Carr-Sheen	0.288	3	---	28'	60
MPE	0.161	2			
		258 U.E.	19 U.E.		

[1] Does not include Town Lift base facility

[2] Maximum roof height, excludes elevator shaft

* Subject to revised conditions as stated in the Motion by City Council (10/16/82

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SWEENEY PROPERTIES MASTER PLAN PHASING EXHIBIT - REVISED

Improvement/ Development[1]	Year 1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
MPD Approval Recorded	—																				
Norfolk Waterline Easement	—																				
Norfolk ROW	—																				
Crescent Walkway	—																				
Empire-Lowell ROW	—																				
Norfolk Turnaround	—																				
Misc. Deed Restrictions	—																				
Hiking Trails/ Foot Paths	—	—																			
Tramway Towers Dedication	—	—																			
Empire Lowell to Crescent Walkway Connection/ Construction	—																				
6th Street Stairway[2]						—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
5th Street Stairway[2]						—	—	—	—	—	—	—	—	—	—	—					
4th Street Stairway[2]						—	—	—	—	—	—	—	—	—	—	—					

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Year	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Project Timeframe																					
Coalition Properties	———	———	———	———	———																
MPE and Carl-Sheen	———	———	———	———	———	———	———	———	———	———	———	———	———	———	———	———	———	———	———	———	———
Town Lift							———	———	———	———	———	———	———	———	———	———					
Mid Station																					
Creole Gulch											———	———	———	———	———	———	———	———	———	———	———

[1] For additional clarification, consult the Planning Department Staff Report and the Sweeney Properties Master Plan document and fact sheet dated May 15, 1985.

[2] Stairways to be constructed concurrently with development of Hillside Properties unless already improved by Park City Resort or adjacent projects.

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EXHIBIT F

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City Council Staff Report

PARK CITY 1884
PLANNING DEPARTMENT

Application No: PL-13-01889
Subject: LMC Amendments
Author: Francisco Astorga, Planner
Date: November 21, 2013
Type of Item: Legislative – LMC Amendments Height in the Historic Residential and the RC Districts.

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Summary Recommendation

Staff recommends that the City Council review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider adopting the ordinance as presented in Exhibit A – Proposed Ordinance.

Description

Project Name:	LMC Amendments – Regarding development in the HRL, HR-1, HR-2, and RC Districts
Applicant:	Planning Department
Location:	Old Town and Resort Center
Proposal	Revisions to the Land Management Code

Background

The Planning Commission originally discussed the definition of story during a work session discussion on August 22, 2012. Then during a Planning Commission work session discussion held on September 12, 2012 staff recommended reviewing the interpretation of a "*story*" as currently defined in the Land Management Code (LMC). During this meeting, the Commission showed concerns regarding the current Building Height parameters and how they applied to split-level concepts. It was interpreted that a three (3) story split-level per the current LMC definition of a story would qualify as multiple stories adding up to six (6). Staff introduced an additional regulation which was based on the internal height of a structure measured from the lowest floor level to the highest roof form. Planning Director Eddington indicated that the Planning Staff would work with different scenarios and come back with alternatives.

During a regular meeting dated September 26, 2012, Staff introduced amendments to the LMC to address planning and zoning issues that came up in the past year. The proposed amendments provided clarification and streamlining of processes, procedures, and definitions, etc. During this meeting the same maximum internal height measurement provision was drafted.

During the September 26, 2012 Planning Commission meeting, many items were forwarded to the City Council for review and possible adoption. Regarding Building Height measurement and story definition, the Commission continued the proposed

amendments to a later date. The Planning Commission found the exhibits in the Staff report to be helpful, but expected additional information based on the discussion at the last meeting. The Commission requested to see an exercise on a variety of un-built lots in Old Town, both downhill and uphill, that maximizes the heights using stories as an example to see what the mass and scale and height would do. The Commission requested to see an idea of "worst case" scenarios. The Planning Department committed to provide a variety of examples on un-built lots, however, it was recognized that many lots do not have historic structures on them which can be demolished through an administrative building permit. The Planning Department proposed to come back with the information requested as well as other scenarios they had created for massing and volume on various slopes. The Planning Commission would be able to see how different aspects of the LMC work in each scenario depending on the slope.

During the November 28, 2012 Planning Commission meeting many other items were forwarded to the City Council for review and possible adoption including the new Building Height parameter to limit the maximum internal height of a building. Because of the amount of LMC amendments, staff was unable to deliver the prepared presentation on stories as the Planning Commission requested to continue the presentation to December 12, 2012.

On December 12, 2012 the Planning Department prepared the different scenarios and requested to hear as much input as possible from the Planning Commission. Due to the late hour that evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. Staff briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

On January 9, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **downhill** lots.

On February 13, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **uphill** lots.

These last two Planning Commission work session discussions were based on the current Building Height parameters which include the following:

- No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.
- Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.
- A structure may have a maximum of three (3) stories. A basement counts as a first story.

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- A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.
- Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.
- Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

The direction received from the Planning Commission, which resulted from the many different meetings shown herein, was to replace the current requirement of a maximum of three (3) stories with an internal maximum height provision. The Planning Commission did not feel inclined to amend the other Building Height parameters such as the maximum building height of twenty-seven feet (27') measured from existing grade, the required roof pitch, etc.

In response to that direction, on May 8, 2013 the Planning Department proposed adding a new parameter to the Building Height. This parameter was to replace the maximum number of stories by adding a provision which indicated a maximum height measured from the lowest floor level to the highest roof form. The actual maximum number proposed was based on a scale factor depending on the roof pitch of said structure. See attached Planning Commission minutes, Exhibit H – Planning Commission regular meeting minutes 05.08.2013. The Planning Commission expressed concerns with how the new provision would relate to the ten foot (10') horizontal step as it was discussed that it may need to have a numeric value other than saying that it would occur on the third floor. The Commission was not comfortable forwarding a recommendation to the City Council without seeing the drafted language regarding the roof pitch exception.

Public comment was also made during this time which focused on the 3-story versus internal height issue, structures with exposed foundations below the first floor, roof pitch options, different ways of controlling visual height and mass. The Planning Commission continued this item to May 22, 2013 to allow staff to address the comments from the Planning Commission and the public. On May 22, 2013 this items was continued to June 26, 2013. On June 26, 2013 this item was continued to July 10, 2013.

During the July 10, 2013 Planning Commission meeting Staff introduced proposed language clarified throughout the subsequent meetings. During this meeting the Planning Commission discussed various items such as the maximum slope for driveways (14%), excavation impacts, window wells, flat roofs, and the specifics parameters introduced as recommended height amendments. The Planning Commission continued this item to a date uncertain to allow staff to tidy up the recommendation and to further analyze the proposed height amendments.

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The Recreation Commercial District (RC) District has specific requirements for single family dwellings and duplexes under LMC § 15-2.16-5. Subsection L & M refers to Building Height which mirrors the same language for the HRL, HR-1, and HR-2. If the Building Height is amendment for these three (3) Historic Residential Districts, this same language should also be amended in the RC District to reflect the same standard for consistency.

On October 9, 2013 the Planning Commission reviewed the proposed LMC amendments and forwarded a positive recommendation outlined in Exhibit A.

Building Height Analysis
Existing height provisions:

- **No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.** (*Staff does not recommend amending this provision).*
- **Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.** (*Staff does not recommend amending this provision).*
- **A structure may have a maximum of three (3) stories. A basement counts as a first story.** (*Staff recommends amending this provision).*
- **A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.** (*Staff recommends amending this provision).*
- **Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.** (*Staff recommends amending this provision).*
- **Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.** (*Staff does not recommend amending this provision).*

Currently, the specific height of a story is not codified. The LMC defines a story as:

> *The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof Structure.*

There is no maximum or minimum number of feet for a story or a wall plate. The height of a structure is simply measured from existing grade, not to exceed twenty-seven feet (27'), this is known as the *roof over topo* analysis. After analyzing the impacts of the

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"split-levels" and more specifically "multiple split-levels" concept on a standard lot of record and possibly over longer lots, staff recommends adding provisions to the LMC related to Building Height. By regulating the maximum height measured from the first story floor plane to the point of the highest wall top plate that supports the ceiling joints/roof rafters, the mass, volume, and scale of the "split-level" concept can be limited so that the proposal does not contain multiple numbers of splits stepping up or down the hillside. Planning Staff recommend that the Commission forward a positive recommendation to the City Council by adding the following provisions to the Building Height regulation:

> ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable do not count as a Story.~~

The Planning Commission's recommendation included reducing the maximum height to thirty three feet (33') as they felt that the recommended thirty five (35') was too high. The 35' recommendation is based on the having a three (3) story building at ten foot wall height including floor plate and accommodating a split. Please note that this amendment deals with the alternate language to replace the maximum three (3) stories and does not replace the maximum height of twenty-seven feet (27') measured from existing grade, *roof over topo* height review.

The Planning Department and the Planning Commission also recommend adding clarifying language to the ten foot (10') minimum horizontal step. The current Code does not indicate where the step back takes place on a vertical plane. Staff finds that the added language in red below clarifies where the horizontal step should occur. Staff has seen projects that have extended ceilings from the mid-level to the top level that technically removes the required horizontal step as this portion of the structure does not provide a third (3rd) story. The clarifying language requires that projects that have the same massing of a three (3) story building to have such horizontal step. See language to be added:

> A ten foot (10') minimum horizontal step in the downhill façade is required ~~for the third (3rd) Story of a Structure~~, unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

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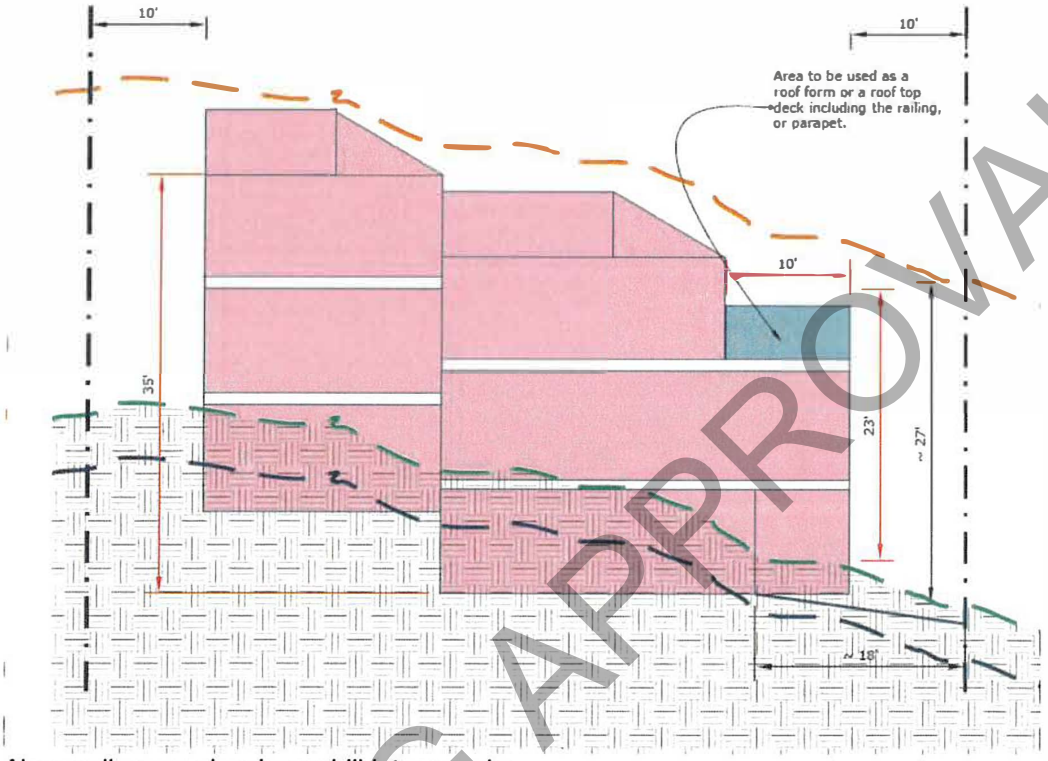

Above: diagram showing uphill lot scenario

Staff also found that the roof pitch also needs to be clarified to reflect the following:

ROOF PITCH. Roof pitch must be between seven: twelve (7:12) and twelve: twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~ A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure containing a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty-four inches (24") above the highest top plate mentioned above.

The Planning Commission accepted a former Staff recommendation with indicated the following: A Structure containing a flat roof shall have a maximum height of thirty feet (30') measured from the lowest floor plane to the highest point of the roof including

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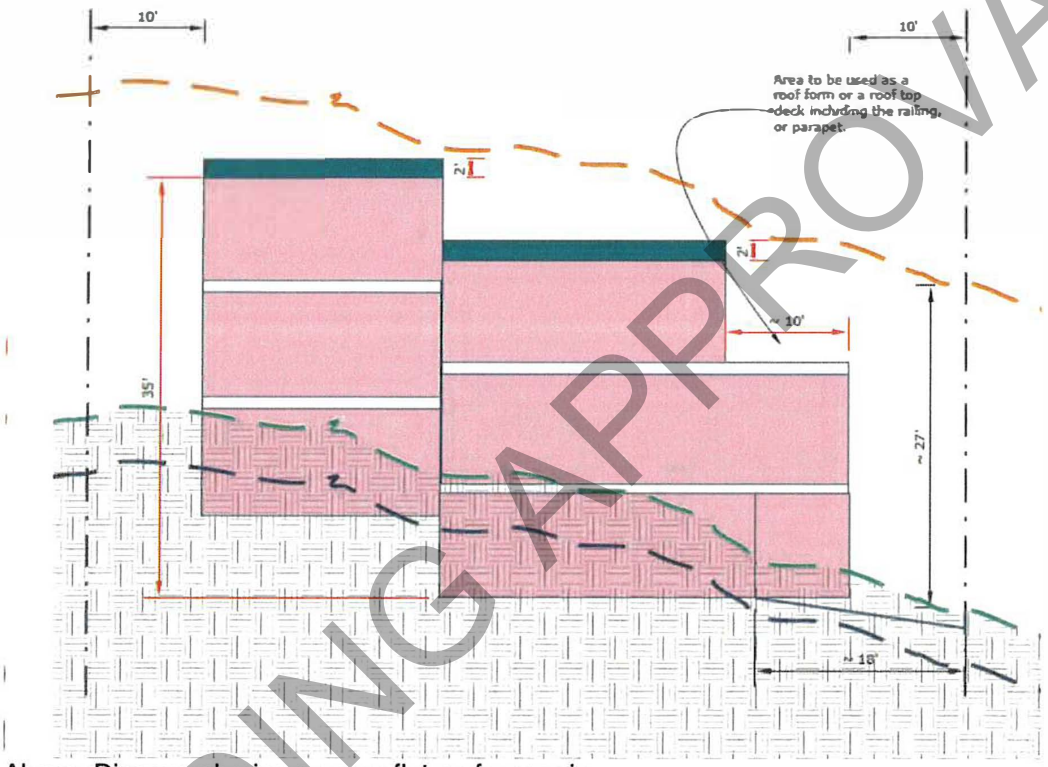
parapets, railings, or similar features. Staff requests Council consider a change to the recommendation of thirty feet (30') as it does not provide any room to allow for a split level as it would simply consists of three (3) floors. The proposed language simply provides consistent with the massing below a roof whether it is a flat green roof or a higher roof pitch while at the same time not overpower the height of a structure with a flat roof.



Above: Diagram shoring a green flat roof scenario.

The above provision clarifies the required roof pitch for green roofs as well as it adds a specific parameter of measurement which is not any additional height that what would be required for a standard Old Town roof form. Again, please note that this amendment deals with the alternate language to replace the maximum three (3) stories and does not replace the maximum height of twenty-seven feet (27') measured from existing grade, *roof over topo* height review.

The LMC defines a Green Roof as:

> *A roof of a Building that is covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. It may also include additional*

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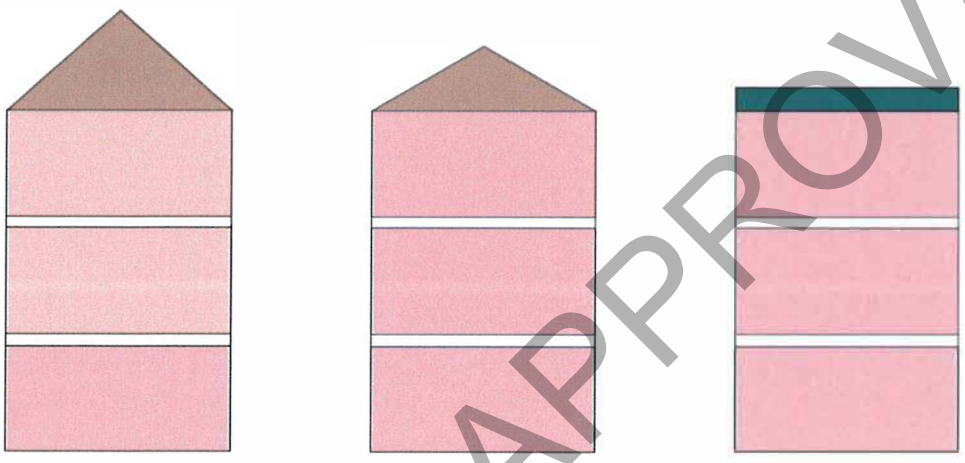
layers such as a root barrier and drainage and irrigation systems. This does not refer to roofs which are colored green, as with green roof shingles.

This regulation allows the "split-level" concept (internally) but regulates the vertical area that can be used to accommodate such concept. These figures were derived from having three (3) stories (or levels) measuring a maximum ten feet (10') wall height including one foot (1') floor joists. This diagram below shows that the flat green roofs would not be any higher in term of wall height.



Process
Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption. City Council action may be appealed to a court of competent jurisdiction per LMC § 15-1-18.

Notice
Legal notice of a public hearing was posted in the required public spaces and published in the Park Record.

Public Input
Public hearings are required to be conducted by the Planning Commission and City Council prior to adoption of Land Management Code amendments. The public hearing for these amendments was properly and legally noticed as required by the Land Management Code. Ruth Meintsma shared public comment during the May 8, 2013 and the July 10, 2013 public hearings. Ms. Meintsma focused on several items found in Exhibit H & I.

Significant Impacts
The proposed amendments provide clarification of the Building Height and Existing Historic Structures as currently outlined in the LMC. The amendments address the

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mass and scale of new construction as it relates to residential development in the Historic District. Existing structures which do not conform to these regulations will be treated as non-complying Structures and regulated under LMC § 15-9-6.

Recommendation

Staff recommends that the City Council review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider adopting the ordinance as presented in Exhibit A – Proposed Ordinance.

Exhibits

Exhibit A – Proposed Ordinance
Exhibit B – Planning Commission work session discussion minutes 8.22.2012
Exhibit C – Planning Commission work session discussion minutes 9.12.2012
Exhibit D – Planning Commission regular meeting minutes 9.26.2012
Exhibit E – Planning Commission regular meeting minutes 11.28.2012
Exhibit F – Planning Commission work session discussion minutes 1.09.2013
Exhibit G – Planning Commission work session discussion minutes 2.13.2013
Exhibit H – Planning Commission regular meeting minutes 05.08.2013
Exhibit I – Planning Commission regular meeting minutes 7.10.2013
Exhibit J – Planning Commission regular meeting minutes 10.09.2013

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Draft Ordinance 13- __

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTIONS 15-2.1-5, 15-2.2-5, 15-2.3-6, 15-2.16-5(L), & 15-2.16-5(M) REGARDING BUILDING HEIGHT IN THE HRL, HR-1, HR-2, & RC DISTRICTS.

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; and

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods and commercial districts; and

WHEREAS, the City's goals include maintaining effective transportation and parking, maintaining the resort community regarding architectural consistency and excellent design and enhancing the economic viability of Park City's Main Street Business Districts; and

WHEREAS, Chapters 2.1, 2.2, and 2.3 Historic Residential Districts (HRL, HR-1, and HR-2) and Chapter 2.16 Recreation Commercial (RC) District, provide a description of requirements, provisions and procedures specific to these zoning districts that the City desires to clarify and revise. These revisions concern existing historic structures and building height; and

WHEREAS, the Planning Commission held work session discussions on August 22, 2012, September 12, 2012, January 9, 2013, and February 13, 2013 and provided input and direction during their regular meetings on September 26, 2012, November 28, 2012, May 8, 2013, and June 26, 2013 and discussed the proposed LMC amendments as outlined in this report; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meeting on October 17, 2013, and forwarded a positive recommendation to City Council; and

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WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on_____, 2013; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, preserve historic structures, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2- Sections 15-2.1, 15-2.2, 15-2.3, and 15-2.16. The recitals above are incorporated herein as findings of fact. Chapter 15-2.1, 15-2.2, 15-2.3, and 15-2.16 of the Land Management Code of Park City are hereby amended as redlined (see Attachment 1).

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ___ day of _____, 2013

PARK CITY MUNICIPAL CORPORATION

_____
Dana Williams, Mayor

Attest:

_____
Janet M. Scott, City Recorder

Approved as to form:

_____
Mark Harrington, City Attorney

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Attachment 1

Chapter 2.1 - Historic Residential-Low Density (HRL) District

15-2.1-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right of Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~ A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

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(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

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Chapter 2.2 - Historic Residential (HR-1) District

15-2.2-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(~~A) A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(~~A~~D) **BUILDING HEIGHT EXCEPTIONS**. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

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(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed .height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

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Chapter 2.3 - Historic Residential (HR-2) District

15-2.3-6 BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height.

Final Grade must be within four vertical feet (4') from Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The Planning Commission may grant an exception to the Final Grade requirement as part of a Master Planned Development within Subzone A where Final Grade must accommodate zero lot line Setbacks. The following height requirements must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~ The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A for the extension of below Grade subterranean HCB Commercial Uses.

(B) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A consistent with MPD requirements of Section 15-6-5(F). ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH**. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~ A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(D) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

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(1) An antenna, chimney, flue, vent, or similar Structure, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS**. The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT**. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from existing Grade.

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Chapter 2.16 – Recreation Commercial (RC) District.

15-2.16-5. SPECIAL REQUIREMENTS FOR SINGLE FAMILY AND DUPLEX DWELLINGS.

[…]

(L) **BUILDING HEIGHT.** No Single Family or Duplex Dwelling Structure shall be erected to a height greater than twenty-seven feet (27'). This is the Zone Height for Single Family and Duplex Dwellings. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirements must be met:

(1) ~~A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. ~~Attics that are not Habitable Space do not count as a Story.~~

(2) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finished Grade on all sides of the Structure. ~~On a structure in which the first Story is located completely under finished Grade, a side or rear entrance into a garage which is not visible from the front façade of Street Right-of-Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(3) Roof Pitch. The primary ~~R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.~~ A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(a) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

(M) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

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(1) Antennas, chimneys, flues, vents, and similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) Elevator access. The Planning Director may allow additional height to allow for an elevator compliant with the American Disability Acts standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) Garage on Downhill Lot. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

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Exhibit B

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
AUGUST 22, 2012

PRESENT: Charlie Wintzer, Brooke Hontz, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Mathew Evans, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code Amendments – General Discussion

Planner Kirsten Whetstone reported that the Staff was doing an annual update of the Land Management Code. She handed out a Staff report that outlined a few of the major changes for consideration. Additional minor changes were not included in the Staff report. Planner Whetstone pointed out that four pages of the Staff report was a pending ordinance for these various amendments.

Planner Whetstone reviewed the redlined packet of amendments. The first was Review Procedure under the Code and addressed different sections of the Code related to review procedures, primarily the appeal process. Planner Whetstone explained that the primary reason for the change was that an applicant could not go through two appeals with the City. It has to move on to a court jurisdiction. She noted that it applied to design reviews, administrative reviews and final actions that get appealed to the Planning Commission and then to the Board of Adjustment.

Planner Whetstone acknowledged that the Planning Commission had only been given the material this evening. She recommended that the Planning Commission read the material and the pending ordinance and come prepared to discuss it at the next meeting on September 12, 2012.

Chair Wintzer asked if the next meeting would be a work session discussion or whether the Planning Commission would be asked to take action. Planner Whetstone stated that the LMC amendments would be noticed for public hearing and discussion, but no action would be requested.

Planner Whetstone referred to the redlined amendment addressing changes to roof pitch, patios and the proposal to require a building permit for certain impervious surfaces in the Historic District.

Planner Whetstone noted that the section titled Master Planned Developments was a relook at various items and issues raised over the past year regarding master planned developments in Old Town and criteria that should be looked at in Master Planned Developments.

Planner Whetstone referred to Chapter 10 – Board of Adjustment and noted that that redlined version removes the Special Exception. The Board of Adjustment is allowed to grant variances and various things, and they can also act on a Special Exception, which is no longer in the State Code. The Staff proposed to delete the Special Exception, but they had not decided what to replace it with. Some of their ideas would be presented to the Planning Commission at the next meeting for discussion.

Planner Whetstone commented on the Definitions Section and the proposal to add definitions for green roofs, impervious surface, split level, story, half-story, and a zero net energy building.

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In response to a question of whether or not the Planning Commission would take public input on the proposed amendments, Chair Wintzer believed it was best to hold public comment until the next meeting to give the Planning Commission the opportunity to review the material handed out this evening. Chair Wintzer encouraged the Commissioners to carefully read the proposed amendments and contact the Planning Department with any questions prior to the next meeting. Director Eddington stated that Planner Whetstone was the lead planner on the amendments; however, other Staff members would also be involved. He encouraged the Commissioners to contact Planner Whetstone to schedule a time to meet with her or another Staff person.

Assistant City Attorney McLean commented on the review process for Historic District Design Review, as well as Administrative Conditional Use Permits. She explained that the proposed change came out of litigation involving 811 Norfolk, in which the court ruled that the City process applied in that case had excessive appeals, which is not allowed by State Code. However, Section 302 of the State Code allows for an application process that allows designation of routine land use matters. An application of proper notice will receive informal streamlined review and action if the application is uncontested, and shall protect the right of each applicant and third party to require formal consideration of any application by a land use authority; and that that decision can be appealed. Ms. McLean stated that that portion of State Code reflects the process the City has where the Staff review is a streamlined review that can be taken to the HPB and further appealed to the Board of Adjustment. Ms. McLean remarked that the amendment tailors the language to more closely reflect the State Code language to make clear that their intent is to follow the State Code.

Commissioner Strachan asked for the impetus behind the changes to the MPD portion of the Code, Chapter 6. Director Eddington explained that the Master Planned Development process began in 1994 and at that time it was allowed in most of the zones. It has morphed over the years and MPDs are allowed in some zones and disallowed in others. The language has been altered and it is now at a point where MPDs are allowed in the Main Street zone if it crosses over into another zone. The intent is to clean up the language and make it more applicable.

Director Eddington noted that a related discussion on the Kimball Arts Center was scheduled before the City Council to consider the opportunity to have that project go through an MPD. Projects on infill lots are challenging and currently there is no opportunity to look at an MPD. Director Eddington clarified that the City Council would not take action on the Kimball Arts Center. It would simply be a policy discussion on whether to allow an MPD to be applied in that situation. Director Eddington invited the Commissioners to attend the City Council meeting to hear that discussion. He clarified that it would be a general policy discussion and not specific to the Kimball Arts Center.

Commissioner Strachan pointed out that the information handed out this evening had a definition of story and split level. Therefore, when the Planning Commission provides the Staff direction for the next work session on the story issue, they should not ask for those definitions because they have already been provided.

Commissioner Savage noted that the applicants who had their projects continued this evening had stayed for the work session because the Planning Commission committed to have a discussion regarding the interpretation of story, independent of the proposed amendments. He pointed out

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that whatever changes are made to the LMC would not apply to these applications. Commissioner Savage believed the Planning Commission needed to discuss the interpretation question in an effort to provide those applicants some guidelines related to their projects as a consequence of the continuation.

Planner Whetstone agreed that it was a two-prong discussion. One was an interpretation of the current Code and the other would be the LMC amendment that addresses potential reasons for different interpretations.

Commissioner Thomas was unsure if they could resolve both issues this evening without first seeing the minutes from the Planning Commission and City Council meetings when the Steep Slope criteria was established. He vaguely recalled talking about stories and heights and he would like to have those documents to clarify some of the issues.

Assistant City Attorney McLean recalled, and as reflected in the Code, that the three stories was under the Historic District height limitations for each zone; and not part of the Steep Slope CUP. Commissioner Thomas concurred, but he still felt that the previous minutes were important because it pertained to the discussion.

Planner Katie Cattan provided a brief history of the process. She explained that when the Planning Commission went through the Steep Slope process there was a 10 foot limit per story. It was quantifiable for Staff to enforce the 10-foot story limit. However, when the process reached the City Council level, the 10-foot limit per story was removed. That changed the clarity because people could expand the stories and work up the hill.

Planner Cattan recalled that the reason for removing the 10-foot limit was based on construction issues on some of the challenging slopes, particularly for the garage. The City Council decided to take out the 10-foot limit for the garage level to create a garage entrance on grade.

Planner Whetstone remarked that the current definition of story in the LMC does not make sense because the City Council took out the vertical measurement. Commissioner Thomas thought it still made sense, but it changed the definition. Planner Whetstone pointed out that the LMC does not address how the stories should be added up.
Commissioner Savage asked Commissioner Thomas to explain his perspective on the story issue and his concerns.

Commissioner Thomas stated that the issue evolves from the beginning of the Steep Slope criteria. The intent was to reduce the mass and scale of projects that were coming before the Planning Commission. They were seeing projects that cascaded up as high as eight stories. Therefore, size, visual impact, and commonality with other projects in the neighborhood became a primary concern. Steep Slope criteria was established to reduce the mass and scale. Commissioner Thomas believed the Planning Commission clearly intended to have a Code that created buildings that had more commonality with the historic character of the community. He noted that the Steep Slope process included discussions about number of stories, modifying grade, maximum heights, and shifts is building. It was not isolated to the number of stories inside the volume. It was also the impact from across the canyon.

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Commissioner Thomas recalled the 10-foot per story limit and he thanked Planner Cattan for reminding him that the City Council had made that modification. Commissioner Thomas stated that the floor to ceiling issue was still defined in the definition. He believed the issues have been clarified and defined, but they need to see the minutes and come together on the interpretation.

Commissioner Savage believed there was a clear misunderstanding on the definitions since three applications came from the Planning Commission with a recommendation to approve, and the Planning Commission would not move forward on those applications based on interpretation. If the Planning Commission thinks the Staff misinterpreted the definition, he wanted like to hear the Staff's reasoning.

Director Eddington stated that part of the challenge was the vertical measurement between finished floor to finished floor. What is not addressed in the definition is the issue of a half floor and/or a split level. Depending on where they take a section drawing, a project could end up with three or six levels if they are split levels. Director Eddington remarked that finished floor to finished floor was ill-defined in the definition section of the Code.

Commissioner Strachan believe there were two separate issues. The first is from which point inside the structure to take the vertical measurement. The second is the issue of getting around the story requirement by creating separate accessory structures. There may not be three stories in one structure, but cumulatively there could be several. Commissioner Savage agreed, and felt they could have divided the applications this evening into those two different parts. Commissioner Savage concurred; however, those projects were still tied to the definition of a story and different interpretations.

Planner Whetstone read the definition of a half-story taken from the Webster definitions. "A half story is an uppermost story, which is usually lighted by dormer windows in which a sloping roof replaces the upper part of the front wall". She clarified that the definition only talks about half stories on the upper portion.

Commissioner Strachan stated that he attended the City Council meeting when they approved the LMC amendments proposed by the Planning Commission. He recalled from the discussion that the Council took the position that what happens inside the structure does not matter if the applicant is bound by the 27 foot requirement. The City Council was not concerned with how large the story could get, which is the problem they have today.

Commissioner Thomas pointed out that the Code does not say you can have 3.5 or 3.25 stories. It specifically says three stories, whether the stories are 10 feet floor to floor, 9 feet floor to floor, or 12 feet. Using an example similar to a plan they saw this evening, Commissioner Savage thought they could keep the outside looking exactly the same and reconfigure the inside to where it would adhere to the three story rule. If applicants have that ability they would be compliant. Beyond that he did not understand why they should care how the inside is configured.

Planner Whetstone explained that the Staff interpreted some projects as three stories because it had a mezzanine or landing. She asked if they should count a landing that gives character inside a

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house as a story. Planner Whetstone felt that was the issue that needed clarification.

Chair Wintzer stated that the mistake they continually make is that they write the Code with words and not with pictures. He suggested that the Staff prepare drawings that clarify and interpret the definition of a story. Commissioner Strachan noted that the definition of a basement in the LMC does show a drawing.

Commissioner Hontz stated that she attended the same City Council meeting that Commissioner Strachan had referenced, and the entire reason for removing the 10-foot limitation was to create flexibility between the three stories and the height. The City Council felt that defining 10-feet per story would limit flexibility. Commissioner Hontz thought they were where they were supposed to be based on the idea of flexibility. She understood that the Planning Commission needed to come to some consensus, and believed the City Council had set them up for this.

Commissioner Thomas stated that not allowing the additional half level above three stories reduces the mass of the building. In effect, that is working according to the initial intent of the Code. Commissioner Savage argued from the perspective that if someone presents a plan that is compliant with Code, it is no one's business what it looks like inside. Chair Wintzer and Commissioner Thomas explained why they disagreed with Commissioner Savage. Commissioner Savage thought the criteria should be based upon whether it is consistent with the objectives about how it looks from across the valley. The valley does not know how many stories are in the building. Commissioner Thomas pointed out that if a limit is not set on the number of stories it can cascade up the hill. That was the reason for having the criteria. Commissioner Savage believed that could be constrained by footprint, setbacks and other constraints from the outside.

Chair Wintzer clarified that the Planning Commission could not move forward on any applications as long as they are in conflict with Staff on the definition of story.

Planner Cattan suggested that they talk about whether a story that goes up 5 feet in elevation is considered a half story or one story. She stated that if the Planning Commission agrees that the three applications seen this evening were 3-1/2stories, then the Staff interpreted the Code wrong by saying that the level of a story could be split.

Planner Whetstone referred to a house on Park Avenue that has a door, two windows, a roof and dormers. The structure is a simple box without a basement. It has a 9 foot ceiling because of the roof pitch. Based on her research, that structure is a 1-1/2story house.

Chair Wintzer called for public input on the issue of a story. Speakers were advised to keep their comments general and not related to a specific project.

Craig Elliott with the Elliott Work Group asked the Commissioners to clear their minds of their own opinions and listen to his comments. Mr. Elliott regretted that he had not come before the Planning Commission to argue the three-story issue during the amendment process. At the time he thought it dealt primarily with Ridge Avenue and 75' lots that had 50 feet of grade change. Mr. Elliott stated that the interpretation had become such that it was changing the way he thinks about what they were doing in town. Mr. Elliott remarked that the Code definition is nearly identical to the definition

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in the International Residential Code and the International Building Code. It talks about a story being vetted from a floor level to the floor level next above. That means perpendicular to the floor or the roof; and not to the side. Mr. Elliott noted that the Building Code never addresses a shift in floor plane. He pointed out that the discussion is about a shift in floor plane and not different floors or different stories. It is all one floor that shifts. He stated that being able to shift the floor plane is a fantastic tool for an architect because it provides variety, the opportunity for interest, and delight. It is something that is valuable and can add interest to the town and the community, and not just the interior of a space.

Mr. Elliott stated that he lives in a split level house in Thaynes. He designed it, built it and has lived there for 18 years. He has been in Park City for 19 years and he never thought they would be having this discussion.

Mr. Elliot stated that an interpretation like this is not going to protect neighboring property owners or Park City. It is not going to provide additional value to the community. It will not reduce the densities in these houses because they will design them differently. Instead of having a garage with a level above it and three stories, the garage will be the top floor with two floors below it, just like all the houses on the east side of Lowell. Mr. Elliott remarked that the solutions they have seen through the shift in the floor plane gives variety and building mass above a garage. It is an opportunity to do something good. Mr. Elliott stated that if everything is pushed down to the same floor, they would be digging a deeper hole. They would be trucking more dirt out of town and driving more dump trucks. It would require more shoring and more concrete to support and retain the earth around it. The result will be more dangerous to the adjacent house than what already exists. Mr. Elliott reiterated that changing the interpretation will not change the amount of square footage that people build, and it will not improve the character of the architecture on the street. It will not change how things look from across the valley.

Mr. Elliott commented on issues that deal with the depth of a lot. Discussions over the past year with Staff have been about building multiple buildings on a lot and the story definition made by individual buildings. Mr. Elliott stated that a story is defined across the entire lot. A 140 feet deep lot is typical of what is going on. Different colors, forms and shapes are unique to Park City and the goal is not to put everything into the same box.

Mr. Elliott stated that he was not interested in doing any more houses on a steep slope in town. He has three under contract that he intends to finish. If the interpretation goes in the direction of their discussion it will not benefit the town and it will not benefit the people who own the property.

Commissioner Thomas stated that Mr. Elliott's interpretation of story and that a story is relative to the immediate space below, goes back to the notion of stepping a house completely up the hillside. He noted that the Code was created to put a limitation on that.

Mr. Elliott drew a sketch of a storied house to make his point.

Commissioner Strachan asked Mr. Elliott for his opinion on how the definition of a story applies to a structure that has a number of detached accessory structures, but has the appearance cross-canyon of seven or eight stories. Mr. Elliott replied that on a lot deeper than 75', separate buildings

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in a surrounding context was not a bad thing. Commissioner Strachan asked Mr. Elliott's opinion if the compatibility requirement was the only regulation and there was no objective limitation. Mr. Elliott stated that as some who does design work, he believed the context of the site and where you build is the most important element in any design.

Commissioner Thomas thought Mr. Elliott would agree as a professional that they also have the responsibility to look at how a structure fits into the compatibility of a community and its impact on the historic character of the community in terms of mass, scale and size. He remarked that the Code originated with trying to create a Code that resulted in more commonality with the historic character of the community. Commissioner Thomas stated that the building could still be stepped in the process Mr. Elliott identified in his diagram, but only three stories were allowed.

Chair Wintzer suggested that the Staff schedule this as a work session item and come back with a series of drawings that show different scenarios to help define the definition of a story.

Commissioner Hontz stated that the Code change was precipitated by multiple structures that came in. She was not on the Planning Commission at the time and she opposed one of the structures. She came in a demonstrated that it did not meet the Code. Commissioner Hontz stated that when she came to the Planning Commission with her concerns they agreed with her but could not make that finding, and it went to the City Council. She believed it would have been a better design had it done what they were trying accomplish this evening. That era is the reason why they got to three stories. She did not want to turn back the clock. Commissioner Hontz stated that she lives in a two-story house; however by Staff interpretation, it is actually one story. There are many consequences to contemplate and she thought the Planning Commission should refine what they wanted to see come back. She needed time to read and digest the definitions and personally did not want more input before they had the conversation.

Director Eddington suggested that the Staff come back with a set of clear drawings to help the Planning Commission understand and aid in their discussion. Chair Wintzer noted that the Planning Commission had three applications that were waiting on an answer to the question. He thought the Staff should come back with a professional opinion on the definition of story.

Commissioner Savage acknowledged that he was not on the Planning Commission when the definition was written. However, speaking from logic, he believed the constraint that was applied related to the mass, scale and appearance from the exterior. In his opinion, a story is what is directly above and not what is on the other end of the building.

Director Eddington pointed out that the definition as written talks about the interior and floor plane to floor plane; and that is the challenge. He agreed that the intent may have been misguided in the definition, but they have to work within the definition. Commissioner Savage stated that if floor plane to floor plane is a vertical measurement, he would argue that at least one structure they saw this evening was never more than three stories at any point.

Planner Evans noted that not all development in Old Town require a Steep Slope CUP. Therefore, some structures with the same scenario may have been approved by various Staff members under

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the HDDR process and never came before the Planning Commission. Commissioner Savage stated that if that did occur, it would be valid precedence independent of the CUP requirements. Planner Evans noted that he currently has two applications that do not require a Steep Slope CUP that do exactly what they were talking about. Commissioner Thomas felt that was another reason to come to some agreement on interpretation.

Assistant City Attorney McLean explained that the definitions were in the Code. In thinking about this issue, she directed them to the definitions in the last chapter and the key words, 1st story, story and structure. They should also look in the H Districts for guidance on what constitutes a story. Commissioner Savage requested that the Staff email a document to the Planning Commission that includes all the components of the Code that would help prepare them for the next meeting. Director Eddington offered to provide that documentation and include images.

Jonathan DeGray was not opposed to the Planning Commission discussing heights and levels and amending the Code for future projects. However, he agreed with Ms. McLean about looking at the Code as written because the projects currently before them were based on that Code. It was important for the Planning Commission to come back with a solid interpretation on what is written.

Chuck Heath asked about process and the time frame for taking action on the projects that were continued this evening. His project was continued once for additional information and when the information was provided, it was continued again because there was a question about interpretation. He felt it was important for the Planning Commission to define the interpretation of a story so these projects could move forward or go away. Chair Wintzer stated that the issue should be resolved at the next meeting. Once they have that resolution, they could begin discussing projects that were continued for that reason.

Assistant City Attorney McLean pointed out that the applications this evening were continued to a date uncertain. To be fair to the applicants, the Planning Commission should resolve the issue at the September 12th meeting and the items could be re-noticed for the meeting on September 26th.

Commissioner Thomas clarified that he raised the issue because he had heard three different interpretations of a story and he felt it was important to have a consistent interpretation that benefits the community.

The Work Session was adjourned.

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Exhibit C

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
SEPTEMBER 12, 2012

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Adam Strachan, Jack Thomas, Thomas Eddington, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of Story & Height

The Staff recommended that the Planning Commission discuss the interpretation of story as currently defined in the LMC.

Planner Astorga stated that in 2009 the Planning Commission and City Council held several meetings to discuss amending the Land Management Code. At that time the Steep Slope Conditional Use permit criteria was updated, as well as the overall height and how height is measured. It also addressed specific regulations related to the HR-1, HR-2 and the HRL District. Planner Astorga reviewed the existing regulations using a hand-drawn illustration.

Planner Astorga remarked that the major change in 2009 was the requirement to add a 10 foot setback for the third story. Another regulation indicated that final grade had to be within 4 feet of existing grade. The maximum number of stories was limited to three, and the basement counts as a first story. Planner Astorga pointed out that on a 30% lot and with the 27' height regulation, the numbers for a 10' setback do not work. If the entire lot is 30%, the minimum setback has to be 18 feet. Planner Astorga noted that another item added to the LMC in 2009 was that the roof pitch had to be between 7:12 and 12:12.
On a downhill lot, if the applicant wanted to accommodate a tandem two-car garage, an exception could be authorized for up to 35' instead of 27' to accommodate tandem garages. The Code indicates that a single family dwelling must have at least two parking spaces.

Planner Astorga noted that items were also removed from the LMC in 2009. The Planning Commission had the ability to allow a maximum height of up to 45 feet on lots with slopes 30% or greater, and that was removed.

Planner Astorga read the definition of a story per the current Land Management Code. "The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall pate for the roof structure." Planner Astorga stated that the Staff has recently received several applications on downhill lots, where different architects have introduced a split level concept. He requested that the Planning Commission discuss split level this evening.

Planner Astorga reviewed a diagram to show the shift in levels and the staircases dividing the structure. He noted that the application would meet all the requirements of the LMC, with the exception of the number of stories based on interpretation of the definition.

Commissioner Thomas believed the present interpretation is the same interpretation the Planning Commission has given in the last two meetings. According to the strict definition of the Code as written, the diagram shown exceeds the three-story limit. Commissioner Thomas agreed that the

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definition needed to be modified and corrected, and he thought the Planning Commission should consider the modification as suggested by Staff. He favored the idea of varying the floor plates as long as they stay within the maximum height. The Staff had suggested 37-1/2 feet as a discussion point, and Commissioner Thomas thought it was an appropriate height and closer to the intent.

Commissioner Thomas pointed out that when the Code first came before the Planning Commissioner there was a 10-foot story criteria that would have allowed more flexibility. When it went to the City Council, that criteria was modified and changed and the result affected the process. The Commissioners concurred.

Planner Astorga stated that the Staff understood the concerns and was prepared to introduce a solution, which would add a regulation to the Land Management Code. The measurement would be the vertical distance between the lowest finished floor towards the highest point on the highest ridge. The Staff believes that if they could implement that specific regulation, it would stop the terracing affect that could take place on a longer than usual lot.

Planner Astorga presented a diagram to show how the Staff reached the 37-1/2 feet height recommendation.

Commission Thomas felt that the overall maximum height made the story discussion less significant. Director Eddington felt it was best to define a story as one above the other and add a vertical maximum measurement. Planner Astorga pointed out that the intent for the 7:12 to 12:12 range was to encourage variety and avoid every building having the same pitch. Director Eddington remarked that the steeper the slope, the more impacted the project would be by the vertical measurement.

Planner Astorga stated that the Planning Commission researched the definition of story in other ski resort town. Based on that research, The Staff recommended changing the definition of story to, "That portion of a building included between the upper surface of a floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the top most floor and the ceiling or roof above." He asked for feedback from the Planning Commission on the proposed definition. Planner Astorga noted that the difference between the existing language and the proposed language is the reference to the floor next above it. He remarked that the language mirrors the definition of a story per the International Residential Code.

Commissioner Thomas stated that if they remove the three story restriction and add a new height restriction, the definition of a story has less meaning. However, he liked having some commonality with other communities on what is logical in the building world. Commissioner Thomas thought that cleaning up the story definition was a good idea.

Director Eddington clarified that the Staff had not considered completely removing the three-story issue. They had talked about giving better definition and parameters to a mezzanine or a split level. Commissioner Thomas thought they needed to think of the effects of half-story. Under the current definition, some of the cross sections are six stories. He felt the definition was too restrictive.

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Commissioner Gross thought the 25% limitation on the intermediate floor seemed reasonable. Commissioner Thomas wanted to see diagrams of how that would work before making a decision. He suggested taking input from the design community to see if there were other conditions they had not thought about. The idea sounded good and he would like to support it, but he wanted to understand the fallout and what situations could occur under different scenarios. He felt the discussion was going in the right direction, but it needed to come back for further consideration.

Director Eddington stated that the Staff would work with different scenarios and come back with alternatives.

Commissioner Hontz was leaning towards the revised definition of a story because the new language clarifies that it has to be above. She favored keeping the 3-story limitation and the additional height limitation. She agreed with Commission Thomas about looking for unintended consequence.

Commissioner Thomas believed the intent of the Code is to reduce the mass and scale of houses in the Historic District, but there should be some flexibility in doing that.
Commissioner Strachan asked if the definition of mezzanine floor or loft had been pulled from somewhere. Planner Astorga recalled that it was a combination from Crested Butte and other towns. The language was not pulled word for word and the Staff tweaked it specific to Park City. Commissioner Strachan thought it set up inconsistent and vague language in the Code. He felt the revised definition of a story and the 37-1/2 overall height limitation was sufficient. The architects would have the ability to do what they wanted inside those parameters. He believed the mezzanine, loft, or intermediate floor definition was unnecessary and would only create problems. Director Eddington clarified that Commissioner Strachan was not concerned about split levels or mezzanines. Commissioner Strachan replied that this was correct. He thought it everything could be accomplished by the stepping requirement, setbacks, and a change to the height requirement. He was concerned that the 25% floor area calculation would be hard to do because the total floor area of the story in which it is placed would not be calculable. There would be so many half stories and steps that they would never reach the 25% point. Commissioner Thomas agreed.

Commissioner Thomas believed a critical step was the addition of the 37-1/2 foot height limitation, because it restricts the height of the building without being concerned about the stories inside. However, he still wanted time to think it through to make sure they were not opening Pandora's box.

Director Eddington stated that the Staff would come back with code definitions that address that issue, as well as definitions that would address keeping in the story and mezzanine.

Commissioner Hontz suggested keeping the story definition as revised and the 37-1/2-foot height limitation, and not the mezzanine definition. From her reading, when it is stepped, there would never be a loft or a split level. Commissioner Strachan asked if Commissioner Hontz was suggesting that a story is the portion of the building included between the upper surface of any floor and the upper surface of the next floor above, and that measurement could be taken from anywhere in the home. Commissioner Strachan provided a scenario based on Commissioner Hontz's interpretation. He noted that not all the floors in the diagram may expand the width of the home.

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Director Eddington stated that it would be the entire width of the home depending on where the sections are drawn.

Commissioner Strachan was concerned about a building cascading up the hillside on a long lot. Director Eddington explained how the 37-1/2 overall height limitation would address that issue. Commissioner Strachan felt the explanation made it more certain that the mezzanine definition and the three story definition were not needed, as long as the height controls the cascade effect up the hillside and the concern for the cross canyon view.

Commissioner Thomas pointed out that the cross sections, like the example they were looking at, was consistent with the Code, as long as it remains under the 37-1/2 foot limit. However, under the current definition, the cross section would show six stories. Commissioner Strachan stated that without a cross canyon view, it would be difficult to know if that home would present the cascade problem. Commissioner Thomas replied that it has a footprint restriction and a maximum height from one point to another point.

Chair Worel thanked Planner Astorga for the background information he provided. It was helpful to see how other communities address these issues.
Chair Worel opened the public hearing.

Craig Elliott, an architect with Elliott Work Group, felt the Planning Commission was headed in the right direction as far as capping maximum height and removing the requirements for floors. He noted that most sites have cross slope in addition to the slopes front and back. Removing the discussion about stories and maximizing the height and using the 27 foot grade makes a lot of sense with respect to a 75-foot deep lot. Mr. Elliott presented an image of homes in Park City that was taken from the Marsac parking lot. He noted that the majority of buildings in the photograph do not meet the existing current Code for various reasons, but it is a great depiction of what Park City is and can be. He chose that photograph because it is one of the steepest sections in Old Town. Mr. Elliott would like to have the discussion on lots greater than 75 feet deep and breaking the building into separate buildings or structures that are not connected. He believed there was an opportunity to maintain the existing character and scale, and still give people with larger lots the ability to create diverse and interesting projects. Mr. Elliott agreed with the discussion about removing the floor definition. He liked the cap of the building and the maximum height and following the 27 foot grade, as long as it pertains to a typical lot depth. Variations in lot depth and shape becomes a separate issue.

Joe Tesch disagreed with Commissioner Thomas' comment that the idea of the Code was to reduce massing and height. That was the case in 2009, but additional suggestions were made in 2011. There were joint meetings with the Planning Commission, Planning Staff and City Council and the idea of reducing height and size further was rejected. Mr. Tesch remarked that they were dealing with what occurred in 2009, but the idea is to not go smaller. Operating today under the impression of a mandate to reduce what has been occurring is a mistake. Mr. Tesch stated that another thing that came out of those joint discussions was that Park City is different neighborhoods and one size does not fit all. His recollection for those discussions was that there was no mandate for any neighborhood to attempt to reduce height or massing.

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Chuck Heath, the applicant for 916 Empire, understood that there were recommendations to change the Code and possibly the rules. He wanted to know how this would affect his application, since his application was submitted under the current Code.

Assistant City Attorney McLean explained that Mr. Heath was vested under the Code in place at the time his application was submitted, and the interpretation of that Code. If the changes are less restrictive Mr. Heath could avail himself of that, but if they are more restrictive, he was still vested under the current application.

Mr. Heath asked how the new interpretation would differ from the current Code and how it would affect his application.

Commissioner Thomas clarified that the Planning Commission was talking about general amendments to the LMC with regard to stories, and not specific to any project. He recommended that Mr. Heath talk with the Staff regarding the interpretation to evaluate whether it would be more beneficial to move forward with his current application or wait until the changes are made and adopted and then resubmit his application.

Mary Wintzer commented on Mr. Tesch's remarks about there not being a mandate. She thought the visioning result had brought this to the forefront. Over 400 people responded and the City spent $60,000 to do a survey. People overwhelmingly talked about scale and wanting to keep the small town feel and the historic nature. Ms. Wintzer believed the home on Ontario was the poster child for loopholes and being able to build a house far out of scale of the adjacent historic home. Ms. Wintzer believed there was wide sentiment among many people in Old Town to look at mass and scale to keep with natural setting, historic character and the small town feel.

The Work Session was adjourned.

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Exhibit D

changes would not permit that The reason for a master planned development does not match the construction of one building in one zone on one lot. He was unsure what changes were being proposed, but he hoped they could prevent that from occurring.

Coleen Webb an owner in the Town Lift condos stated that her building is next to the Kimball Arts Center. She is a part-time resident in Park City and it is difficult to always attend meetings when a subject of interest is being discussed. She tries to attend as often as she can. Ms. Webb stated that she would not be in town on October 24th. She is on the Board of the Town Lift Condominiums HOA . Last week the Board members and residents met with Robin and others from the Kimball Arts Center to express their concerns and the impacts that would be created for the residents living next to the Kimball Arts Center, and what an expansion under an MPD would do to their property. Ms. Webb also had concerns with how a project that size would affect the look and feel of Old Town if the MPD goes through. Ms. Webb was comforted when she saw the concern the Planning Commission had for the neighbors when discussing the Stein Eriksen project and the Richards annexation. As a neighbor to the Kimball and a resident of Old Town, she hoped the Planning Commission continues to be that detailed and that interested in what the change of allowing an MPD could do on Main Street. It is more than a white fence or one house in your face impact. It impacts the Historic District and those who live there and abide by the 84 page guidelines of the Historic Preservation Board. Ms. Webb was not opposed to amending the LMC to make them better over time, but it is important to understand the circumstances as to why they were put in place to protect the Historic District. Ms. Webb stated that everyone respects the Kimball and the HOA and owners want the Kimball Arts Center to expand. They would like the property improved and the programs expanded. They have been great neighbors and have worked together many times with the Kimball Arts Center; but the issues that an MPD would allow has caused them great concern. She asked the Planning Commission to consider the impacts that would be created by allowing MPDs in a community that is so dedicated to keeping the District historic. Changing the LMC for a one-time project would hurt what the rest have tried to maintain and the rules they have lived by in Old Town.

Chair Worel closed the public hearing.

Commissioner Hontz thought the Planning Commission should discuss some of the issues in the Chapters that would be continued to give the Staff direction for the next meeting.

Building Height Measurement and Story Definition

Commissioner Hontz found the exhibits in the Staff report to be helpful, but she had expected additional information based on the discussion at the last meeting. She wanted to see an exercise on a variety of unbuilt lots in Old Town, both downhill and uphill, that maxes out the heights using stories as an example to see what the mass and scale and height would do. She wanted an idea of worst case scenario. Commissioner Hontz remarked that they look at the existing built environment in analyzing the definition and the application. They overlook what type of development could occur on the existing vacant lots. She recalled a recent application where the applicant was asked to do that exercise and he was unable to show that he could build a house on the lot. Commissioner Hontz pointed out that based on the proposed language a house could not be built on a 40% slope. She believed the analysis was important to make sure they would not make all the vacant lots in Old Town undevelopable.

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Planner Francisco Astorga stated that the Staff could provide the variety of examples on unbuilt lots. However, there are a number of lots that are not listed as Landmark or Significant status, and could potentially be demolished and rebuilt. Planner Astorga proposed to come back with the information requested as well as other scenarios he had created for massing and volume on various slopes. He believed they could create specific worst case scenarios. Director Eddington thought that the Planning Commission would be able to see how different aspects of the Code work in each scenario depending on the location of the slope.

MOTION: Commissioner Hontz moved to CONTINUE the LMC amendments for Chapter 2-Zoning Districts; Chapter 6-MPDs; Chapter 7-Subdivisions; and Chapter 15-Definitions as identified in the Staff report to October 24, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission discussed the remaining LMC amendments outlined in the Staff report.

Amendment to require a building permit for driveways, parking areas, patios and other non-bearing construction that create impervious areas.

Planner Whetstone noted that the Planning Commission discussed this change at the last meeting. The Staff had recommended a building permit for all flat work in all zones. Requiring a building permit would ensure that all LMC requirements are met. Currently a building permit is not required and it is difficult to know when flat work is being done and whether it meets the requirements.

City Engineer, Matt Cassel, stated that the amendment allows the City to be proactive on an issue they have struggled with for years. When someone calls to ask if his neighbor has a permit for a patio or driveway, they have to inform that person that a permit was not required. The City then has to follow up to make sure the work was done within the requirements and many times they find Code violations. The intent is to communicate with people before work is started. He used 170 Daly Avenue as an example. They were fortunate enough to catch it before the driveway was poured; otherwise, the owner would have a new driveway that accessed at the intersection. Mr. Cassel explained that it would be a simple permitting process. The owner would be required to pay a minimal fee and have their plans reviewed for Code compliance before starting any work.

Chief Building Official, Chad Root, stated that another factor is to provide guidance for the homeowners who do the work themselves in an effort to reduce the number of neighbor issues. If a permit is required City-wide, the City has control over types of materials, size, and encroachment issues. Mr. Root pointed out that most jurisdictions outside of Utah regulate all flatwork and driveway work. Utah has a State Adopted Code that adopts the minimum standards, and the minimum standards cannot be exceeded. The proposed LMC amendment would provide a mechanism around the provision in the State Building Code and allow the ability to regulate driveways and flatwork in Park City.

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Exhibit E

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November 28, 2012
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by a private, non-private, educational, religious, recreational, charitable, or philanthropic institution serving the general public".

Commissioner Strachan thought Public and Quasi-Public should be capitalized in the definitions, and should say "Public Uses" with "Use" capitalized and "Quasi-Public Use" capitalized.

Commissioner Strachan asked if there was a definition for Industrial, and if so, that should also be capitalized. Director Eddington stated that there was not a definition for Industrial, and the Staff would write one. Commissioner Strachan thought "Commercial and Industrial" was redundant language. Planner Whetstone pointed out that it was actually Light Industrial (LI). Park City does not have a zone that allows straight Industrial business. Planner Whetstone thought that they should also define a "lodging project".

The Planning Commission moved on to the remaining LMC Amendments.

Chair Worel stated that due to the late hour and the number of amendments that still needed to be discussed, Planner Francisco Astorga would give a presentation on Stories and the Planning Commission would discuss the proposed changes at a work session on December 12th.

Planner Astorga referred to page 164 of the Staff report, and an added regulation related to the split level concept. He had failed to put the language in the ordinance and he wanted that mistake clarified. He noted that the regulation language should be added between bullets C and D on pages 198, 200 and 201. The regulation read, "The overall height of a structure measured from the lowest point of the finished floor to the highest exterior ridge point shall not exceed thirty-seven and a half feet (37.5'). Planner Astorga noted that the language was introduced to the Planning Commission on September 12th, at which time the Commissioners had issues with the language and wanted to explore specific scenarios.

Planner Astorga stated that the Staff had prepared the different scenarios and wanted to hear as much input as possible from the Planning Commission. However, due to the late hour this evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. He noted that the regulation was applied to scenarios on a flat lot in the worst case scenario. The same was done on uphill lots at 15% grade, 30% grade, 45% grade and 60% grade. Consideration was given to the fact that many buildings are not historic and could be demolished for brand new construction.

Planner Astorga noted that Commissioner Thomas was absent this evening and his input on the regulation would be valuable based on his professional expertise. Planner Astorga apologized if any members of the public had waited for this discussion, but he felt it was better to wait and give the issue the time it needs to make sure everyone is on the same page and that they fully understand what was adopted in 2009.

Planner Astorga briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

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Commissioner Hontz was unsure if she could support the regulation because the historic potion of the structure could be on the bottom. She would like to see the step on new construction. Director Eddington stated that the Staff would have drawings to present at the next meeting to help address her concern. Commissioner Hontz felt that by now the Planning Commission should have a good understanding of the changes made in 2009, but it would be important to understand the effects of applying the new definitions. At this point, she was not comfortable with half stories and split levels shown in the scenarios provided. Commissioner Strachan agreed. He suggested that Planner Astorga redraft a couple of options because the ones shown were difficult to understand.

Planner Astorga clarified that the he was not speaking about stories at this point. His comments related to the regulation regarding overall height on page 164 of the Staff report. Commissioner Strachan requested that Planner Astorga re-draft the definition of split level and story. Commissioner Wintzer suggested that the Staff draft two or three definitions to give the Planning Commission a choice.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, addressed the overall height of 37.5 feet. She assumed the language, "...from the lowest point of the finished floor..." probably means from the lowest point of the lowest finished floor. Ms. Meintsma thought better language would be, "from the lowest point where grade meets footprint", because often the lowest floor is quite a bit above grade and sometimes on piers. She requested that the Planning Commission consider her suggested revision because where the grade meets footprint is where the massing begins visually.

Commissioner Hontz thought Ms. Meintsma made a good point, however, under the current Code you could not build on piers because of the four-foot return to grade regulation. Planner Astorga noted that it would also not be approved through the design guidelines.

Director Eddington agreed that Ms. Meintsma made a good point and the Staff would discuss her revision.

Craig Elliott commented on the Story issue. He was generally comfortable with the resolution, but he wanted to confirm his understanding of how the zone works. On a very large parcel with multiple structures the height resets with each structure. He wanted to make sure that was still the case.

Commissioner Strachan replied that it was subject to discussion at the work session on December 12th.

Mr. Elliott felt it was important to keep because otherwise the Code, particularly in the HR1addresses designers to create smaller buildings in scale and mass. If they do not allow that to happen in this form, they would encourage larger buildings in scale and mass on those types of properties. The unintended consequence of trying to limit something would only create what they do not want. Mr. Elliott wanted to make sure this issue was addressed in the process so they get the right things in the historic district.

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Commissioner Wintzer asked Mr. Elliott to give an example. Mr. Elliott stated that he has worked on several properties, but he was hesitant to give an example because those projects may come back to the Planning Commission. Mr. Elliott provided a hypothetical example to explain the importance of keeping with what the Code currently allows to keep structures smaller in the historic district. Chair Wintzer was concerned about the cross canyon views. Mr. Elliott stated that the nature of Park City is that looking across the canyon you see a series of buildings that march up and have different colors, shapes and forms. That was the intent of his comments at a previous meeting when he talked about the quality of design and the ability to solve those issues as designers.

Chair Worel closed the public hearing.

Planner Astorga remarked that interpretation of story was the reason why they were having this story discussion. Based on discussions in July and August the height did not reset. Commissioner Strachan believed there was a difference of opinion as to how to read the Code based on Mr. Elliott's comments. The purpose of the work session is to determine what they uniformly believe the Code says.

Planner Whetstone reviewed the list of topics for discussion on page 154 of the Staff report and identified the ones that were time sensitive for recommendations to the City Council.

1. Pre-application process, review process for Historic District Design Review and revisions to the notice Matrix (Chapters 1 and 11.

Planner Whetstone referred to page 157 and noted that language was added to Strongly recommend that the Owners and/or Owner's representative attend a pre-application conference with the Planning and Building Departments. She clarified that the existing language requires a pre-application conference. She explained that if a pre-application conference is required it becomes an application and can be vested. The Staff felt that changing the language to "strongly recommended" resolved many of the issues. A pre-application conference benefits the applicant and the Staff believed the applicants would still request one.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council for the amendment to Item 1 as written. Commissioner Hontz seconded the motion.

VOTE: The motion passed by all Commissioners present.

Planner Whetstone stated that (B) on page 157 address proposed language to the Appeals process for administrative applications (HDDRs and Administrative CUPS) including revisions to the Notice

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Exhibit F

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
JANUARY 9, 2013

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Jack Thomas, Mick Savage, Adam Strachan, Charlie Wintzer, Thomas Eddington, Kirsten Whetstone, Francisco Astorga, Matt Cassel, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapter 2 and 15

Commissioner Wintzer provided a topo map of Old Town showing every ridge. He requested that the Staff use the map to prepare for a future discussion regarding ridges.

Planner Astorga remarked that the objective this evening was to make sure the Staff and the Planning Commission were correctly interpreting building height in the Historic Residential Districts; the HR-1, HR-2 and the HRL. He noted that some of the Commissioners have been on the Planning Commission long enough to understand heights in Old Town; while others have only been on the Planning Commission a short time. The Staff believed this work session would be a good exercise for everyone.

Planner Astorga explained that the Staff chose scenarios of different slopes starting at 15%, 30%, 45% and 60% for uphill and downhill lots. The structures were designed to the highest maximums allowed by Code in terms of height and footprint and the setbacks were minimized to create the worst case scenario. Planner Astorga wanted this exercise to be a true discussion and he wanted the Commissioners to ask questions and critique the individual scenarios.

Planner Astorga reviewed the LMC Height Restrictions as outlined in the Staff report. The allowed height is 27-feet maximum from existing grade. Final grade shall be within four-feet of the existing grade around the periphery. A structure may have a maximum of three stories. A ten-foot minimum horizontal stepback is required. The roof pitch must be between 7:12 and 12:12. The downhill lot has an exception for the tandem garage. Planner Astorga recalled previous discussions regarding exceptions to roof pitch; however, until that was adopted he preferred to focus on the existing Code.

Commissioner Savage asked for clarification on how existing grade is defined. Planner Astorga replied that existing grade is the existing topography. Commissioner Savage wanted to know how they could be certain that the grade was not changed. Commissioner Thomas explained that the topo is examined at the beginning of the project and the grade is examined at the end of the project. The Building Department should be able to confirm whether the grade has been manipulated. Commissioner Hontz thought Commissioner Savage made a good point because there are situations where the previous owner changed the grade of the site. She recalled a project where Planner Astorga realized that the grade had been change and suggested that the Planning Commission add a condition that the structure should be built from the previous existing grade and not the current existing grade. Commissioner Hontz stated that if someone moves the dirt now and calls it existing grade ten years later, they would probably get away with it. Commissioner Thomas pointed out that it is supposed to be natural existing grade.

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Commissioner Savage asked if there was a way to make a definite determination on grade. Commissioner Thomas replied that if there is an interpolation to be made between the existing grade and the natural grade, the Planning Director has the purview to make that decision. Planner Astorga recalled that when the Code was amended in 2009, a specific definition of existing grade was added. Planning Director stated that existing grade is defined as the grade of a property prior to any proposed development or construction and activity. Therefore, it is the grade prior to any altering of the site. Commissioner Savage pointed out that the language states, "prior to any proposed" altering of the site. Commissioner Hontz agreed. She may not be proposing to do anything, but that would not keep her from moving dirt on the site. Commissioner Savage thought it was important to find a way to tighten the definition with respect to interpolation of some extension of natural topological grade.

Director Eddington explained that the Staff visits the site and assesses the grade. If the existing grade appears to be different than what is shown on the topo, the Staff assesses the natural grade which, by definition, is "The grade of the surface of the land prior to any development activity or any other manmade disturbance or grading. The Planning Department shall estimate the natural grade not readily apparent by reference".

Commissioner Savage was satisfied that the existing definition addressed his concern. Commissioner Thomas remarked that grade is a game that had been played and he expected it to continue.

Planner Astorga reviewed the first scenario, Scenario A, on a downhill lot. A blue line represented the property lines. The lot is 75' in length. The first scenario had the requirement of one exterior and one interior parking space. He noted that the property could be designed with two interior parking spaces. The structure was three stories. In this particular scenario the lot was accessed from the left-hand side. Planner Astorga reminded the Commissioners that these examples were worst case scenarios. Based on the access in this scenario, the front yard setback increased from 10-feet to 18-feet because of the minimum standard of the parking pad. He indicated the 10' stepback on the downhill façade. This scenario was drafted at a 15% grade and it would not require a review by the Planning Commission because it does not reach the 30% or greater requirement. The project could be three stories, meet the 10-foot stepback and still meet the height requirement. Planner Astorga pointed to the line indicating existing grade. Two other redlines showed 4' up or down from grade. This scenario had a one-car garage. The second required parking space was outside.

Commissioner Strachan noted that the basement was almost totally submerged, and he asked how low it could go. Planner Astorga replied that the basement could be completely submerged. Director Eddington referred to the heavy red line indicating existing natural grade, and noted that it could go 4' down from there and expose more light in the basement. Commissioner Strachan pointed out that someone could also make the floor 25' feet high and dig down further. It would provide very little light but they might not care. If someone wanted to excavate more dirt to increase the square footage of the overall home, they could do that. Commissioner Thomas commented on the ramifications that would occur with over-excavation. He questioned whether it was unrealistic to define a basement depth. Commissioner Wintzer thought the control would be shoring engineering to address the issue of digging a large hole three feet away from the neighbor.

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Commissioner Strachan remarked that larger basements have been the trend in more recent applications and the amount of excavation continues to grow. Because the lots are so steep, the portion that daylights gets bigger with the slope and results in significantly more excavation in the back. He understood that the LMC states that the effects of excavation must be mitigated, but he believed it was a very loose standard.

Commissioner Thomas was unsure about placing a restriction on the depth of the lowest level. Commissioner Hontz suggested that they continue with the presentation before discussing specific restrictions, since the other scenarios may help provide the answers.

Planner Astorga presented the second scenario, Scenario B, which was also a 15% slope. The difference between this scenario and the previous scenario is that scenario two has two interior parking spaces. The setback was only 10' feet from the front. Planner Astorga noted that in the second scenario, the third floor was completely buried. The Code indicates that window wells could be approved, however, the setbacks must be at least 5' and the window wells could encroach 4' onto the side yard setback. Planner Astorga stated that some of the basement space could be used for mechanical equipment, but he did not believe anyone would use an entire floor for that purpose.

Commissioner Strachan asked why there was not a 10-foot stepback. Planner Astorga replied that the basement was buried completely. The stepback is only required for the third floor above grade.

Planner Astorga presented the third scenario, Scenario C. It was still a 15% slope, however, the difference between the first two scenarios and the next two was that the building would go down the slope. In scenarios one and two the driveway went up 14% positive grade. In the next two scenarios, the driveway goes down 14% negative grade. Planner Astorga noted that the roof pitches in all the scenarios were designed at 7:12 pitch, to again create the worst case scenario.

Commissioner Savage commented on the tendency towards thinking that taking a structure to the maximum allowed by Code is negative. He did not believe the end result was always negative, and sometimes it could be positive. Commissioner Savage stated that maximum utilization of a lot is within the rights of the applicant, and the Planning Commission should not consider that to be a negative independent of subsequent analysis.

Planner Astorga reviewed the scenario, which showed one interior and exterior parking space. Because the grade goes down 14%, the vehicle is stored on the main floor. Due to stepbacks and the roof pitch, the third story is smaller than in the first two scenarios, which affects overall square footage. Planner Astorga stated that the floor area in this structure was 2100 square feet. The floor area in the first scenario was 2400 square feet, and 2500 square feet in the second scenario. He noted that the third scenario would have a walkout level on the lower basement.

Commissioner Thomas noted that most cars are fairly long and the larger vehicles can exceed 18' long. He pointed out that the bumper on larger vehicles touch the front of the house on one end and the property line at the other end. He was not in favor of adding to the front yard setback, but there is a challenge with larger vehicles. Director Eddington stated that if someone has that large of

PENDING APPROVAL

a vehicle, they would probably reduce the square footage of the house to make the garage larger. Commissioner Hontz remarked that instead of reducing the house size, people build the minimum size garage and park on the street. Either that or they park one car in the garage but leave the door open because the vehicle extends out, and then park their other cars in the street. Commissioner Hontz believed that the standards were not working and there were many questions on how to resolve the garage issue.

Commissioner Savage asked who was responsible for making decisions regarding parking and parking density on the streets. Director Eddington replied that Public Works handles parking issues. Since this was an issue with respect to car length, Commissioner Savage thought it would be appropriate to have Public Works look at a regulation that would prohibit cars greater than a certain length from parking in the driveway unless the driveway is a certain length. Commissioner Thomas pointed out that such a regulation would create an enforcement issue. Commissioner Hontz noted that enforcement is contracted out; therefore, Public Works would not be the enforcers. She believed it was a larger problem than just trying to solve it on paper. Commissioner Hontz thought they needed to look at places with 14% uphill and 14% downhill. She could not think of too many with 14% uphill; and the downhill ones were disasters.

Commissioner Wintzer indicated the potential for a green roof in one area, and noted that it could create living space per the Code. In that situation, the green roof was an issue of increasing square footage, not being compatible with the house. Commissioner Thomas stated that in Park Meadows, for a flat roof less than 4:12, the maximum height is reduced from 33' to 28'. Director Eddington replied that the rule did not apply in Old Town. Commissioner Thomas thought it might be worth considering that for Old Town. If they could encourage green roofs and reduce the heights, the visual impact of the volumetric would be overwhelming. If they allow flat roofs they should have a reduced height below 27'. Commissioner Wintzer thought the green roof issue in Old Town should be revisited because allowing green roofs was passed without any input from the Planning Commission. The language basically allows green roofs in Park City without consideration for compatibility with historic structures or other related issues. Commissioner Wintzer agreed that flat roofs were better in Park City's climate than pitched roofs, but he thought the green roof scenario should be revisited for Old Town.

Planner Astorga reviewed scenario four, Scenario D, which was still at 15% grade. This scenario had two interior parking spaces. The basement was exposed with a rear walkout. The garage was tandem. The house size was 2050 square feet, which was slightly decreased from the previous scenario at 2100 square feet.

Planner Astorga presented scenario five, Scenario E, which was on 30% grade and would require Planning Commission review. It was a downhill scenario because at 30% there was no way to go up. The driveway was 14% grade with one exterior and one interior parking space. The lower level had a rear walkout. Planner Astorga noted that the lot would meet the height requirement and the 10' foot stepback would become 20 feet. The house size at 2200 square feet was slightly larger than some of the 15% grade lots.

Planner Astorga noted that the black lines in all the scenarios indicated the story. The stories in all the scenarios were designed at 10' each.

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The sixth scenario, Scenario F, was also 30% grade. There were two interior cars. This scenario breaks the maximum height of 27'; however, the Code states that for a two-car garage in tandem configuration, a height of 35' would be allowed. This scenario would meet the Code.

Commissioner Thomas asked for the allowed length of a tandem garage. Planner Astorga replied that the Staff capped the length at 37 feet. The Code does not indicate the length of a two-car garage in tandem configuration. It only specifies that the garage must be 11' x 20' for a single car and 20' x 20' for a double car garage not in tandem. Commissioner Strachan asked if the garage could be larger than 400 square feet but not smaller. Planner Astorga replied that it could be larger. The 400 square feet is the standard used for allowances. Commissioner Thomas pointed out that the impact of having a tandem garage on a downhill lot over 30% was dramatic. He has a tandem garage on his home and it is less than 32 feet long. He parks two smaller cars in tandem and the larger car on the other side. Commissioner Thomas believed it was realistic to have an 18' car on one side and a 13' car on the other side, parked 16" apart. He expressed concerns about designing to the maximum and suggested that they design for the minimum.

Planner Astorga stated that for consistency with the LMC, the Staff decided to cap the garage length at 37' to achieve a 400 square foot garage. Commissioner Thomas stated that a 400 square foot garage could still be accomplished with a 34' length. Director Eddington stated that the downside of a shorter garage is the inability to park two larger cars, which puts one on the street. Another downside is lack of space to store skis.

Commissioner Hontz remarked that a current problem in Old Town is that people were not using their tandem garages. Rather than focusing on the dimensions of the garage, a better idea might be to have the square footage of the garage count against the overall square footage of the house. If someone wants a larger garage it would reduce the size of their house. Commissioner Thomas stated that his concern was the visual impact of the overall mass. Commissioner Hontz was not opposed to having tandem garages as an option, but they continue to see repercussions resulting from tandem garages. To address Commissioner Thomas' concern, Commission Hontz suggested resolving the problem from a height standpoint rather than square footage. Commissioner Thomas asked if the Code currently has a depth limit for tandem garages. Director Eddington replied that the Code did not specify a depth limit; however, the depth would be defined and limited by the 35' foot height limitation. Commissioner Thomas agreed with Commissioner Hontz's suggestion to stay within the height limitation and not allow height exceptions for tandem garages.

The Commissioners discussed flat roofs on tandem garages. Commissioner Savage asked what advantage that would be for Park City. Commissioner Thomas replied that aesthetically it demasses the volumetrics and it allows the second space in the garage to get a car off the street.

Planner Astorga offered to consider their suggestions to see what would work. He asked if the Commissioners would be more comfortable if the height exception was closer to 32' rather than 35'. Commissioner Savage preferred to leave it alone. Commissioner Thomas outlined the worst that could be done on the premise of a worst case scenario. Director Eddington pointed out that the depth of the garage could not exceed the minimum depth for an internal parking space within the Code, which is 40 feet.

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Commissioner Hontz pointed out that Scenario F was on a 30% grade and would require a Steep Slope CUP. She clarified that the Planning Commission currently has the ability under the Steep Slope CUP to deny a height exception. The purpose of this discussion was to codify certain requirements so applicants would know upfront that a height exception would not be granted.

Commissioner Savage understood that the height exception was in place to encourage tandem parking, but now they were concerned that people would use the tandem garage for storage and not cars. Commissioner Strachan stated that whether the garage is used for storage or cars, it would still have the visual impact Commissioner Thomas had mentioned.

Planner Astorga presented the seventh scenario, Scenario G, which was on a 45% grade. He noted that development on steeper slopes was unusual, but it does occur and it was worth the discussion. This scenario was allowed one exterior and one interior parking space. The garage was 11'x 20' and it would meet the exception. The only issue was the 10' setback at the end of the structure. A portion of the house would have to be shaved, otherwise it would be on stilts. Planner Astorga noted that the structure could not accommodate any type of walkout because it would not meet the 4-foot grade provision. Commissioner Gross pointed out that they could build a deck to level it out.

Commissioner Strachan wanted to know why living space could not be stilted. Commissioner Hontz stated that it would violate the 4-foot return to grade requirement. Commissioner Thomas did not believe the Code addressed stilt houses. Planner Astorga believed it was a question for the Historic District Design Review analysis.

Director Eddington noted that a deck could not exceed the setback because it would exceed 30" above final grade. Planner Astorga pointed out that a workable deck in this scenario would require a very creative solution. Commissioner Thomas thought this scenario demonstrated that the steeper the slope, the more difficult it was to build a house. Commissioner Strachan agreed, however, he used the drawing to show how the livable space could be increased. In his opinion, a deck is usable space, even if it is not technically considered livable space. The Commissioners discussed additional issues related to building on the steepest slopes. Commissioner Hontz believed the Code was written on the idea of 15-30% slopes. Planner Astorga noted that steeper slopes push the designers to move forward on a split level. Commissioner Thomas stated that the discussion had focused on stepping the exterior of the facade and the massing of the building. However, in terms of impact to the community and over-excavating the site, he wondered whether they should begin thinking about stepping the foundation to create a reasonable depth and maximum excavation requirement.

Commissioner Hontz referred to scenarios on extremely steep slopes and asked what happens when the driveway exceeds 14%. The average slope may be 45% or 60%, but the initial portion of the slope is 80% or 100% and a14% driveway could not be reached within the setbacks. Commissioner Gross assumed that the percentage was calculated from the edge of the right-of-way to the building envelope. Planner Astorga stated that in his analysis he found that one thing affected another thing in the Code. In his experience, nothing could be built on a slope greater than 30% without a variance. However, Park City is different because of its historic character and

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topography and someone could apply for a variance. The 14% grade is a standard in the LMC, which the Board of Adjustment has the ability to override with appropriate findings. Commissioner Hontz pointed out that someone could ask for that variance or a six or four foot front yard setback variance. Commissioner Wintzer stated that a variance request typically goes to hardship. In most cases, the hardship is that the person could not build as large they would like. In his opinion, that hardship could be mitigated by building a smaller house and shifting it on the lot; however, the Board of Adjustment does not take that fact into consideration when reviewing the variance request. Commissioner Wintzer did not believe hardship was valid in those cases.

Commissioner Savage asked how often hardship cases go before the Board of Adjustment and how often they get approved. He questioned whether the Board of Adjustment would actually grant a variance if the only hardship was the inability to build a larger home. Commissioner Strachan pointed out that most people do not give home size as the hardship. Instead, they make the case that their lot is difficult to build on.

Commissioner Thomas asked if a tandem garage could be done on a very steep uphill lot. Director Eddington stated that it would exceed the 35 feet before the second car, and there is no exception on an uphill lot. Commissioner Thomas clarified that he was talking about the impact to grade below ground. He asked them to imagine an uphill lot with a tandem garage on a 100% slope. If the garage depth is 35 feet, there would be a 35' retaining wall on the backsides of that garage, which creates a significant impact. He thought consideration should be given to discouraging tandem garages on super steep slopes. Director Eddington asked if someone should be allowed to put a theater room underground if they chose not do a tandem garage. Commissioner Strachan felt the problem was the requirement for two parking spaces. If the lot is steep enough, it would be impossible to have two cars on site. He stated that one option would be to combine two or three 25' x 75' lots so they could access the driveway on an angle. He believed the issue was how deep to excavate and whether they could step back the problem, similar to stepping back the height problem.

Planner Astorga presented Scenario H, which was at 45% grade and two interior parking spaces. The driveway was 14%. This scenario would require an exception. Mandatory increased setbacks were placed on the rear because of the grade provision. Planner Astorga believed they would most likely see a split level with this scenario.
Commissioner Strachan asked why they were looking at the exceptions assumed. Planner Astorga replied that it was due to the requirement for two interior spaces. Commissioner Thomas clarified that there was an exception in the Code that allows the Staff to make the ratio determination. Commissioner Gross pointed out that they could also apply the green roof scenario that was discussed earlier. Planner Astorga recalled from the Code that a garage in tandem configuration could be as much as 35-feet. Commissioner Strachan stated that going to 35-feet would require an exception. It is not entitled. Planner Astorga read from the Code, "The Planning Director may allow additional height on a downhill lot to accommodate a single-car garage in tandem configuration." Commissioner Thomas pointed out that the tandem configuration could still be achieved by going to a green roof for the other segment and stay within 27-feet. Commissioner Wintzer stated that if half of the roof was a green roof, he was unsure how that could be considered historically compatible. Commissioner Thomas believed that should be a separate discussion. Planner Astorga stated that the Staff was in the process of drafting specific language for the LMC as an

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exception to the 7:12, 12:12 provision, if it complies with the guidelines and is granted by the Planning Director. The Commissioners discussed possible alternatives for meeting the requirements in Scenario H without an exception.
Commissioner Thomas recalled that the 7:12, 12:12 provision was established in an effort to find compatibility with the historic character of Old Town. Before the Code change people were flattening out the roof and making the volumetric as large as possible. If they decide to allow green roofs, they need to think it through and define the specifics.

Planner Astorga reviewed Scenarios I and J together. Both were on 60% grade. Scenario I has one exterior parking space, and Scenario J has two interior parking spaces. Planner Astorga noted that there were major issues with variances in both scenarios. If such a lot existed with 60% grade, it would again make sense to try and do a split level concept.

Commissioner Hontz pointed out that in addition to not meeting the height due to the garage, it also would not meet Code because the driveway could not be returned to within 4-feet of natural grade. The bottom two floors would also have to be on stilts. Scenarios I and J could not be built based on all three reasons.

Planner Astorga had prepared another packet of scenarios on uphill lots that he would present at a work session on February 13th.

496 McHenry Avenue, McHenry Subdivision Replat – Plat Amendment.
(Application #PL-12-01717)

Due to a conflict, Commissioner Thomas recused himself from this discussion and left the room.

Planner Astorga reviewed the application for the proposed McHenry subdivision replat. Sean Kelleher was the property owner. Planner Astorga reported that Mr. Kelleher owns approximately 12 lots of record. Three do not meet the minimum lot size; therefore, the lot lines would need to be shifted for development.

Planner Astorga reported that the current plan is to construct seven single-family houses that would be accessed from an underground, shared parking garage. The Staff report outlined specific points for discussion, and Planner Astorga requested that the Planning Commission provide direction to the Staff and the applicant on how to proceed. As part of the discussion, the Staff report also included the minutes from the December 12th meeting, at which time the Planning Commission held a site visit and a work session discussion on the three lots down the street from Mr. Kelleher's property.

Mr. Kelleher provided a power point presentation reviewing the history and background of the property. He has been in the periphery of Rossi Hill for a long time, but he has never come before the Planning Commission. Mr. Kelleher stated that when he first became involved with the property in 2006, he was a tenant in common with Mr. Bilbrey, a former owner. Mr. Bilbrey retained all the development rights for the property and Mr. Kelleher was the traditional silent partner. Mr. Kelleher remarked that his only involvement regarding plat applications that came forth since 2007 was to sign the plat as a co-owner of the property. All discussions and decisions made on the property

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Exhibit G

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
February 13, 2013

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Kirsten Whetstone, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapters 2 and Chapter 15.

On January 9, 2013 the Planning Commission discussed a number of scenarios prepared by the Staff that could occur on downhill lots. The Commissioners would review scenarios for uphill lots for discussion this evening. Planner Astorga had prepared specific scenarios for 50%, 30%, 45% and 60% slopes. He wanted to make sure the Staff and Commissioners had the same understanding regarding the current Land Management Code height provisions in the HR-1, HR-2 and HR-L zones.

Planner Astorga noted that the blue lines on the drawings in the packet represented the property lines on 75' lots. The red line on the bottom represented the grade. The bold red line was the existing regulation that indicates that the final grade shall be within four feet of existing grade on the periphery of each structure. The red line on top was the maximum height, which was capped at 27'. Planner Astorga noted that the Staff had designed what they considered to be worst case scenarios.

Planner Astorga presented Scenario A at 15% grade. The scenario has one exterior and one interior parking space, which pushed the front yard setback to 18 feet; the minimum area required for the exterior parking. This scenario has a mid-level access and a top level rear walk-out. It would be impossible to have a walk-out on the mid-level because it would not be within four feet of existing grade. Director Eddington pointed that that there could be windows on the mid-level. Planner Astorga agreed, noting that there could also be window wells on the basement level. Commissioner Gross asked about cathedral windows. Planner Astorga replied that cathedral windows would be allowed as long as they comply with the Historic District Design Guidelines. It would be challenging but good designers could make it work. The driveway in this first scenario was the 14% maximum.

Commissioner Thomas pointed out that if the driveway is 14% off the edge of the road and there is no transition, you would hit your bumper before you started driving up the hill. He suggested that practical and logical may be less than 14%.

Planner Astorga noted that Scenario A did not include the 10-foot stepback on the front because the basement is completely buried and stepback is not required. Commissioner Strachan asked if the stepback would be required if the basement was not completely

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buried and was within four feet of existing grade. Planner Astorga answered yes because a portion of the basement would be exposed.

Planner Astorga presented Scenario B at 15% grade with two interior parking spaces. The driveway is 14%. The house is slightly larger than Scenario A. Commissioner Savage asked why the front distance in Scenario B was shorter than in Scenario A. Commissioner Gross assumed it was because Scenario B had two interior parking spaces and Scenario A parks one car outside. Planner Astorga replied that this was correct.

The Commissioners discussed house size and footprint. Craig Kitterman, a member of the public, remarked that there is a maximum footprint which determines the size of the house. Planner Astorga agreed. He noted that all the scenarios were governed by the maximum building footprint.

Commissioner Strachan had questions regarding the stepback. Chair Worel asked if a stepback would be require if any part of the bottom level was exposed. Planner Astorga answered yes, except for a window well. He read from Page 3 of the Staff report, second bullet point, "Final grade must be within four vertical feet of existing grade around the periphery of the structure except for the placement of approved window well, emergency egress, and garage entrances". He noted that the basement could still be buried and have a window well, but it would not require the stepback.

Commissioner Thomas noted that emergency egress can be any window or door out of a bedroom, and he found that to be problematic.

NOTE: Due to equipment problems, a portion of the meeting was not recorded. The problem was discovered and resolved.

During the non-recorded portion, Planner Astorga had continued his presentation and the Commissioners discussed the remaining scenarios.

Craig Elliott, as a member of the public, questioned why they were having this discussion. He passed around photos that were taken in 2003 and in 2013. From the standpoint of a big picture for the City, he was trying to figure out whether anything was really causing a problem. Mr. Elliott presented boards illustrating various built structures and noted that the majority of the buildings were over 27 feet tall. He stated that in the last ten years there has not been a significant change in Old Town that has created a negative impact to the visual. Mr. Elliott pointed out that with every application the Commissioners want to see a cross-canyon view, but in looking at the illustrations, there is has been no changes over the years, other than the trees grew larger.

Commissioner Thomas remarked that the boards Mr. Elliott presented showed the

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perspective from a distance, and it did not take into consideration the streetscape and the visual impact walking down the street. He believed the purpose of the Steep Slope CUP is to bring down the scale.

Mr. Elliott understood that the neighbors complain whenever the Planning Commission reviews a Steep Slope project, but that just happens. Neighbors always fight new development because they want to keep the land next door vacant. However, people have the right to build. Mr. Elliott stated that the difference is minimal between what was there and what changed in ten years through the largest building boom. He realized that the LMC changes in 2009 were in response to specific projects, and in hindsight he should have attended the public hearings to argue about the 3-story limitation. It was a mistake on his part and he was attending now to have this discussion. Mr. Elliott noted that there were nine statements of purpose in the LMC. They might be accurately discussing one, but the rest were going the wrong way. Applicants are always asked whether they read the purpose statement. He was now asking the Planning Commission if the discussion they were having meets the purpose statement. He could not understand the purpose of their discussion and he did not believe anything in their discussions would improve things through the Land Management Code. Mr. Elliott stated that restricting height on a 75' lot to 35' to 37-1/2' might make sense; but he could not understand it for a lot over 75'. The nature of Park City is that it keeps stepping up the mountain.

Commissioner Strachan asked if there would be a difference if Mr. Elliott had taken the picture 25 years ago. Mr. Elliott believed that most of the structures shown were built before the 1980's. Commissioner Strachan believed that most of the larger houses Mr. Elliot was showing were not built 25 years ago. Mr. Elliot pointed out that the larger houses would never go away. If they were to burn down they would be replaced with the same size structure in the same place. He felt that the Planning Commission has spent the last few months talking about heights and squares and angles, when they should be talking about the big picture and why they were having these discussions. If the discussion is that they want to limit the ability to develop, they were moving in the wrong direction.

Commissioner Savage stated that Mr. Elliott is a professional who presented visuals to support his position. He believed Mr. Elliott had a valid point. They can look at the various scenarios presented, but the reality of importance is the sense from the perspective of where these developments will take place and whether something is or is not consistent with that particular location and a particular set of visuals. Commissioner Savage thought that should be their guiding parameters more than trying to create a formula for calculating volume as a function of lot size.

Mr. Elliott stated that he works in Old Town every day. He experiences the streets every day and he walks to most of his projects. He was confident that the things that have happened over the past ten years have not negatively impacted the quality of the town.

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Changes are made and it does not make any difference in the overall impact. These discussions have kept people from building houses for the last six months and will cause them to miss two seasons of construction. Mr. Elliott believed the major question was why they were having these discussions and what it would accomplish.

Commissioner Thomas stated that prior to creating the 2009 LMC, they were seeing buildings stepping up the mountainside to maximize the volumetric. That had a dramatic visual impact on the neighbors, the street and the scale of the community. The reason for these discussions is to have a sense of scale to the historic fabric of the community at the street level. He did not think some of the images Mr. Elliott presented was a fair comparison of what this town is about or the character of the town. Mr. Elliott disagreed. Commissioner Thomas stated that the image does not represent what the neighbors experience when someone builds an enormous house next to an historic house. The purpose of the 2009 changes was to respect the neighbors and what was left of the historic fabric that was being whittled away by these monstrous structures.

Mr. Elliott reiterated that the Planning Commission should address the real question of "why" and if whether the "why" fits within the Land Management Code purpose statement. In his opinion it did not.

Commissioner Strachan asked if Mr. Elliott had any recommendations on how they could bring more families and primary homeowners back into Old Town. Mr. Elliott felt that would be driven by a number of different things. He suggested that current projects would bring people into town. He thought they would be fighting the issue of value for a long time because of its proximity to Main Street.

Ruth Meintsma stated that she lives on a street that is primarily second homes and nightly rentals. She does not mind nightly rentals in her neighborhood because it works. However, the houses in-between where people live are very important and adds cohesion to the neighborhood. Ms. Meintsma understood the reasons for limitations. A house across the street from hers is nightly rental. People come in and out and you never talk to them. The number of cars is astounding and the amount of trash in one weekend is more than she creates in two months. Ms. Meintsma believes there needs to be a balance. In talking about limitations, she understood the three stories limit and size reduction for second homes and nightly rentals because extra space is not needed for that type of living. However, when someone has a family they need to think about a new way of living. They need to think about space for storage, tools, food storage, etc. She believes that if there could be a second criteria of house building where a home or a residence is signed in perpetuity to no nightly rental, it would add to affordable housing because people could come in a rent for a minimum of one year. With larger structures people would create a home and it would allow for families. Sometimes the fourth story is necessary for a family. If someone wants to build a home for their family and wants extra space, the City should

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hold them to the family home use by having them sign in perpetuity to no nightly rental.

Planner Cattan stated that limiting nightly rental was not necessarily limiting second homes. Ms. Meintsma agreed, but it would still be someone's home. Commissioner Savage commented on the economic impact. If someone did not have the ability for nightly rental they possibly could not afford the home. In other cases, some people buy second homes on the fact that they can enjoy it themselves and offset some of their expenses by renting when they are not there. Ms. Meintsma understood the concern, but if someone was willing to sign their home into perpetuity from nightly rentals, they should be given some incentive such as extra space in their home.

Mary Wintzer stated that when side yard setbacks were reduced years ago, they saw huge impacts with snow shedding and people began to maximize their houses. The lifestyle of those living in Old Town has been drastically affected. Her neighbors raised four kids in a three-story house. When she was growing up people shared bedrooms. Ms. Wintzer was not totally opposed to the incentive of a fourth story, but if they return to what used to be they would not need monstrous homes.

Ms. Meintsma pointed out that lifestyles are completely different than how they used to live. She clarified that she was not talking about greater height or greater mass. She was only talking about an additional story. She understood that excavation was a major concern, but she believed that could be mitigated.

Ms. Wintzer remarked that several years ago four owners on Rossi Hill imposed a house size restriction on themselves. They realized that it would limit their profit when they decide to sell because the lots could not be maximized, but they did it because they value their neighborhood. Ms. Wintzer stated that they love Old Town, they love the mountain and they love what the community has given them. It is the neighborhood, the people and the land, and they are building up every square inch of the earth in Town. She believed they would pay a price some day. The old timers talk about the years when they had bad spring runoff and mud slides on this side of the Canyon. They have not seen that yet, but it is possible. If it occurs, there is no earth left to absorb it because it is all developed.

Commissioner Hontz felt good about this exercise because it was based on the purpose statements and it came out of the realization and the factual evidence of how many undeveloped lots are left and how tightly constrained they are. In her mind this was an exercise of education, but it also explored whether what they have meets what they want to do, how they need to tweak it, if at all, and if the scenarios were representative of what they thought they were trying to achieve. The discrepancy on the definition of story was another reason that prompted the exercise. Without those reasons they would have never done this and nothing would change. Instead, they went through this very thorough discussion to possibly visit some potential changes. Commissioner Hontz thought this was a useful

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"primary" for clarification. Vice-Chair Thomas was comfortable if the language gives the Staff the ability to look at the design and determine the primary roof and that a smaller roof element on the structure is a lower percentage of area and not a significant dominant roof form. He believed the Planning Commissioner needed to trust the judgment of the Staff

Vice-Chair Thomas recalled from the last meeting that the Planning Commission was comfortable with the 7:12 and 12:12 roof pitch in terms of compatibility in Old Town. However, the proposed language on page 71 of the Staff report provides the caveat of allowing a shallow roof it is more compatible with the historic structure. He thought that was appropriate. Planner Astorga clarified that the process for approval is through the HDDR by the Planning Director.

Commissioner Savage commented on green roofs in the Historic District. He noted that they continually talk about historic precedence and to the best of his knowledge green roofs did not exist in those eras. Commissioner Savage asked if the Historic Preservation Board was willing to integrate green roofs into the design guidelines for renovations of historically significant structures. Planner Astorga replied that the Code already allows a green roof if it is under the required roof pitch. That was added as part of the 2009 amendments. He explained that the intent is to clarify the language in terms of measuring. Commissioner Savage asked how a green roof would impact registering the home on the Historic Register. Planner Astorga stated that green roofs would not be allowed on historic structures. Green roofs would be allowed on new construction in the historic district or on addition to historic structures. He noted that the Code applied specifically to the Historic Residential Districts.

Planner Astorga remarked that several people have asked if they could have a flat roof that is not green but has solar panels. He asked the Planning Commission for input on that scenario. The Commissioners pointed out that the panels would have to be on an angle for sufficient use of the solar. Vice-Chair Thomas stated that solar collectors have been used on various roof pitches and they work in a lot of conditions.

Commissioner Hontz referred to the historic structures analysis on page 71 and the recommendation to add building footprint and building height. She pointed out several negative scenarios that could occur, which was why she did not favor adding the language. rector Eddington pointed out that the language only applies to structures listed on the Historic Sites Inventory. Planning Manager Sintz suggested adding, "designated historic structures." Commissioner Hontz was still uncomfortable adding building footprint and height. Under the current process the Planning Director makes the determination and she preferred to keep that review process.

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Planner Astorga explained that the Staff recommended the change because they recognized that not all of the historic structures would comply with the height parameters in terms of the 10' setback. Commissioner Hontz still preferred to keep the process of review and determination by the Planning Director for all structures. She was willing to consider the possibility of only allowing the change for structures under 1500 square feet. Director Eddington stated that the Staff would look at revising the language to address the concerns.

Commissioner Hontz referred to a news article regarding a $1 billion deficit the Jordan School District is facing next year because their Planning Department, Planning Commission and City Council approved more density than what they could accommodate for the number of people it generated. Commissioner Hontz pointed out that what the Planning Commission does matters because the number of people in a house affects the amount of traffic on the roads and the number of children in the schools. Vice-Chair Thomas pointed out that the Jordan School District was the best funded school district in the State of Utah. Unfortunately, they lost a lot of their funding due to the transformation Kennecott and how the money was disbursed. He agreed that growth was also a factor, but it is natural to expect some growth to occur. Commissioner Gross thought it was important to plan around growth expectations.

Director Eddington believed the Staff had enough direction to revise the proposed amendments and incorporate their comments. Commissioner Wintzer thought it would be helpful for the Staff to summarize the comments this evening and email it to the Planning Commission for verification and consensus before they make the revisions.

Assistant City Attorney McLean replied that the Staff could send a summary to the Planning Commission, but the Commissioners could only reply and communicate with the Staff. They could not do a "reply all". Vice-Chair Thomas felt a better approach would be for the Commissioners to visit the Planning Department two at a time to meet with the Staff prior to the next meeting. Vice-Chair Thomas thanked Planner Astorga for his patience throughout this process.

MOTION: Commissioner Hontz moved to CONTINUE the Amendments to Chapter 2 to a date uncertain. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

3. <u>Lots 21-32, Echo Spur – 9 Lot Subdivision</u>
(Application PL-12-01717)

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with the language in blue. The Commission concurred that the language in the Annexation Agreement allowed the condition to provide a certain level of Green Building to evolve as the standards evolve. The Commission concurred that Finding of Fact 1e. could be amended to include the language from the Annexation Agreement. The Commission agreed that restricting the language to "LEED Silver" did not allow the project to keep up with the Green Building standards as they evolve.

The Commissioners were opposed to heated driveways. Mr. White indicated that they discussed requiring off-sets to heated driveways, such as additional solar panels, consistent with Condition #49 of the MPD.

The Commissioners and Staff point out findings of fact and conditions of approval that may need to be modified due to the amended plat layout and requested changes. Such as Condition #43 regarding wildlife report update, Condition #55 regarding limits of disturbance and retaining walls for streets, Condition #24 regarding the new soils report, and Condition #59 regarding snow storage restrictions on the actual repository. The applicant stated that some conditions have been address by the revised plat, such as Condition #24 regarding the trail access between Lots 89 and 90. Planner Whetstone commented that Condition #56, which refers to lot numbers of the preliminary plat by Ensign Engineering could be updated to match the new preliminary plat.

The Staff and applicants discussed a schedule for future meetings to keep the process moving forward.

MOTION: Commissioner Strachan moved to CONTINUE the proposed Park City Heights MPD amendments and extension to November 6, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

5. Land Management Code – Amendments to Sections 15-2.104, 15-2.1-5, 15-2.2-4, 15-2.2-5, 15-2.3-5, 15-2.3-6, 15-2.16-5(L), 15-2.16-5(M) & 15-2.16-6 regarding existing historic structures and building height in the HRL, HR-1, HR-2 and RC Districts (Application PL-12-02070)

Planner Astorga reported that the Planning Commission originally discussed the definition of a story during a work session in August 2012. During a Planning Commission meeting in September 2012, the Staff recommended reviewed the interpretation of a story as currently defined in the Land Management Code. At that time the Planning Commission had concerns related to the current building height parameters and how they applied to split-level concepts. It was interpreted that a three story split-level, per the current LMC definition of a story, would qualify as multiple stories adding up to six. The Staff had introduced an additional regulation which was based on the internal height of a structure measured from the lowest floor level to the highest roof form. The Staff offered to work with different scenarios and come back to the Planning Commission with alternatives.

Planner Astorga stated that during the September 2012 meeting the Planning Commission forwarded several items to the City Council for review and possible adoption. However, the Commissioner continued the proposed amendments regarding building height measurement

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and story definition to a later date, and requested additional information. On January 9, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1 & HR-2) relating to downhill lots. Another group of scenarios regarding uphill lots was presented on February 13, 2013. Planner Astorga noted that the January and February work session discussions were based on the current building height parameters outlined on page 260 of the Staff report.

Planner Astorga noted that currently the LMC defines a story as:

> The vertical measurement between floors taken from finish floor to finish floor. For the top most story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof structure.

Planner Astorga stated that there is no maximum or minimum number of feet for a story or a wall plate. The height of a structure is simply measured from existing grade, not to exceed twenty-seven feet. After analyzing the impacts of split-levels and multiple split-levels concepts on a standard lot of record, the Staff proposed adding provisions to the LMC related to Building Height which would limit the split-level concept so a project would not contain multiple numbers of splits stepping up or down the hillside.

Planner Astorga referred to the proposed amendment language in red on page 263 of the Staff report. He noted that the amendment deals with the alternate language to replace the maximum three-stories and does not replace the maximum height of 27' measured from existing grade. The proposed language reads:

A structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plan to the point of the highest wall top plat that supports the ceiling joists or roof rafters.

The Staff also recommended adding clarifying language to the ten foot 10' minimum horizontal step. Planner Astorga noted that the current code does not indicate where the step back takes place on a vertical plane. The Staff found that the added language in red at the bottom of page 263 clarifies where the horizontal step should occur. The proposed language reads:

The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Architectural features that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty-five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic sites and Historic Districts.

Planner Astorga presented a number of exhibits to show what could occur under the exiting Code and with the proposed changes.

The Staff proposed language under Roof Pitch to clarify green roofs. "A green roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 foot pitch." The Staff proposed adding a provision reflected in red on page 265 of the Staff report. Proposed provision clarifies the required roof pitch for green roofs, as well as adding a specific parameter of measurement. The proposed language reads:

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(1) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same structure. A structure containing a flat roof shall have a maximum height of thirty feet (30') measured from the lowest floor plane to the highest point of the roof including parapets, railings, or similar features.

The Planning Commission discussed split levels and whether or not to place a cap on the number of levels. Planner Astorga noted that when the discussions started in August of 2012 the Planning Commission said they would allow a cap. They needed to let the Staff know if they had changed their minds. He noted that there would be less excavation under the new scenario.

The Commissioners discussed footprint. Commissioner Strachan remarked that the footprint discussion trickles down to plat amendments. Planner Astorga noted that last year three applications proposed the split level concept and none required a plat amendment. Commissioner Strachan remarked that the standard 75' x 25' lot was no longer an issue because of plat amendments.

The Planning Commission discussed window wells that become bedroom space. The Commissioners generally did not like the idea of window wells and thought they should be minimized or restricted. Window wells encourage more livable space which generates more people and more traffic. Planner Whetstone pointed out that the Planning Commission wanted like to encourage more families in Old Town, and families require additional living space.

Vice-Chair Thomas opened the public hearing.

Steve Parker stated that he has a child and he would love to live in Old Town. Mr. Parker suggested that instead of limiting everything the Planning Commission should find better ways to design and create better spaces.

Vice-Chair Thomas closed the public hearing.

The Commissioners were not prepared to forward the proposed amendments to the City Council this evening. They requested that the Staff come back with more information on driveways, restrictions on window wells, particularly in setbacks, and footprint analysis. Vice-Chair Thomas referred to the language on page 263 proposing a 35'maximum height. He thought that should be reduced to 33' in the back and 27' in the front.

Commissioner Wintzer stated that this was a good opportunity to address flat roofs and requested that the Staff come back with language to start the discussion. He suggested the possibility of allowing a percentage of a structure to be a flat roof. Director Eddington noted that flat roofs are already addressed in the Design Guidelines. Commissioner Wintzer pointed out that the Planning Commission needed to have a conversation regarding flat green roofs in Old Town because the Design Guidelines are not in their purview. Vice-Chair Thomas agreed.

Commissioner Strachan thought the Planning Commission should forward the amendments they could agree on and discuss the rest at a later meeting. He was comfortable with the proposed horizontal stepping language on page 263.

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MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC Districts with the proposed language at the bottom of page 263 of the Staff report for a horizontal step at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing grade. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC District with the proposed language at the top of page 263 of the Staff report, with a revision to change the maximum height from 35 feet to 33 feet at the rear. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Strachan referred to the proposed language on page 265. He was comfortable with the second sentence but he thought the first sentence should be part of the green roof discussion.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council to amend the LMC for the HRL, HR-1, HR-2 & RC District with the second sentence of the proposed language on page 265 of the Staff report regarding the 30' maximum height for a flat roof. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 11:45 p.m.

Approved by Planning Commission: _____

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experience. She was unsure what the result would be based on all their opinions, but this was instrumental in educating the Planning Commission to be able to move forward.

Planner Astorga noted that page 2 of the Staff report contained language from the current Code. He asked if the Planning Commission had issues with any of the regulations and whether it needed to be strengthened or rewritten. He believed there was some consensus for spending more time and resources on adding internal maximum height. He asked if any of the other height parameters needed to be fine tuned. Commissioner Strachan felt it was sufficient to have the internal height limitation.

Commissioner Savage had issues with the third bullet point and the definition of three stories, and whether three stories was measured from a vertical point or by some other metric. Commissioner Strachan thought the three story restriction could be eliminated if they use the internal height restriction. Commissioner Thomas agreed. The internal height gives the designers more flexibility with the floor plan.

Director Eddington understood that the Planning Commission would not have as much consternation with regard to split levels and partial stories inside the building. He was told that this was correct. Commissioner Strachan clarified that applicant could do whatever he wanted within his own box as long as it meets the internal height limit.

Commissioner Thomas suggested a site visit to several sites that reflect the conditions discussed on uphill and downhill lots so they could see them in the field.

General Plan – Discussion and Overview of neighborhoods – the neighborhoods to be discussed include: Thaynes Canyon, Park Meadows, and Bonanza Park/Prospector

Nightly Rentals

Planner Cattan reported that the Staff had prepared a discussion on nightly rental because it was one of the more controversial topics to be discussed neighborhood by neighborhood as they decide to rezone and talk about residential neighborhood versus resort neighborhood. She preferred to start with nightly rentals before moving into the neighborhoods discussion.

Planner Astorga read that the current Land Management Code definition of a nightly rental. "The rental of a dwelling unit for less than 30 days." Another clause states, "Nightly rentals do not include the use of dwelling units for commercial uses." Commissioner Savage asked for clarification on the language regarding the use of dwelling units for commercial uses. Assistant City Attorney McLean explained that as an example, gifting parties cannot be held in a home that is a nightly rental.

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Exhibit H

Said landscape plan shall incorporate the reintroduction of native landscape materials within this area, and reduce the amount of sod-grass, especially near the creek.

9. No pesticides, herbicides, or other non-organic fertilizers shall be applied to this landscape area.

2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3, and Chapter 2.16 regarding Building Height (Application PL-13-01889)

Planner Francisco Astorga noted that this item addressed LMC amendments to change some of the parameters of the building height in the HRL, HR1, HR2 and RC Districts. The Planning Commission has had significant work session discussions as reflected in the Minutes from those meetings and included in the Staff report. The Staff was before the Planning Commission this evening with recommended proposed changes for review and a possible recommendation to the City Council.

Planner Astorga reviewed the current height provisions: 1) The height must be within 27 feet of existing grade. This provision was unchanged. 2) Final grade must be within four (4) vertical feet of existing grade around the peripheral of the structure except for approved window wells and access to the structure. Planner Astorga reviewed highlighted changes to this provision. The current language addressing a maximum of three stories would be replaced with an internal height parameter. The 10-foot minimum horizontal step on the downhill façade would remain. The mandated roof pitch would also remain based on direction from the Planning Commission during the February work session. The height exception would also remain.

Planner Astorga noted that the3-story language would be replaced with language regarding internal height that would vary on a specific roof pitch on the roof form, as indicated in the table on page 230 of the Staff report. The language was revised to read, "The internal height of a structure measured from the lowest point of the finished floor level to the highest exterior ridge point shall not exceed the number based on the following table". Planner Astorga explained that they would still achieve the mass and scale of three stories, without saying that the maximum is 3-stories. The Staff thought it was better to use a scale because otherwise people would try to capitalize on their wall height for their stories and then give the lowest roof pitch each time. Therefore, the Staff created an incentive of 1' foot of step per higher roof.

Planner Astorga explained that the logic for the internal height was wall height plus the roof height. The wall height was derived from 3-stories. A ten-foot story including a floor joist may not be doable, and that number was increased to 11 feet for a wall height of 33 feet. The Staff calculated what each roof height might be depending on the pitch of the roof to determine the varying height.

Commissioner Wintzer was unclear why the Staff thought a 9-foot or 10-foot story was not doable. Planner Astorga stated that the scenarios the Staff presented in January and February were based on 10-foot stories, which included a floor joist. The intent was to be more consistent with what the market might drive. He pointed out that the proposed change does not dictate how tall the story might be. It could be less or more and the applicant has the ability to work with the design. Planner

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Astorga understood from previous comments that the Planning Commission thought the 10-foot story maximum was too small.

Commissioner Hontz thought believed that 10-feet was adequate and that 11-feet was a gift. However, she recognized that it did allow more flexibility. Commissioner Thomas was not concerned with whether it is 9, 10 or 11 feet on the interior. Commissioner Hontz was concerned that if someone takes the maximum internal height of 43', they would need to grub out again. She pointed out that the 27' would only keep it with the slope. However, internally, the house could continue to go further down. Planner Astorga noted that the internal measurement creates a split level. Commissioner Hontz was comfortable with split levels, but the question is how many splits. They were keeping down the height, but they also wanted to keep the structure from growing bigger side to side. She preferred the ten-foot story because it keeps the building from creeping down the slope too far.

Planner Astorga stated that based on the methodology selected for the scale, if they use the 10-foot measurement it would drop 3-feet from each internal height. Therefore, the internal height would range from 35' to 40'. Commissioner Hontz was more comfortable with those numbers. Commissioner Hontz stated that because the current Code does not allow stepping within the house, the current three-story solution works because it limits how far people are willing to go out and down the hill. Commissioner Hontz wanted to make sure that by allowing more flexibility in terms of steps within the interior, that they were not allowing creep up or down the hill.

Director Eddington asked if the Commissioners wanted to go to 10-foot floor plates and reduce the internal height by 3-feet each. Commissioners Hontz and Wintzer answered yes.

Commissioner Thomas was more concerned with the impact on footprint. They would still have the 27' maximum height from existing grade, but he was interested in knowing the relative difference in footprint between a 10-foot floor plate and an 11-foot floor plate.
Director Eddington did not believe the footprint would change either way because most people max out their footprint. He noted that the City has a formula for footprint for all of the historic zones. Commissioner Thomas stated that he was very comfortable with the 11-foot for interpretation as long as people are held to the 27' maximum height and the footprint could not creep up or down the hillside. Director Eddington clarified that it was a formula of lot size.

Commissioner Savage thought they should stay with the 11-foot floor plate as proposed. Chair Worel was comfortable with 11-feet as long as the footprint could be limited. Commissioner Wintzer was not opposed to 11-feet because people do build to the maximum. Commissioner Wintzer suggested that Planner Astorga include an illustration for clarification to show how it should be interpreted.

Commissioner Hontz asked for the definition of finished floor level? Commissioner Savage suggested that it could defined as, the lowest point of the lowest finished floor level to the maximum vertical height of the structure. The Commissioners supported that definition. Commissioner Savage wanted to know how the number relates to not counting a basement if it is totally subterranean. Planner Astorga clarified that subterranean basements are counted. Commissioner

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Savage clarified that regardless of whether or not the basement is buried, the lowest level of the lowest floor is Point A, and Point B is the highest point of the exterior.

Director Eddington clarified that the language indicates the lowest point of the finished floor level and/or any structural element is the lowest point. Commissioner Thomas gave a scenario to show how talking about structure complicates the issue. Commissioner Savage thought the confusing word was internal.

Planner Astorga remarked that the next proposed change was to add two provisions to the Existing Historic Structures. This portion of the Code states that historic structures are valid complying structures in terms of parking and other issues. Planner Astorga noted that the LMC defines a Historic Structure, but it does not include any additions to the structure. The Staff wanted to keep the regulation for valid complying and added Footprint and Height to the existing Code language for the three Historic Residential Districts and the RC District.

Director Eddington clarified that it was already understood that if a structure exists with an existing footprint or building height, it is existing non-complying. Planner Astorga believed that most of the historic structures comply with the building footprint.

Commissioner Hontz noted that someone could take away some of the property associated historically with the historic structure that makes it complying currently. Director Eddington clarified that a building could not violate the Code and be taken into non-compliance. However, he understood Commissioner Hontz's concern. If someone had more than a single Old Town lot they could split a portion of the land and put it on another property. He pointed out that the footprint would be limited to the 844 square feet or whatever it exists as and the building would never get bigger. Commissioner Hontz agreed that the structure could not be bigger, but splitting a portion of the property would allow a larger structure next door.

Planner Astorga stated that the Staff also tried to clean up the section regarding Building Height. A number of historic structures do not comply with the existing heights. One of the parameters is a 7:12 to 12:12 roof pitch. The Staff did not think it was appropriate to do a complete analysis on how a structure is legal non-conforming, when a similar clause in the Code addresses setbacks.

Commissioner Savage asked if complying and conforming were synonyms for purposes of the Code. Director Eddington explained that conforming is for a use and complying is for a structure. Commissioner Savage understood that a valid complying structure could be legal non-conforming.

Planner Astorga noted that the final proposed change was a roof pitch exception. He explained that periodically the Staff encounters a historic structure that may have a 5:12 or 4:12 roof pitch. The Staff felt it would be more appropriate if the addition that comes in for that structure would be held to the same type of roof pitch or possibly lower. Planner Astorga noted that currently the Code would not allow that because it specifies 7:12 to 12:12 roof pitch.

Planner Astorga stated that the Staff was proposing to add language for additions to historic structures, stating that through an HDDR review and compliance with the Historic District

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Guidelines, the Planning Director has the ability to approve a roof pitch lesser than the one required in the Code.

Planner Astorga stated that the next question was how that would apply in the case of a split level and the maximum height. He noted that a secondary table was added for these types of exceptions.

Planner Astorga asked if the Planning Commission was comfortable adding the roof exception for additions to historic structures; and whether it would be appropriate to add the same type of scale for the maximum building height. Commissioner Thomas liked the idea because it would allow for a more appropriate design and more flexibility. The Commissioners concurred.

Commissioner Wintzer referred to the table on page 231 of the Staff report and corrected the 5:15 roof pitch to be a 5:12 roof pitch. Commissioner Thomas noted that 5:15 appears several times in the Staff report and it should be corrected throughout.

Commissioner Hontz referred to page 244 of the Staff report and asked what they would do about the 10-foot horizontal step that is referenced in conjunction with a third story, because people would now be able to have three stories. Planner Astorga replied that the provision is based on a 3-story building and it is mathematically impossible to have more than three stories. Commissioner Hontz did not believe it referenced what they were trying to accomplish now. She thought the language should be re-written relevant to where they want the 10-foot horizontal step to occur. Commissioner Thomas agreed that it was no longer clearly defined as the third story. Director Eddington suggested that it may need to be a numeric value.

The Commissioners were not comfortable forwarding a recommendation to the City Council without seeing the drafted verbiage regarding the roof pitch exception and associated illustrations.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 505 Woodside, commented on the 3-story versus internal height issue and did not believe they were accomplishing what they intend to accomplish. Ms. Meintsma understood that they were first trying to accomplish visual height and mass from the exterior, and secondly to control the height and mass from stepping up the side of the hill with a 3-story limit. She thought the height limitation seemed complicated and she believed they would cause other issues. Ms. Meintsma presented a visual to support her concerns. Regarding the discussion about the lowest point of the lowest floor to the highest exterior to limit crawling up the hill, Ms. Meintsma pointed out that many houses in town have an exposed foundation way below the first floor. If they do not consider the exposed foundation and start from the bottom first floor and limit the interior, people will lift their house out of the ground and have an exposed foundation, which will significantly increase the visual mass. Ms. Meintsma stated that the interior measurement from the lowest floor was not accomplishing what they wanted. She believed that starting from grade would accomplish their goal and keep the structure from creeping up the hillside.

Ms. Meintsma commented on the different roof pitch options with different heights. She pointed out that a green roof is 33 feet and a 12:12 is 43 feet. No one will choose a green roof unless they are very environmentally conscientious, because people prefer an open ceiling roof. She believed the

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proposed formula would discourage green roofs. Ms. Meintsma also thought it discourages a steeper pitch because with a 27' height limitation a steeper pitch would move the structure further underground. She noted that most people want to be above ground as much as possible for light and windows.

Ms. Meintsma suggested that there were different ways of controlling visual height and mass. She thought it would be better to control the height and visual and put a limitation on cubic dirt moved under the house. That would address both issues separately and in a more appropriate way that the interior number of floors. Ms. Meintsma was pleased that Commissioner Hontz mentioned the third floor, because in her opinion the 3-story step back did not work. She provided different scenarios to explain her point.

Ms. Meintsma thought there needed to be some way to encourage green roofs through some type of height limitation. She asked if a conditional use for a higher height could be used as a negotiating tool for green roofs. Ms. Meinstma pointed out that the advantages of a green roof. She believed everything needed to be thought through to be productive and to have the control the Commissioners wanted.

Commissioner Wintzer asked the Staff to consider Ms. Meintsma's comments and work it through a number of drawings.

MOTION: Commissioner Wintzer moved to CONTINUE the LMC Amendments regarding Building Height to May 22, 2013. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously. Commissioners Gross and Thomas were not present for the vote.

3. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, and Chapter 2.3 and Chapter 2.16 regarding underground parking structures. Amendments to Chapter 2.18 regarding Prospector Overlay. Amendments to Chapter 6 regarding Master Planned Developments. (Application PL-1301888)

Planner Whetstone stated that these were the remaining amendments of the 2012 annual update of the Land Management Code. This agenda item addressed three amendments. The first was to clarify the purpose and the applicability of the Master Planned Development review process throughout Park City. It was not specific to any one area, but it clarifies the language. The second was to clarify and add additional review criteria to the Master Planned Development Review process. This would apply to any Master Planned Development. The review criteria were clarified and updated to make references that are specific to the Code. The third amendment was to clarify the lots within the Prospector Square overlay in the General Commercial (GC zone) that are subject to zero lot line development. Planner Whetstone noted that added language clarifies the lots subject to exceptions in the overlay. One of those exceptions is to have a zero lot line development. Planner Whetstone stated that when the Prospector Square subdivision was amended, the Code was not also amended to identify that those lots are also allowed zero lot line development.

Planner Whetstone referred to the General Commercial Zones, Section 15-2.18-3 of the LMC, Lot and Site Requirements. This section addresses lot and site requirements and several changes were

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Exhibit I

amendment.

3. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval – 305 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment 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 amendment at the County within one year from the date of City Council 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 City Council.

3. No building permit for any work that expands the footprint of the home or would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.

4. Modified 13-D sprinklers may be required by the Building Official for renovation of the existing structure.

5. A ten foot (10') foot wide public snow storage easement will be provided along the frontage of the property.

2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3 and Chapter 2.6 regarding Building Height. (Application PL-13-01889)

Planner Francisco Astorga remarked that the proposed amendments address development in the HRL, HR-1, HR-2 and the RC zones. The RC zone was included because specific

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standards for single-family dwellings and duplexes mirror the same standards that apply for the Historic Residential Districts.

Planner Astorga requested that the Planning Commission discuss the proposed language shown on Attachment 1. If the language needed to be amended, the changes would be included in a recommendation to the City Council in an effort to move forward.

Planner Astorga reported that the proposed amendments were two-fold. The first one related to the Building Height analysis on pages 66-71 of the Staff report. The second amendment related to the Existing Historic Structures Analysis on pages 71-72.

The Staff recommended that the Planning Commission review the proposed amendments to the Land Management Code for Chapter 2 as described in the Staff report, conduct a public hearing, and forward a positive recommendation to the City Council to adopt the ordinance in Exhibit A with any further changes resulting from the discussion.

Vice-Chair Thomas opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, had prepared a presentation showing various heights, stories and roof shapes. She recalled that stepping was an issue because the Code did not read as stepping three stories, and the Planning Commission wanted the ability to apply the Code in a way that stepping would work.

Ms. Meintsma had prepared a series of drawings. The first one had a third story, ten-foot horizontal step at a 27' foot height which was allowed under the current Code. A second drawing presented was not allowed under the current Code. A third visual showed the same mass in the third story and the fourth story, except there was more mass with the allowed structure versus the structure that is currently not allowed.

Commissioner Savage asked if the difference was attributed to the setback requirements in the front. Ms. Meintsma answered yes, because the only way to fit four stories in the 35' interior top plate ceiling height would be if the four stories had 8' ceilings. Vice-Chair Thomas clarified that the floor to floor heights were 9' floor to floor with an 8' ceiling. Ms. Meintsma believed it was in the best interest of the City to allow a structure that would actually have less mass.

Ms. Meintsma had prepared additional drawings to explain what she believed were the positives for allowing stepping and four stories and why the building would have a smaller appearance. She stated that the horizontal lines on four stories has a tendency to chop up the visual and makes it more attractive. Ms. Meintsma remarked that because the height

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would be 35' on top plate, it would possibly allow steeper roof pitches, which everyone would like to see, and still maintain the 27' height. She was working on language regarding a half-story to encourage steeper roof lines and more variety in roof pitches.

Ms. Meintsma stated that if stepping is allowed because it remains under the 35' height, the unintended negative of a split level is that the roof tends to create a roller coaster roof that is reminiscent of the ski slope roof. Ms. Meintsma presented a photograph of the structure that triggered the discussion and explained how the roller coaster roof could be mitigated. Ms. Meintsma believed that stepping could create a smaller structure.

Ms. Meintsma outlined the unintended negative flaws in the language proposed for height and roof pitch. She noted that the language talks about primary roof design; however, primary roof design is not defined in the Code, which makes it arbitrary. She believed they needed a definition for primary roof design. Ms. Meintsma reviewed a series of drawings with different heights, roof pitch and design to show some of the flaws resulting from the language. She suggested that "Primary Roof Design" should be changed to "Primary Roof", and the primary roof should be defined as the main roof structure to keep all the pitches at 7:12 to keep the roof from flattening against the 27' height.

Ms. Meintsma referred to language stating that the roof pitch must be a 7:12. She presented drawings showing that the 7:12 pitch were only small portions of the roof that she had marked.

Commissioner Hontz asked if Ms. Meintsma was saying that adding the word "primary" would make it less likely to see the hip roof. Ms. Meintsma believed that the hip roof was on its own regardless of whether or not it is allowed or now much is allowed. Commissioner Hontz clarified that in her interpretation, if the word "primary" is added it would allow someone to identify a secondary roof. Ms. Meintsma stated that a primary roof would be a 7:12 pitch roof; however, if it has a hip on it that would change the visual.

Mr. Meintsma presented an image of a barge rafter roof, which is one of the two rafters that support the roof and projects beyond the gable wall. She found the image as the best example of a gable roof. She was unsure whether it would flatten the roof or accomplish the visual they wanted.

Planner Astorga stated that the challenge in Old Town is that if the roof forms are perpendicular to the street, there is not an issue. The specific project that Ms. Meintsma used in her examples is parallel to the street. He believed it was a 7:12 roof pitch but the issue is that the ridge is parallel to the road and as it comes down, the massing perceived is different from seeing a gable on the street. The designer's intent is to provide additional

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headroom, and that is a challenge. However, the City cannot plainly prohibit these types of structures because historically those types of roof forms existed in Old Town. The Staff faces this challenge on a daily basis with the Historic District Design Review.

Commissioner Wintzer used the image of the house identified as hip, and noted that there was no reason for what was done on that house. The roof is under height everywhere and it could have been higher. He thought they could follow Ms. Meintsma's suggestion to make the roof simpler. Ms. Meintsma clarified that she was not implying that it should not have been done. She only questioned it because the 7:12 pitch was small portions and she wanted to know if this was what the Planning Commission wanted, because it did flatten the roof.

Vice-Chair Thomas closed the public hearing.

Vice-Chair Thomas remarked that someone would always do something creative with a roof that is unfamiliar or unfavorable. For that reason he felt it was hard to write a Code that limits every condition and still gives the applicant the opportunity to design what they think is an attractive house.

Planning Manager, Kayla Sintz, stated that the Historic District Guidelines direct the applicants to choose a style. The language proposed reduces the roof pitch in order to be consistent with other types of historic homes, and that means that someone chooses that style of a home with a shallower roof pitch. It does not mean they could choose all the options and put them on to one house. She believed there was a need for a strong statement and direction to an applicant to select one style. The Historic District is simple and it is not about a conglomeration of roof lines. Planning Manager Sintz thought it was an issue of choosing a style of architecture and one with compatibility through design.

Planning Manager Sintz cautioned against a primary roof form definition because people would eventually challenge the definition. She thought the Planning Commission should be cautious about delineating primary versus secondary or taking a stricter stance.

Commissioner Savage applauded Ms. Meintsma for her insight, efforts and continued participation in these important issues for the City. Commissioner Savage believed that the Planning Commission should focus on the exterior of a building and let the applicant focus on the inside. He noted that the City has an HDDR process and Design Guidelines and the Planning Commission should not be concerned with the design. The Planning Department is mandated with the responsibility of making sure the issue of compatibility is being met. Commissioner Savage stated that he would continue to trust in that process until he is given a good reason not trust the process. Commissioner Savage liked what Ms.

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Meintsma had done with the volumetrics and he personally felt it was the right way to look at it. Whether it is three stories or four stories inside, both can be accommodated within the same volumetrics and the external appearance would be essential the same or possibly improved with the multiple stories.

Commissioner Savage was unsure as to how they could draft an appropriate definition for a primary roof and what they would call that roof. He was thought it would be difficult to define a primary roof. Commissioner Savage stated that he had not thought about the roller coaster issue Ms. Meintsma had raised and he was unprepared to comment.

Commissioner Wintzer echoed Commissioner Savage regarding his appreciation to Ms. Meintsma. It makes a difference when someone comes in with a different idea. Commissioner Wintzer agreed that the job of the Planning Commission is to focus on the volumetrics, but they are also challenged with making the structure compatible with the neighborhood and the existing structures. Therefore, he believed the Planning Commission should look at design and compatibility. Regarding the issue of flat roofs, he noted that four 9' floor to floor heights would allow four stories and still be within the height limit and the volumetrics would be totally different than if it was filled in. Commissioner Wintzer felt it was important to understand flat roofs and how they relate to structures in Old Town. He recommended that as they discuss heights that they look at structures with flat roofs in mind.

Commissioner Hontz thought they had made progress and she believed they were getting closer. She stated that some of the things affected by height is the amount of excavation, setbacks, and snow shed and that should be considered as they determine the height definition. Commissioner Hontz referred to the drawing on page 69 of the Staff report and noted that 14% driveways are allowed on uphill lots. Drawing a line at 14% and starting the structure at that point, and then drawing a straight line from the top of car, she pointed out the amount of excavation that would be reduced on an uphill lot. In her scenario, Commissioner Hontz noted that the garage elevation would not start until 15 or 20 feet higher. Therefore, the 27' height is 20 feet higher. Commissioner Hontz remarked that this was the type of house they keep seeing built on both uphill and downhill lots. She remarked that that entrance into a structure is not historic and it ruins how people approach structures and the feel of Old Town. Secondly, it is not useful. The first rainfall on the downhill lots in certain places fills the driveways and garages because it is a good place for water to run. On the uphill lot the garages cannot accommodate the height of an SUV and they end up being parked in the driveway. Commissioner Hontz reiterated that it adds to the height and the steepness of these driveways, which is not historic, and they are not useful.

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Commissioner Hontz stated that moving the finished floor plane up puts the structure at 20-30 feet taller from the street, and makes it appear to be 80 feet tall. She believed that needed to be a component in their discussion. Commissioner Hontz thought the biggest failure is the fabric that is eroding due to the driveways, as well as the perceived height.

Commissioner Hontz liked Ms. Meintsma's comment about the benefit of less mass with four floors. However, in looking at the 9' foot ceiling structure of the 4th floor, they would see more bedrooms and more people, which generates more cars and more impacts. Commissioner Hontz agreed that the Planning Commission does not need to regulate the interior, but they still need to regulate the scale and mass, particularly when the mass is also bedrooms and number of people in an area that cannot accommodate the extra traffic.

Commissioner Hontz stated that based on where they allow people to go up in height, because of the retaining required, the limits of disturbance is the lot line and every piece of vegetation on the entire site is eliminated to accommodate the structure. Commissioner Hontz did not believe the proposed solutions address all the concerns. It is difficult to grow vegetation in Park City and when the removed vegetation is replaced, it will not be the same quality.

Commissioner Hontz stated that another proliferation they see on the uphill and downhill is the manipulation of the Code with window wells allowing habitable space, which results in more massing and additional excavation under the house and to the setbacks. She thought disallowing the 14% driveway might resolve the problem because people could no longer dig out that space.

Commissioner Hontz understood that they were still looking at green roof and roof pitch. She thought they needed to consider that a green roof could turn into a brown roof that is never planted or maintained. The needed to find a way to manage it and require that someone continues to manage it. Vice-Chair Thomas suggested that a green roof could be subject to a landscape plan approved by the Planning Director. Commissioner Hontz clarified that a green roof cannot be considered as setbacks or open space.

Commissioner Gross agreed with most of the comments expressed by his Fellow Commissioners. However, he believed that people should be able to do whatever is allowed within the 35' maximum as long as it complies with the Building Codes. The Planning Commission is tasked with looking at the exterior and making sure the impacts are properly mitigated. Commissioner Gross recalled a previous discussion regarding green roofs and that a landscaping plan needs to be part of the package before receiving the certificate of occupancy permit. He was unsure how the green roof could be monitored over time.

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Vice-Chair Thomas believed they were moving in the right direction. The intent was to allow flexibility within the volume to have shifted floor planes and accessing grade. He believed the 35' height helps tighten it up, but a few things still need to be resolved and the green roof is one issue, along with the landscape plan relative to the green roof. Vice-Chair Thomas stated that a flat room has a bigger visual impact if it is allowed the same 27' height. In many parts of the community if someone chooses to use a flat roof, there is a reduced height associated with the flat roof. He asked if that had been factored into the flat roof discussion.

Planner Astorga replied that flat roofs were only incorporated with regards to green roofs. The Staff analysis is that when the application comes in the applicant needs to demonstrate that it will not cause any additional shade and it would not be taller than a standard gabled roof. Vice-Chair Thomas asked if a standard roof would be allowed to go up to the ridge height with a flat roof. Planner Astorga explained that the applicant would have to demonstrate how the proposed green roof/flat roof fits in a 7:12, 9:12, all within 27' from existing grade. Commissioner Wintzer asked if they could go up as high as 27'. Planner Astorga replied that it could, but it would be breaking on the corners. Therefore, it would have to be reduced until the entire flat roof is down within a standard compliant mss of roof form.

Director Eddington understood that Vice-Chair Thomas was asking whether a flat roof could appear to be a bigger mass because it does not have the sky on the side of the slope. If that was the question, the answer was no. Commissioner Wintzer asked Planner Astorga to bring back some drawings. Planner Astorga was prepared to do drawings this evening to demonstrate how the green fits at a standard gable. Vice-Chair Thomas clarified that the maximum height of the green roof would have to fit within the 7:12 context. Commissioner Savage understood that the higher the roof, the skinnier the building. Planner Astorga replied that this was correct. Commissioner Savage stated that most people want the square footage and that would keep them from building a taller building. Therefore, the footprint trumps the roof. Planner Astorga reiterated that the Staff analysis only applied it to green roofs and not standard flat roofs. Commissioner Wintzer clarified that green roofs was the only thing allowed in Old Town.

Vice-Chair Thomas stated based on his education and experience, mass, form, scale and compatibility are design; and to that extent the Planning Commission is involved in design.

Vice-Chair Thomas thought Commissioner Hontz made an excellent point about the driveways. There needs to be a transition slope from the street to the driveway and based on industry standards, it is a 5% slope up to 20 feet. The City allows 14% and he

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questioned how they could get a transition slope into that realm. He believed that issue needed to be addressed because it is impossible to get a car up those driveways without bottoming out. The impact is that people will park on the street.

Commissioner Gross asked why they could not change the 14% slope. Commissioner Hontz replied that it could be changed but it also affects other things, such as height and mass. Vice-Chair Thomas pointed out that 14% slope would be sufficient with a long enough driveway, but there needs to be a transition slope at the curb approaching the street. Summit County has a code requiring driveways to be within 5% for the first 20 feet of the public street. He recognized that 5% was too restrictive for Old Town, but he thought they should factor it down and consider a more reasonable length that would still allow the transition.

Commissioner Savage asked if the driveway issue was a height issue. Vice-Chair Thomas replied that it is connected because it cascades into the lowest finished floor. Commissioner Savage could not understand why they would need to adjust the building height if they control the driveway slope. Vice-Chair Thomas replied that they would exceed the maximum height. Commissioner Hontz stated that if they add the driveway component and control it through some calculation, they would be addressing the height issue. Vice-Chair Thomas stated that if they lower the slope of the driveway and drop the elevation of the driveway it would increase the excavation of the project. He believed there were ramifications that needed further thought and discussion.

Commissioner Savage felt they needed a robust discussion regarding excavation. He thought the issue warranted further dialogue and education. He personally could not understand why they should care about the amount of excavation as long as the footprint was managed. Vice-Chair stated that they care about the amount of excavation because of the impacts created by the number of truck loads of material hauled through the neighborhood. The issue is life safety, as well as the depth of footings and excavation and cuts.

Commissioner Hontz commented on the vegetation removal that occurs with significant excavation, particularly the vegetation that has existed historically for 50 years and is habitat. She pointed out that projects that required significant excavation take longer because of the process. Some projects take years, which is an impact to the neighbor who lives next to the hole in the ground. Commissioner Savage thought those concerns could be addressed through bonding, obligations, and other requirements. He believed that at some level they need to support people's ability to make choices about how they want to develop their property as long as it fits within the guidelines. Commissioner Savage remarked that people should be able to work to the maximum within the LMC, without

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feeling that they are getting more than they should get. The maximum should be what they are allowed to do.

Commissioner Wintzer remarked that the real issue is not how much is being excavated, but how many cars and people it takes to maintain the structure for the rest of its life. He noted that several structures on Deer Valley Drive have 15 cars parked in front for a weekend because it is allowed, but it completely impacts how he gets to his house and how people get around town. The owner built what the LMC said they could build, and the end result was a party house with two parking spaces. Commissioner Wintzer stated that in addition to regulating mass and scale, their job is also to regulate and protect the neighborhood and the integrity of the neighborhood. He commented on a house that he believed had excavated 100 feet and has window wells that are probably 12-14 feet high and have bedrooms behind the garage.

Vice-Chair Thomas remarked that window wells could allow someone to create a building area and usable space or living space below grade. He felt it was important to consider the impact of window wells and the intention for having a window well. If the intent is to create natural light and egress for a bedroom, that would the wrong intention and he would not encourage that type of space.

Commissioner Hontz stated that it is difficult to police and enforce use. By allowing 14% and building to the maximums, she thought they needed to look at whether the maximums are too big. People do not always make good decisions on their use and they tend to do things that are illegal. It generates additional traffic and other things that are not allowed in the community. Commissioner Hontz believed they needed regulations that are easy for everyone to build to and live to so they are not in a constant police state trying to stop people from doing what they are not allowed to do.

Commissioner Savage stated that the Planning Commission has a specific role. A City Councilman attends their meetings and several other organizations within the Park City Municipality have responsibilities for the enactment of legislation and maintenance of that legislature. There are ways to cause people to be appropriately penalized when they abuse the privileges. Commissioner Savage remarked that there was nothing the Planning Commission could do within the Land Management Code to fix the problems that occur in larger homes in terms of overnight rentals and huge parties. However, the City can implement the appropriate Codes and Regulations and taxation rules to ensure that the problem gets minimized and is forced into a more acceptable position. Commissioner Savage felt it was important to make sure they were using the right tools to fix the right problem. He noted that the Planning Commission is not mandated to be the panacea for

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all the issues inside Park City. He thought the Planning Commission should focus on their job instead of trying to fix problems outside of their purview.

Commissioner Hontz disagreed. She believed it was 100% design related. Commissioner Wintzer concurred. It is the job of the Planning Commission to find whether something is compatible and fits the Land Management Code. It is also their job to look at neighborhoods and the bigger picture. Commissioner Savage believed it was their job to decide whether an application was compliant with the Land Management Code. Commissioner Wintzer replied that compatibility is addressed in the Land Management Code and the purposes statements talk about compatibility.

Vice-Chair Thomas remarked that the intent of the proposed amendment was to allow flexibility within the footprint of the house for stepping. He thought the general direction they were going with the 35' step was appropriate. Vice-Chair Thomas believed the Planning Commission was willing to consider a maximum slope as a transition slope to a driveway to access the house. In his opinion, it did not make sense to have a 14% grade right from the street curb to the finished floor of the garage. It is not practical and it does not work. It is difficult to get a normal car into a driveway that has a 14% slope without a transition.

Vice-Chair Thomas remarked that the Commissioners had concerns about flat roofs and how they would be planted. He believed they were comfortable with the diagram showing that the height of the roof would come down if it fits within the 7:12 triangle. Commissioner Wintzer asked Planner Astorga do prepare a better diagram for the next meeting.

Vice-Chair Thomas wanted to address the window well. The City Council had opened the window well as a modification to the initial ideas for steep slope. However, it is an issue that that should be looked at again because it creates an unsafe situation as well as other impacts. Commissioner Wintzer thought one alternative would be to define a window well with a specific height requirement.

Planner Astorga pointed out that the Code did not specify a maximum height of a window well. Vice-Chair Thomas agreed and felt it was open to interpretation. He requested clarification regarding window wells.

Planner Astorga understood that Commissioner Wintzer had requested a diagram of the flat roof/green roof and how it fits into a gable roof. Vice-Chair Thomas clarified that the Planning Commission was referring to green roofs and not flat roofs.

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Commissioner Hontz referred to the redlined language on page 68 of the Staff report regarding building height. In addition to the items Commissioner Thomas had identified, she asked the Planning Commission to consider removing the language, "finished lowest floor plane." She was concerned that someone could leave the garage floor dirt so it would not be considered a finished floor plan. Commissioner Hontz did not believe the word "finished" made the definition stronger.

Vice-Chair Thomas thought "finished floor" was the elevation of the earth. After further discussion the Commissioners agreed to remove the work "finished" from the sentence. Commissioner Hontz referred to the same paragraph, last sentence, and asked why they were talking about attics as a story. The Commissioners agreed to remove the last sentence.

Commissioner Hontz referred to the second redlined paragraph on page 68 of the Staff report and revised the paragraph to read, "A ten foot minimum horizontal step in the downhill façade is required to take place at a maximum height of 23' from where elevation meets existing grade. An exception is for when the first story is located completely under the finished grade on all sides of the structure. Commissioner Hontz felt it was better to separate what is allowed and what is prohibited for clarity. The Commissioners discussed the revised language and asked Planner Astorga to re-write the language for the next meeting to address some of the issues that were raised. Commissioner Savage requested a visual to help clarify the language.

Vice-Chair Thomas noted that at some point the Planning Commission would have to address separate structures. He believed there would be a tendency for people to pull two buildings apart and have a garage and something else and another structure uphill. The result is the impact of seeing a very tall, large massive structure on lots that are not compatibility with the historic adjacent properties. He asked the Commissioner to begin thinking about how they could approach the issue. He asked the Staff to factor in language that addresses new construction without historic buildings and stops the cascading down the mountainside, regardless of whether the structures are connected.

Planning Manager Sintz stated that in the discussion of whether to define primary roof form and how it is calculated, and because the green roof definition is tied to the primary roof form, she suggested that the Planning Commission direct Staff on how to marry the two together. She offered suggestions on how it could potentially be done. Vice-Chair Thomas was uncomfortable with using a percentage because it becomes mathematical without considering the aesthetics. He suggested that the Staff Architect review primary roof forms and green roofs in terms of their compatibility. Planner Astorga asked if the Commissioners were comfortable with the language as proposed, which added the word

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EXHIBIT G

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TECHNICAL MEMORANDUM

To: Gretchen Milliken, Planning Director
Park City Municipal Corporation, Planning Department
445 Marsac Avenue
Park City, Utah 84060

From: Anne Oliver, Principal Architectural Historian, and Christina Olson, Lead Architectural Historian, SWCA Environmental Consultants

Date: April 26, 2023

Re: **Historic District Design Review for 220 King Road**

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OVERVIEW

Historic character is one of four core values outlined in the *Park City General Plan* (Park City Planning Department 2014). Park City's historic character derives from more than 400 historic sites, including two National Register Historic Districts (Park City Planning Department 2023). The Main Street Historic District was listed in the National Register of Historic Places in 1979, and the Mining Boom Era Residences Thematic District, which comprises historically significant residential structures built during the mining boom period of 1872 to 1929, was listed in 1984 (Park City Planning Department 2023).

Park City Municipal Corporation has pursued protection of the City's historic resources through local designations on its Historic Site Inventory and through application of the Design Guidelines for Historic Districts and Historic Sites (Design Guidelines), initially adopted in 1983. In 2009, Park City completed a total update of the regulating documents for the historic districts, including an updated Historic Site Inventory, new Design Guidelines, and amendments to the Land Management Code (LMC). The Design Guidelines were updated again and adopted by Ordinance 2019-06 into the LMC in 2019 and are intended to fulfill policy directives provided in the LMC (Park City Planning Department 2023).

As requested by the Park City Planning Department, SWCA Environmental Consultants has prepared this memorandum to assist the City's Design Review Team in evaluating the proposed new residence at 220 King Road, in the Historic Residential (HR-1) zone, for compliance with the Design Guidelines (Figures A-1 and A-2). Specific LMC requirements associated with building height (LMC 15-2.2-5) and development on steep slopes (LMC 15-2.1-6) relevant to the HR-1 district and the proposed residence at 220 King Road, are outside the purview of the Design Guidelines and are being addressed separately by the Planning Department.

HISTORIC DISTRICT DESIGN GUIDELINES REVIEW

Park City's Design Guidelines are intended to protect the historic character of Park City. As identified in LMC 15-2.2-1, the purpose of the HR-1 zone regarding residential infill is to:

- preserve present land uses and character of the Historic Residential Areas of Park City;

- encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods;
- encourage single family Development on combinations of 25' x 75' Historic Lots;
- define Development parameters that are consistent with the General Plan policies for the Historic core; and
- establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment. (Park City 2000)

Concerns with the proposed residence at 220 King Road relate primarily to the "construction of Historically Compatible Structures that contribute to the character and scale of the Historic District," particularly the scale of the residence and its component elements. While the Design Guidelines support the proposed industrial design aesthetic inspired by the Silver King Mine buildings, the guidelines are clear regarding requirements for residential scale and do not support the construction of industrial-scale residential buildings within residential districts. The compliance of proposed massing and glazing patterns with the Design Guidelines is an additional concern. Each Design Guideline pertinent to these concerns is provided below, followed by an analysis of the design compatibility of 220 King Road.

15-13-8 Design Guidelines for New Residential Infill Construction in Historic Districts

A. Universal Guidelines

15-13-8 A-4: *New infill residential buildings shall differentiate from historic structures but be compatible with historic structures in materials, features, size, scale and proportion, and massing to protect the integrity of the Historic District as a whole. The massing of the new infill residential buildings shall be further broken up into volumes that reflect the original massing of historic buildings; larger masses shall be located at the rear of the lot.*

The proposed materials and features of the residence at 220 King Road are compatible with industrial designs in and around Park City. However, the size, scale, and proportions of the residence and its component elements, including the shed roof and cantilevered flat roof, are reminiscent of a large-scale industrial building rather than a residential building, which is not compatible with the HR-1 zone. While projecting portions of the building on the downslope elevation provide some modulation of mass, additional size reduction or modulation of the building mass itself (as well as its roofs) is required to reflect the size and massing of historic residential buildings, which were typically built on 25-foot-wide lots in this zone (see Figures A-1 and A-2).

15-13-8 A-6: *Exterior elements – roofs, entrances, eaves, chimneys, porches, windows, doors, steps, garages, etc. – of the new infill residential building shall be of human scale and shall be compatible with neighboring Historic Structures.*

The proposed residence at 220 King Road will span multiple lots, with a single shed roof also spanning multiple lots. While the use of an industrial mining aesthetic is encouraged, the scale of the roof and eaves should be compatible to the scale of historic residences in the HR-1 zone, not to an industrial mining building. To comply with this guideline, the wide shed roof would need to be divided into three to five modules to achieve the appropriate residential scale and the cantilevered flat roof would need to be reduced in size.

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15-13-8 A-7: *Scale and height of new infill residential buildings shall follow the predominant pattern and respect the architecture of the Streetscape or character area with special consideration given to Historic Sites.*

The proposed infill references the industrial buildings of the Silver King Mine but the guidelines require that infill residential buildings maintain a historic residential scale appropriate to the historic district or zone in which they are being constructed. The proposed residence at 220 King Road will be on a relatively isolated site and will not be directly adjacent to any Historic Sites. In the absence of a streetscape lined by other buildings, the predominant pattern of the historic district or residential zone applies. The proposed design does not comply with this guideline.

15-13-8 A-8: *Size and mass of a structure shall be compatible with the size of the site so that lot coverage, building bulk, and mass are compatible with Historic Sites within the Streetscape or character area.*

The proposed residential building at 220 King Road will span multiple lots and, while its size is compatible with the size of the lot, its building bulk and mass are not compatible with Historic Sites just downslope in the HR-1 zone. Further reduction or modulation of massing, both of the residence and its shed and cantilevered flat roofs, is required to be compatible with the building bulk and mass of historic residences in the HR-1 zone.

15-13-8 A-10: *New infill residential buildings shall reinforce visual unity within the context of the Streetscape or character area. The specific context of each Streetscape or character area is an important feature of the Historic District. The context of each Streetscape or character area shall be considered in its entirety, as one would see it when standing on the street viewing both sides of the street for the entire length of the Streetscape or character area. Special consideration should be given to adjacent and neighboring Historic Sites in order to reinforce existing rhythms and patterns.*

The proposed residence sits on the hillside above much of the HR-1 zone, in a setting where industrial buildings were once common. An industrial design aesthetic is appropriate in this area; however, this and many other Design Guidelines explicitly require that new infill residential buildings be compatible in mass and scale with historic residential buildings to reinforce visual unity in the historic district and/or residential zone. The prominent and highly visible location of 220 King Road only increases the importance of complying with this and other guidelines to reinforce visual unity and maintain existing rhythms and patterns of the nearby streetscapes. Because the guidelines are so clear on this point, a variance from the Board of Adjustment would be required to permit the design as proposed.

B. Specific Guidelines (Primary Structures)

Mass, Scale, and Height

15-13-8 B-2a (1): *The size and mass of a new residential infill building in relation to open spaces, shall be visually compatible with adjacent historic buildings and historic structures in the surrounding Streetscape or character area.*

The proposed residence at 220 King Road is sited on an open slope above much of the HR-1 zone. This provides some flexibility in allowing greater size because of the building's relation to more open space. However, the size of the building and its component elements must be broken into distinct masses more reminiscent of the size and mass of historic buildings in the zone to achieve visual compatibility.

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15-13-8 B-2a (3): *Historic height, width, and depth proportions that are important in creating compatible infill and maintaining the historic mass and scale of the Streetscape or character area.*

The height, width, and depth of the proposed residence at 220 King Road are of an industrial scale and not compatible with the residential streetscapes in Park City's historic districts. As noted above, while the large lot and open hillside allow for greater building size, it is necessary to break up the massing and roof forms to be more similar to historical residential massing and scale to achieve compatible infill.

15-13-8 B-2a (5): *The perceived scale of new buildings shall respect the scale established by historic buildings in the character zone. Abrupt change of scale in the character zone is inappropriate, especially when a new, larger building would directly abut smaller historic buildings.*

Both the actual and perceived scale of the proposed residence is significantly greater than a typical historic residence in the HR-1 zone and there are no historic large-scale industrial buildings nearby or anywhere in the zone that establish a precedent for large-scale infill. As stated above, the reference to the industrial aesthetic of the Silver King Mine buildings is encouraged in the design of the structure, but those historic mining buildings are neither in the HR-1 zone nor visible from it. For these reasons, the perceived scale should reflect that of a historic residential building rather than a historic industrial building. Because the proposed residence does not directly abut any historic buildings, and because it is sited on a large lot surrounded by open space, its greater size can be accommodated within the HR-1 zone. However, to comply with other guidelines, the perception of that size must be managed by dividing the building into modules that reflect the massing of a typical historic residence on a 25-foot-wide lot. Breaking up the roof form in a similar fashion would also be necessary.

15-13-8 B-2a (6): *A larger building shall be divided into 'modules' that reflect the mass, scale, proportions, and size of historic buildings within the Streetscape or character area. Modules shall be clearly expressed throughout the entire building and a single form shall remain the dominant element so the overall mass does not become too fragmented. To minimize the scale perceived from the primary public right-of-way, stepping down the mass of a larger building shall be considered.*

See above discussion under multiple guidelines about using modules to break up large masses and manage the perception of scale for residences larger than seen historically. Stepping the mass of these modules back into the hillside, rather than projecting their mass forward from a recessed basement level as currently proposed, can also help manage the perception of scale.

15-13-8 B-2a *(7): Larger-scaled projects shall also include variations in roof height in order to break up the form, mass and scale of the overall structure.*

The proposed design for the residence at 220 King Road incorporates two flat roofs (one that serves as a deck and one that is cantilevered over that deck) and one expansive shed roof. While these roofs vary in height, which helps to break up the form, mass, and scale of the residence, the modules they create are still over-scaled relative to historic residences in the HR-1 zone. Further reduction or modulation of massing, of both the residence and its shed and cantilevered flat roofs, is required to meet this guideline.

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15-13-8 B-2a (8): *Buildings constructed on lots greater than 25 feet wide shall be designed so that the facades visible from the primary public right-of-way reinforce the rhythm along the street in terms of traditional building width, depth, and patterns within the façade.*

No renderings of the proposed residence as viewed from the primary public right-of-way (King Road) have been provided for this review. It is expected, however, that the modules created to address mass and scale on the downslope (rear) side of the residence will carry through to the opposite (front) side and vice versa.

15-13-8 B-2a (9): *Regardless of lot frontage, the primary façade shall be compatible with the width of surrounding historic buildings. The greater width of a building shall be set back significantly from the plane of the primary façade. The width of a new building shall not appear to be visibly greater than historic buildings in the Streetscape or character area. Modules on a primary façade should generally not exceed eleven (11) feet to twenty-five (25) feet in width.*

No renderings of the proposed residence as viewed from the primary public right-of-way (King Road) have been provided for this review. It is expected, however, that historically sized modules of approximately 11' to 25' in width, with attendant setbacks from the primary wall plane of the façade, will be created on the uphill (front) side of the residence and carried through to the downslope (rear) side.

15-13-8 B-2a (10): *When the overall length of a new structure is greater than seen historically, the design shall employ methods—changes in wall plane, roof heights, use of modules, etc. to diminish the visual impact of the overall building mass, form and scale.*

The proposed residence at 220 King Road will span multiple lots and its overall length is much greater than seen historically. Therefore, further variation in wall planes and roof heights to create more historically sized modules is required to diminish the visual impact of the overall building mass, form, and scale.

Windows

15-13-8 B-2d (1): *Ratios of solid-to-void that are compatible with surrounding historic buildings shall be used. Large expanses of glazing are inappropriate on residential structures. Large glass surfaces shall be divided into smaller windows that are in scale with those seen historically. To maximize views, non-historic window patterns may be considered on tertiary facades; however, the overall ratio of solid-to-glass shall still be respected.*

The large, multi-pane windows and fenestration patterns of the proposed design reference historic mine buildings, which incorporated significant amounts of glazing to maximize natural light and illuminate interior workspaces (Figures A-3 and A-4). Typically, long, nearly continuous, relatively narrow bands of windows were present in clerestories that were separated by pitched roofs; glazing in the exterior corrugated-metal walls was also extensive. Hence, the use of an industrial mining aesthetic allows for a greater proportion of void to solid in the proposed residence than would be appropriate with a more traditional residential design. However, glazing in historic exterior walls always had a base of solid wall and never consisted of floor to ceiling windows. In the proposed design, the metal panels at some window bases recreate this pattern, but the floor-to-ceiling windows present elsewhere are inconsistent with industrial patterns and create an incompatible solid-to-void ratio.

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15-13-8 B-2d (2): *Windows shall be historic size and shall relate to the human scale of the Historic District. Windows shall be proportional to the scale and style of the building and shall be compatible with the historical buildings in the Historic District.*

See above analysis. With the exception of the floor-to-ceiling windows, the larger-scaled windows are appropriate to the scale and style of the building.

15-13-8 B-2d (3): *The placement and grouping of windows shall be similar to those seen historically.*

See above analysis. With the exception of the floor-to-ceiling windows, the placement and grouping of windows is similar to that seen on historic mining buildings in Park City.

Roofs

15-13-8 B-1e (1): *Roofs of new residential infill buildings shall be visually compatible with roof shapes and orientation of surrounding Historic Sites and adjacent buildings that contribute to the character of the Historic District. Sloping of roof forms, such as gable, hip, and shed, should be the dominant roof shapes. Roofs composed of a combination of roof planes, but simple in form, are also encouraged. Roofs shall be in scale with those on historic structures.*

The roof shapes (flat and shed) and their orientations are generally compatible with surrounding Historic Sites, as are their simple forms. However, the guidelines are clear that the perceived scale of larger residential buildings (on lots wider than 25') should be managed by breaking them into smaller masses or modules that reflect historic residential massing, including their roofs. There is no precedent for exceptions when an industrial aesthetic is used for a residence, or for residences that may be in historically industrial areas. To comply with the guidelines, the roof could be broken into a horizontally stepped series of shed roofs (3 to 5 of them, with differences in roof height of a few feet or more to create shadow lines) that shelter their corresponding modules, or a mix of shed and flat. The cantilevered flat roof would also need to be reduced in scale.

CONCLUSION

In summary, while the Design Guidelines support the industrial aesthetic of the proposed residence at 220 King Road, which was inspired by the Silver King Mine buildings, the guidelines are clear regarding requirements for residential massing and scale, and the proposed design does not comply. The proposed floor-to-ceiling windows are also out of compliance. Recommendations for revisions to achieve a design more compatible with the guidelines are incorporated in the above analyses.

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ATTACHMENT A

Figures

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Figure A-1. Rendering of proposed residence at 220 King Road, downslope (rear) elevation, dated April 18, 2023.

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Figure A-2. Rendering of proposed residence at 220 King Road, oblique view (left side and rear elevations), dated April 18, 2023.

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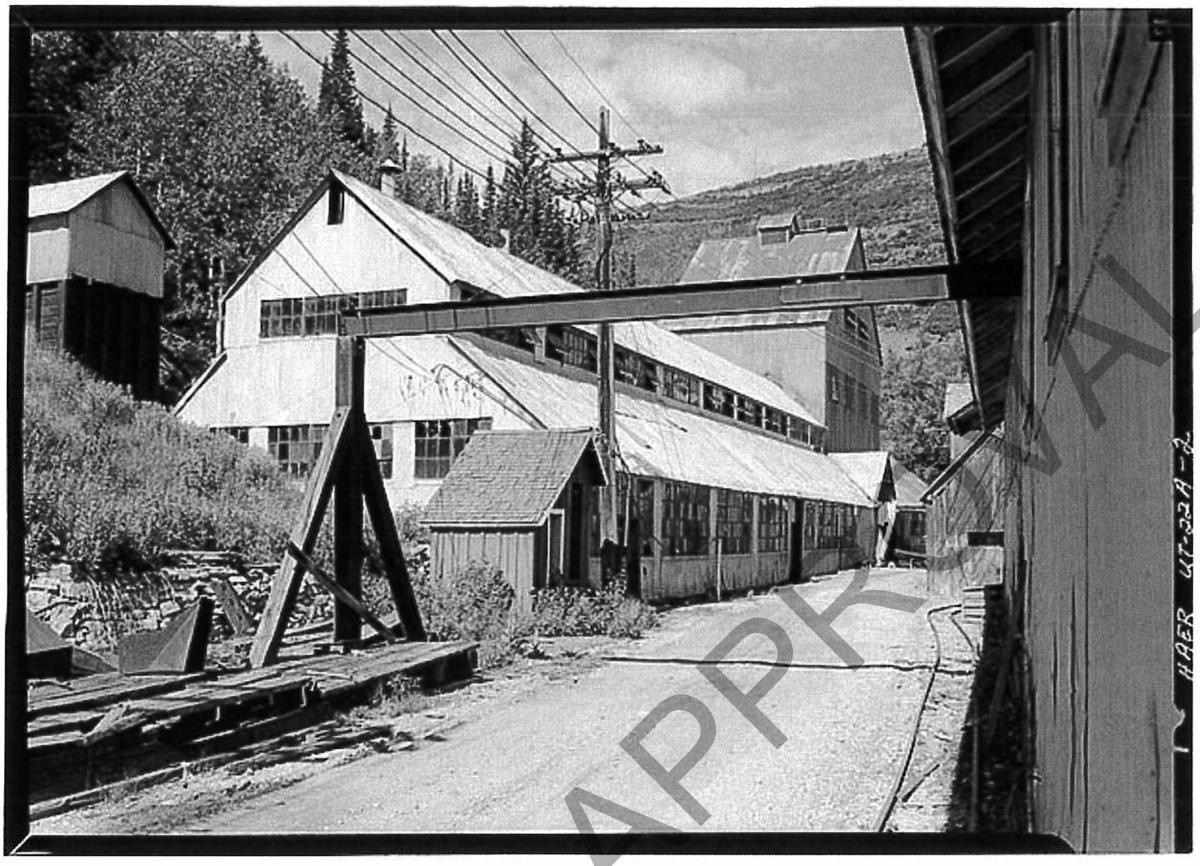

Figure A-3. Silver King Mine Hoist House (view from west), Woodside Gulch, Park City, Summit County, UT (HAER 1971). Note the complex massing of the building and its stepped and varied roofs over the component masses, as well as the multi-pane steel windows, window heights, proportion of solid wall to window openings.

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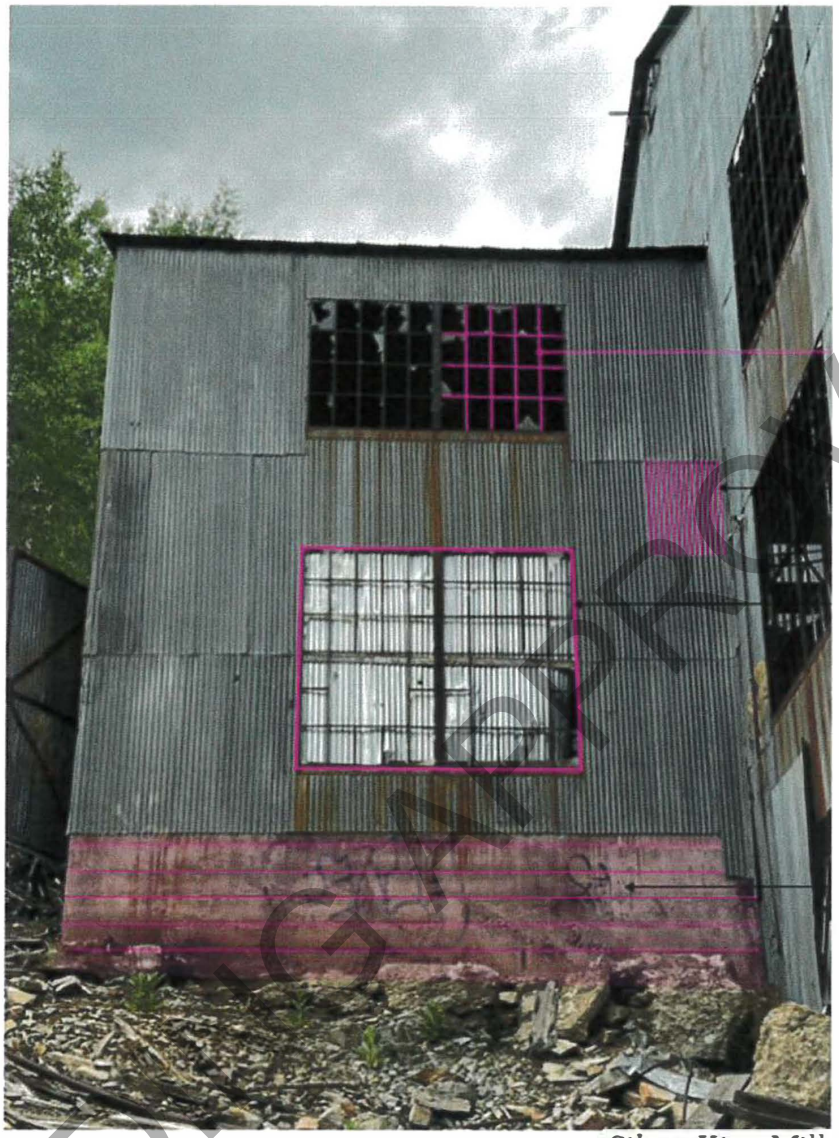

Silver King Mill

Figure A-4. Example of industrial glazing pattern, Silver King Mine building. Note multi-pane steel windows, window heights, and proportion of solid wall to window openings.

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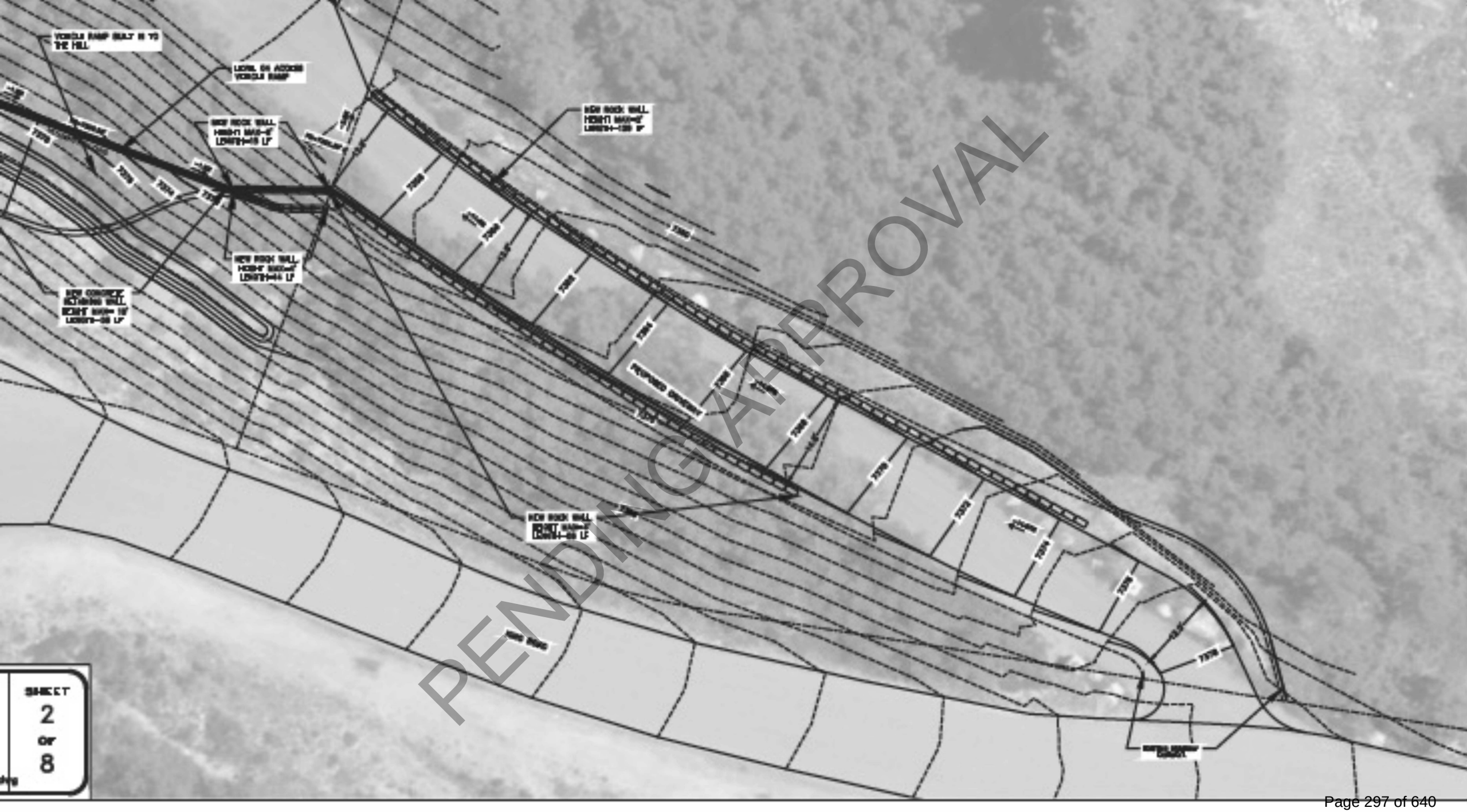
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422 P.3d 803
Supreme Court of Utah.

Jeanette **POTTER**, et al., [1] Appellants,
v.
SOUTH SALT LAKE CITY, Appellee.

No. 20150931
|
Filed June 5, 2018

Synopsis

Background: Objectors sought judicial review of city council's decision to close a portion of two city streets. The Third District Court, Salt Lake, Paul G. Maughan, J., dismissed objectors' claim, and they appealed.

Holdings: The Supreme Court, Lee, J., held that:

automobile dealership's petition to vacate portions of two public streets was not defective on the basis it failed to include the names and addresses of all property owners whose land was adjacent to the public streets being vacated;

there was no reasonable likelihood that alleged defects in petition to vacate had any effect on city's decision to vacate portions of two public streets, and thus, objectors failed to demonstrate prejudice, as required to overturn city's land use decision; and

a party challenging a land use decision is not required to prove that the city's decision "would have been different" absent the violation of city law, but instead, it is enough for the challenging party to show that there is a reasonable likelihood that the legal defect in the city's process changed the outcome of the proceeding, modifying *Springville Citizens*, 979 P.2d 332.

Affirmed.

Procedural Posture(s): On Appeal; Motion for Summary Judgment; Review of Administrative Decision.

***804** Third District, Salt Lake, The Honorable Paul G. Maughan, No. 140908636

Attorneys and Law Firms

Craig S. Cook, Salt Lake City, for appellants

Jody K. Burnett, Robert C. Keller, Salt Lake City, for appellee

Associate Chief Justice Lee Authored the Opinion of the Court, in which Chief Justice Durrant, Justice Himonas, Justice Pearce, and Justice Petersen joined.

On Direct Appeal

Associate Chief Justice Lee, opinion of the Court:

¶ 1 Jeanette **Potter** and others filed suit challenging a decision of the South Salt Lake City Council to close a portion of Truman and Burton Avenues. The district court dismissed **Potter's** claims on summary judgment. We affirm. In so doing we conclude that the petition to vacate was valid under Utah Code section 10–9a–609.5, that **Potter** has not identified any prejudice resulting from any alleged deficiency in the petition, and that notice of the city council meetings was sufficient under Utah Code section 10–9a–208.

¶ 2 In holding that **Potter** failed to prove prejudice we revise and clarify the standard set forth in *Springville Citizens for a Better Community v. City of Springville*, 1999 UT 25, 979 P.2d 332. We hold that a party alleging error by a land use authority is no longer required to show that the "decision would have been different" but for the error. *Id.* ¶ 31. Instead we conclude that a party can establish prejudice by showing a *reasonable likelihood* that the error changed the land use authority's decision.

I

¶ 3 In 2008 the South Salt Lake City Council voted to close a portion of Truman and Burton Avenues in response to a petition by RIM Enterprises. RIM owned a Chrysler dealership on State Street that occupied three separate blocks divided only by Truman and Burton Avenues. And the car dealership sought to expand its operation by consolidating the three properties, thereby complying with Chrysler Corporation's acreage requirement.

¶ 4 The city council conditioned its decision to vacate both streets on the dealership's buying the four parcels on Truman

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Avenue that abutted a portion of Truman that RIM Enterprises wanted vacated. A plat map reflecting this decision was placed with the city recorder in 2008—to be recorded only upon a showing that the dealership had met the condition. The dealership never purchased the parcels, however, so the two streets were never vacated.

¶ 5 Years passed and RIM Enterprises sold the dealership to Salt Lake Valley Chrysler Dodge in 2014. In May 2014 the dealership filed another petition with the South Salt Lake City Council. This new petition sought to vacate only the portion of the streets adjacent to land the dealership already owned, thus avoiding the need to purchase the four properties on Truman Avenue. After notice and a public hearing the city council denied the petition.

¶ 6 In October 2014 the dealership submitted a revised petition to vacate. The revised petition included mitigation measures aimed at addressing the concerns residents raised during the earlier public hearing. The city sent notices out to residents in the area apprising them of the petition and the public meeting to be held on December 3, 2014. The city also placed large signs with similar language along Truman and Burton Avenues, as required by Utah Code section 10–9a–208(2)(c).

***805** ¶ 7 Residents overwhelmingly opposed the action at the December 3 meeting. Only the dealership's attorney spoke in favor during the public comment portion. After taking public comment the council elected to table the discussion until the following meeting, placing the item on the unfinished-business agenda for December 10, 2014.

¶ 8 When the city council turned to the issue at its December 10 meeting, the city attorney addressed the council regarding his legal opinions. He noted that "the decision has already been made to close the streets"—referring to the council's conditional approval of the 2008 petition—"so the real issue here" is whether "the City [is] happy with the additional mitigation measures." Following the city attorney's presentation, several residents, including **Potter's** current legal counsel, addressed the city council and took issue with the city attorney's comments. One resident remarked, "If the decision has already been made and it doesn't matter, then why are we here?"

¶ 9 The city attorney later addressed the council again and explained that the conditions in the 2008 ordinance did not contain a sunset clause. He noted that if the city council rejected the dealership's 2014 petition "then the previous action remains in place, and at whatever time the conditions of the previous action are met, the streets will be closed but they'll be closed without the mitigation measures that have arisen out of this most recent activity."

¶ 10 These comments seemed to surprise at least some of the members of the city council. One councilwoman expressed frustration with the process and with the attorney's legal advice. She noted the lack of understanding among the councilmembers that the closure "is happening in one form or another" because the 2008 ordinance remained valid and could be invoked whenever the dealership met the conditions.

¶ 11 Following some debate, the South Salt Lake City Council voted five to two to vacate a portion of Truman and Burton Avenues. The council found, as required by statute, that "good cause exist[ed] for the vacation" and that "neither the public interest nor any person w[ould] be materially injured by the vacation." *See* UTAH CODE § 10–9a–609.5(3).

¶ 12 **Potter** sought review of the action in district court. She asked the district court to set aside the decision under Utah Code section 10–9a–801 on the grounds that the decision was illegal.

¶ 13 **Potter** specified two principal grounds for challenging the city council's decision. First, she asserted that the council's decision was illegal because the dealership's petition to vacate failed to list the name and address of each owner whose property was "adjacent to the public street" being vacated, as required by Utah Code section 10–9a–609.5(1)(a)(i). Second, she challenged the sufficiency of the notice of the city council meeting in which the streets in question were vacated. Here **Potter** noted the city attorney's comments in the December 10 meeting—comments indicating the attorney's view that the council had already decided to close the streets under the first petition to vacate, and that the "real issue" was whether to endorse the "additional mitigation measures" in the revised petition. And **Potter** claimed that those comments deprived the public of a meaningful opportunity to be heard on the proposed action.

¶ 14 Both parties filed motions for summary judgment. The district court granted the city's motion. It held first that the dealership's petition satisfied the requirements of Utah Code section 10–9a–609.5(1)(a). In so doing the court interpreted the requirement of naming each owner whose property was "adjacent to the public street" being vacated to apply only to

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owners of property abutting the *portion of the street* being vacated. And because the dealership owned all the property abutting the portion of the streets being vacated, the court concluded that the dealership was not required to name any property owners in its petition.

¶ 15 The district court also upheld the validity of the notice of the city council meeting. It concluded that the city attorney's "comments did not render the proceedings defective or illegal in any way." And it held that no further notice was required despite the city attorney's apparent reframing of the issue.

***806** ¶ 16 **Potter** filed this appeal. We review the district court's decision on summary judgment *de novo*. [2] *See Bahr v. Imus*, 2011 UT 19, ¶ 16, 250 P.3d 56.

II

¶ 17 **Potter** raises two sets of issues on appeal. She challenges the sufficiency of the dealership's petition to vacate under Utah Code section 10–9a–609.5(1)(a). And she also asserts that the public was not given adequate notice of the nature of the city council's meeting. We disagree and affirm.

A

¶ 18 **Potter** makes two sets of arguments in challenging the sufficiency of the petition to vacate. She first asserts that the petition was defective because it failed to include the names and addresses of all property owners whose land was "adjacent to the public street" being vacated, as required by Utah Code section 10–9a–609.5(1)(a)(i). And she also insists that this defect is sufficient to sustain reversal regardless of the fact that it had no effect on the city council's decision. We reject both sets of arguments.

1

¶ 19 Utah Code section 10–9a–609.5(1) requires a party seeking "to vacate some or all of a public street" to file a petition that includes "(a) the name and address of each owner of record of land that is: (i) adjacent to the public street, right-of-way, or easement; or (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement." The threshold question is what it means to be "adjacent to the public street." There is some ambiguity in that clause. It could be a reference to the portion of the street being vacated—to section 609.5(1)'s introductory clause, which refers to "some or all of [the] public street" sought to be vacated. UTAH CODE § 10–9a–609.5(1). Or, alternatively, the referenced "public street" could be taken literally; it could mean the entire length of the street that bears that name—here, Truman and Burton Avenues from start to finish (where they begin at State Street until they end many blocks to the east).

¶ 20 Either of these readings is semantically possible if we view the term "public street" in isolation—divorced from its statutory context. But we must consider the statutory context. *See Olsen v. Eagle Mountain City*, 2011 UT 10, ¶ 12 n.5, 248 P.3d 465 ("[T]he meaning of statutory language, plain or not, depends on context." (alteration in original) (citation omitted)). And the context strongly favors the former reading over the latter.

¶ 21 This statute prescribes the required elements of a petition seeking to vacate "some or all of a public street." UTAH CODE § 10–9a–609.5(1). And in context, the use of the phrase "public street" is easily understood as a reference back to the subject of the petition—to the portion of the street ("some or all" of it) sought to be vacated. The alternative reading (that "public street" means the entirety of the street from beginning to end), moreover, seems difficult to reconcile with the apparent purpose of the statute (another element of context). A public street may extend many blocks—or even many miles—from start to finish. And it is hard to think of a reason why the legislature would want to require a petition to list owners whose property is situated many miles away from the portion of the street being vacated. With this in mind, it is more natural to read the term "public street" as a reference back to the subject of the petition—to the portion of the street being vacated.

¶ 22 **Potter** acknowledges the difficulty of the more expansive reading of "public ***807** street." And she accordingly offers a third possibility. In **Potter's** view the referenced "public street" could be viewed as ending at the next cross street —for Truman and Burton Avenues, at 200 East. We reject that reading, however, as we find no basis for it in the statutory text. The reference to "public street" could mean all of Truman or Burton Avenue. Or, in the context of this statute, it could mean the portions of those streets being vacated. There is no natural reading of "public street," however, that extends beyond the portion being vacated and arbitrarily ends at the next cross street.

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¶ 23 We reject **Potter's** challenge to the car dealership's petition on this basis. We conclude that the petition complied with Utah Code section 10–9a–609.5(1)(a) because there were no other owners of property adjacent to the portions of the public streets being vacated. And we affirm the district court's decision on summary judgment on this basis.

2

¶ 24 We have long held that parties challenging a land use decision "must establish that they were prejudiced by the City's noncompliance with its ordinances." *Springville Citizens for a Better Cmty. v. City of Springville*, 1999 UT 25, ¶ 31, 979 P.2d 332. Here there is an admitted lack of prejudice—**Potter** concedes that the alleged defect in the car dealership's petition had no effect on the city council's decision. And that is an alternative basis for affirming the district court's decision on summary judgment.

¶ 25 **Potter** seeks to avoid this result by asking us to adopt a prejudice standard that differs from the one we prescribed in *Springville Citizens*. Her argument proceeds in two steps.

¶ 26 **Potter** first asks us to revise our formulation of the standard of prejudice in *Springville Citizens*—a standard requiring a party challenging a land use decision to establish that "the City's decision would have been different" but for its noncompliance with its ordinances or governing statutes. *Id.* In support of this argument, **Potter** cites our court of appeals' observation that this formulation "imposes a difficult—if not impossible—burden on a citizen who seeks to challenge the procedural legality of a city's land use decision." *Gardner v. Perry City*, 2000 UT App 1, ¶ 20 n.7, 994 P.2d 811. And **Potter** asks us to reformulate the prejudice standard in a manner that will avoid the difficulties of the *Springville Citizens* regime.

¶ 27 **Potter's** second point is more comprehensive. Citing eminent domain cases, **Potter** asserts that there should be no requirement of proof of prejudice in a case challenging a decision to vacate a public street. The point here is that this is no ordinary land use decision. In **Potter's** view the decision to vacate a street is more like a city's decision to condemn land. And because in **Potter's** view there is no requirement of proof of prejudice in an action challenging an eminent domain proceeding,[3] **Potter** asks us to eliminate the requirement of proof of prejudice in a case like this one.

¶ 28 We find no basis for this latter invitation. We can assume for the sake of argument that prejudice is not an element of an action challenging an exercise of the eminent domain power. But **Potter** is not challenging an exercise of the eminent domain power. Eminent domain involves the exercise of government power in taking *private* property rights. And **Potter** is challenging a decision to revoke *public* access and control of a street—the petition at issue here is one seeking "to vacate some or all of a *public* street." UTAH CODE § 10–9a–609.5(1) (emphasis added). So the city's action in vacating a street has no effect on private easements over the roadway —it "may not be construed to impair ... any right-of-way or easement of any lot owner."[4] *Id.* § 10–9a–609.5(5)(b). For that ***808** reason this is not a challenge to the exercise of the eminent domain power. It is a challenge to a land use decision. And the general principles of judicial review apply.

¶ 29 A core element of these principles is the requirement of proof of prejudice. As a general rule we do not overturn a decision of a lower court or administrative body upon a mere showing of error; proof of prejudice is typically required. *See* UTAH R. CIV. P. 61 ("The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties."); *State v. Goins*, 2017 UT 61, ¶ 48, 423 P.3d 1236 (noting, in the context of a criminal case, that an error warrants reversal only if it results in prejudice).

¶ 30 This requirement has long been extended to judicial review of land use decisions. *See, e.g.*, *Springville Citizens*, 1999 UT 25, ¶ 31, 979 P.2d 332 (holding that a party challenging a land use decision must establish prejudice). And this application is likewise reflected in settled case law in other jurisdictions. *See, e.g.*, *In re Eastview at Middlebury, Inc.*, 187 Vt. 208, 992 A.2d 1014, 1022–23 (2009) ("It is a well established rule that the party who alleges error has the burden of showing that he has been prejudiced thereby." (citation omitted)); *Quality Rock Prods., Inc. v. Thurston Cty.*, 126 Wash.App. 250, 108 P.3d 805, 813 (2005) (noting that "a defect in the caption of a land use petition's summons" did not warrant reversal "absent demonstrated prejudice").

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¶ 31 For these reasons we decline the request that we abandon the element of prejudice in a case like this one. But we do acknowledge a threshold concern about the viability of the precise formulation of the standard of proof of prejudice in *Springville Citizens*. A requirement of proof that a city's land use decision "would have been different," *Springville Citizens*, 1999 UT 25, ¶ 31, 979 P.2d 332, is a high bar. On reflection, in fact, we think this comes close to an insurmountable barrier. *See Gardner*, 2000 UT App 1, ¶ 20 n.7, 994 P.2d 811 (suggesting that the standard may be "impossible" to meet). And that is untenable.

¶ 32 This concern has led us to reconsider the standard in *Springville Citizens*. In response to the briefing in this case we have reevaluated the *Springville Citizens* standard. And we have concluded that the time has come to revise the standard set forth in *Springville Citizens*.[5]

¶ 33 Proof of prejudice is required. But the required standard of prejudice should not be insurmountable. With that in mind, we hold that a party challenging a land use decision is not required to prove that the city's decision "would have been different" absent the violation of city law. *See Sierra Club v. D.R. Horton–Schuler Homes, LLC*, 136 Hawai'i 505, 364 P.3d 213, 233 (2015) (harmlessness inquiry " 'does not require proof that the errors necessarily changed the result of the proceeding below' " (citation omitted)). Instead, it is enough for the challenging party to show that there is a reasonable likelihood that the legal defect in the city's process changed the outcome of the proceeding.

¶ 34 We affirm, however, on the ground that **Potter** cannot establish prejudice even under this more permissive standard. **Potter** herself concedes that the alleged defects in the car dealership's petition had no effect on the outcome of the city council's decision. And the city was entitled to summary judgment because there is no reasonable likelihood that the alleged defect in the petition had any effect on the outcome of the proceedings.

B

¶ 35 **Potter** also challenges the sufficiency of the public notice of the city council ***809** meeting in question. The governing statute requires a "public hearing" for "any proposal to vacate some or all of a public street." UTAH CODE § 10–9a–208(1)(a). It also requires the city to "give notice of the date, place, and time of the hearing." *Id.* § 10–9a–208(1)(b).

¶ 36 These requirements were fulfilled in advance of the city council meeting in question. The city gave notice of a hearing in which it planned to address the car dealership's petition to vacate portions of Truman and Burton Avenue. And that petition was in fact the subject of the city council's deliberations and decision.

¶ 37 **Potter** concedes these points. But she insists that the sufficiency of the city's notice was obviated by comments made by the city attorney during the hearing. In those comments the city attorney expressed his view that the question presented was not *whether* to vacate the streets in question but *how*. The attorney opined that the council's approval of the prior petition was still on the table, and thus that the question for the council was whether to accept the conditions in the new petition or revert to the decision approving the old one. And **Potter** contends that these comments somehow obviated the sufficiency of the city's notice.

¶ 38 **Potter's** argument goes to the subject matter of the noticed hearing. Because the city attorney reframed the debate for the council, **Potter** insists that the hearing was not really about whether to grant the car dealership's petition to vacate; it was about how best to vacate the streets in question. And in **Potter's** view that deprived the public of adequate notice of the true subject matter of the hearing.

¶ 39 **Potter's** frustration is understandable. She and other residents attended the public meeting believing they could persuade the city council not to close the streets. But this does not make the city's notice insufficient. The governing statute requires only that the public be given notice of the date, place, and time of the hearing on a given petition to vacate. That notice was given. And the subject of the hearing was in fact the car dealership's petition: That was the subject of the city council's deliberations; and the council's decision was, in fact, to grant that petition.

¶ 40 **Potter's** point, ultimately, is that the city attorney's advocacy affected the substance of the council's deliberations. But that is insufficient. Public hearings are unpredictable. City councilmembers and public commenters often try to reframe a debate in ways that favor their position. Yet that is not enough to obviate the sufficiency of the notice of a hearing. The public notice can never anticipate all of the twists and turns that

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may occur in a city council meeting. And the public notice is sufficient "as long as the items actually considered at the meeting are reasonably related to the subject matter indicated by the notice." *Suarez v. Grand Cty.*, 2012 UT 72, ¶ 74, 296 P.3d 688 (citation omitted).

¶ 41 This standard is easily satisfied here. The hearing was specifically and extensively focused on the petition to vacate that was mentioned in the notice. And the city attorney's comments didn't change that. The city attorney was offering views of relevance to the question presented to the council—of whether to grant the car dealership's latest petition. Because those views were "reasonably related" to the subject matter of the proceeding, there was no defect in the notice given by the city.

All Citations

422 P.3d 803, 866 Utah Adv. Rep. 52, 2018 UT 21

Footnotes

1 Other appellants are Darrel Roberts, Barbara Mackay, Carl Webster, June Jackson, William Eresuma, Heather Bernales, and Eugene Baierschmidt.

2 **Potter** appears to assume that our review is of *the city council's action* (not the district court's). That is perhaps understandable in light of potentially confusing language in *Fox v. Park City*, where we said that "we act as if we [a]re reviewing [a] land use authority's decision directly" when we consider an appeal from a district court's decision reviewing "an order of a local land use authority." 2008 UT 85, ¶ 11, 200 P.3d 182. But the "as if" formulation is just a reflection of the *de novo* nature of our review. We cannot ignore the district court's decision. That is the decision before us on appeal. *See Outfront Media, LLC v. Salt Lake City Corp.*, 2017 UT 74, ¶ 12, 416 P.3d 389. And the appellant bears the burden of establishing a reversible error in the district court's decision.

3 **Potter** cites the following cases in support of her argument: *Salt Lake City Corp. v. Evans Dev. Grp., LLC*, 2016 UT 15, 369 P.3d 1263; *Marion Energy, Inc. v. KFJ Ranch, P'ship*, 2011 UT 50, ¶ 16, 267 P.3d 863; and *Town of Tremonton v. Johnson*, 49 Utah 307, 164 P. 190, 191 (1917). We yield no opinion on the premise of **Potter's** argument. We see no reason to reach the question whether prejudice is required in an eminent domain setting because we conclude that this case does not sound in eminent domain.

4 This statutory scheme only affects public rights, so we do not decide the question whether these residents have a private easement under *Boskovich v. Midvale City Corp.*, 121 Utah 445, 243 P.2d 435 (1952), that could warrant a separate proceeding for just compensation.

5 We do not reach this conclusion lightly. We afford a measure of deference to *Springville Citizens* under our doctrine of *stare decisis*. *See Eldridge v. Johndrow*, 2015 UT 21, ¶ 21, 345 P.3d 553. But we find that the *Springville Citizens* formulation is ripe for reconsideration because it is unworkable in practice and incapable of being applied in accordance with its literal terms. *See id.* ¶ 40 (explaining that precedent is susceptible to being overruled when it's unworkable—or incapable of consistent application).

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E

Eric R. Hermann <ehermann@fhinternational.com>
to me, Susan, Tatiana

Wed, Aug 17, 2022, 2:33 PM

Dear Matthew & Tatiana,

It was such a pleasure to see you two and Katia. She is absolutely adorable! Next time we will manage your arrival so that the dogs are snuggly and not scary… And the wine was most thoughtful: we don't drink a lot of zinfandel and Turley is a terrific route to expanding our staid repertoire. Thank you!

Just so you have them in one place, our mobile numbers are:

[redacted]

The cistern idea is creative and interesting. We will run it by our very plant-friendly landscaper and get back to you.

We understand that you want to take soil samples before foundation work, but we worry that a vehicle could damage the wildflower and tree project that follows the stone pathway across 200 King. We had the earth roto-tilled, fertilized, put in irrigation, and planted perennial wildflowers which are beginning to flourish (and trees which the moose & deer find delicious) and we would hate to start over. Not sure how to handle that as we'd like to accommodate you, of course. We recognize that construction is brutal for owners and to some extent those in the vicinity (& you all qualify on both fronts), but we will all get through it and we are delighted that you will be our next door neighbors.

As for 200 King, we have no plans to build and bought the property to prevent construction above us. We appreciate your generous offer (especially in light of today's real estate prices!), but for now would prefer to leave things as they are.

Above all, we look forward to seeing you again.

Warm wishes,

Eric & Susan

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PARK CITY MUNICIPAL CORPORATION
APPEAL PANEL MEETING
SUMMIT COUNTY, UTAH
MARSAC MUNICIPAL BUILDING
May 6, 2024

MEMBERS IN ATTENDANCE: Adam Strachan, Esteban Nunez, Matthew Day

EX OFFICIO: Rebecca Ward, Planning Director; Spencer Cawley, Planner II; Jaron Ehlers, Planning Technician; Todd Godfrey, Attorney; Mark Harrington, Senior City Attorney; Jacob Klopfenstein, Planning Administrative Assistant

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1. ROLL CALL

Chair Adam Strachan called the Appeal Panel Meeting to order at 5:00 p.m.

2. PUBLIC COMMUNICATIONS

There were no public communications.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Mr. Nunez reported that he and the appellant were at the same brokerage a few years ago. They are no longer at the same brokerage. This will not impact his decision on the appeal.

4. REGULAR AGENDA

A. Appeal of 2685 Meadow Creek Drive Final Action – The Appeal Panel will Review an Appeal of the Final Action Taken by the Planning Commission on March 13, 2024, Approving the Smith Subdivision Parcel B Amended Plat (PL-24-06003) Amending the Smith Subdivision 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-24-06078

Chair Strachan reported that the only item on the Appeal Panel Meeting agenda is an appeal of the Final Action for 2685 Meadow Creek Drive. The Appellant, Bob Theobold, asked that the record include information about the Planning Commission Meeting. The Chair recused herself without explanation. The Chair Pro Tempore also disclosed during that meeting. He questioned some of the decisions made at that time. Mr. Theobold explained that he is in the middle of a lawsuit with the City and with the Chair of the Planning Commission for failure to comply and failure to enforce. Mr. Theobold clarified that this appeal is not part of the lawsuit. After hearing the disclosure, the Appeal Panel felt it was possible to remain fair and impartial.

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Planner II, Spencer Cawley, reported that on March 13, 2024, the Planning Commission held a public hearing and unanimously approved the Smith Subdivision First Amended Plat to:

- Shift the house and barn building pads on 2685 Meadow Creek Drive (Parcel B), a vacant lot, to reflect an updated wetland determination;
- Relocate a driveway easement that crossed 2647 Meadow Creek Drive to access 2685 Meadow Creek Drive entirely to 2685 Meadow Creek Drive.

The Planning Commission's standard of review during the Plat Amendment process includes consideration of compliance with the zoning district and any underlying approvals. It also requires a finding of good cause and a finding that no public street, right-of-way, or easement has been vacated or amended. Planner Cawley shared the good cause definition from Land Management Code ("LMC") § 15-15-1. The Appeal Panel has the authority to determine the correctness of the Planning Commission's interpretation and application of the plain meaning of the land use regulations and to interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application. The appellant has the burden of proof to demonstrate that the Commission erred in approving the Smith Subdivision First Amended Plat. Planning Technician, Jaron Ehlers, shared a map with Parcel A and Parcel B.

The existing Smith Subdivision was reviewed. Technician Ehlers explained that the yellow represents Parcel B while the green and purple represent Parcel A. He clarified that the purple portion was originally in Lot 6 of the Willow Ranch Subdivision and remains zoned Estate, like Parcel B. The green area is zoned Single Family. The utilities and site plan submitted by the applicant shows the old driveway easement and the newly proposed driveway easement. The green section shows the wetlands that were found in the preliminary delineation. A hatched area was placed around it to show the 50-foot setback under the Sensitive Land Overlay regulations. It also shows the shifting of the house and barn building pad. On March 13, 2024, the Planning Commission approved the Smith Subdivision First Amended Plat. Technician Ehlers stated:

- The house and barn building pads were relocated as well as the driveway easement;
- The Planning Commission imposed nine Conditions of Approval;
- The Planning Commission found there was good cause as it "resolves existing issues and non-conformities, specifically by moving the building pads out 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."
- It was determined that there were no public easements or right-of-ways vacated.

Chair Strachan asked what happens if the Army Corps comes back and the wetland delineation is greater in scope and size than the Sensitive Land Overlay compared to what was originally proposed. Technician Ehlers explained that in that case, there would need to be a return to the Planning Commission for approval to shift the building pads. Chair Strachan believed there needs to be compliance with both the Army Corps delineation and the Sensitive Land Overlay. This was confirmed. It was explained that the 50-foot setbacks associated with the Sensitive Land Overlay are determined by that delineation report. Chair Strachan turned the time over to the appellant.

Mr. Theobold stated that he was here because there were several violations and misinterpretations of the code. He noted that references were made to the building pad, but it is not just the building pad. Mr. Theobold explained that the limits of disturbance are being moved. He added that within the limits of disturbance, there is a building pad area. All of the lots were

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dictated by the Army Corps of Engineers. That property was 81% wetlands, and the Army Corps of Engineers dictated the building pads in conjunction with the City and issued permits to fill impound wetlands for Lots 1 and 2. All of the other lots were built on uplands. He agrees with the applicant that it appears that was a mistake from the Army Corps of Engineers initially and it needs to be moved, but he reiterated that this is not just a building pad. The language being used is important.

Chair Strachan asked if Mr. Theobold wanted the building pad to remain in the currently platted location. This was denied. Mr. Theobold understands that it needs to be moved, but it needs to be identified that the limits of disturbance are being moved, not a building pad. There is a difference between the LMC and the Covenants, Conditions, and Restrictions ("CC&Rs"). Chair Strachan wanted to understand whether he wanted what is now referred to as the building pad to be different or if it should simply be called the limit of disturbance area. Mr. Theobold felt it should be identified as the limits of disturbance. There has been no mention of that language in any of the documentation or planning efforts. It is important to use correct and accurate language.

Mr. Theobold shared a document he wrote, titled, “Response to Planning Department’s “Opinion” of Rationale for Sauna Building Permit, November 9, 2021.” He explained that this is nearly an identical situation to the current appeal. The red text in the document indicates his responses to the opinions expressed by the Planning Department. Appeal Panel Members took a moment to read the document. Mr. Theobold stated that the sauna is on Lot 4. He took time to discuss the Willow Ranch Subdivision. All of the lots have limits of disturbance delineated on them. This was a case where the Homeowner’s Association (“HOA”) illegally voted to allow one of the owners to build a sauna outside the limits of disturbance, which is not permitted. He appealed that decision and won. Mr. Theobold stated that this is a similar situation, which is the reason he shared it.

Chair Strachan asked if there are any limits of disturbance identified on the applicant lot. Mr. Theobold explained that every lot has limits of disturbance identified. There was testimony from the developer during the sauna case to confirm that the limits of disturbance were provided on every lot. This was dictated by the City. Back in 1993, the City stated that there will be limits of disturbance because the Army Corps said there will be since there is 81% wetlands in the area.

Mr. Day asked about the different sections shown on the map. He wanted to know if Mr. Theobold believed those are limits of disturbance rather than building pads. Mr. Theobold asked those present to review the plat. The limits of disturbance are located in the bottom left portion of the plat. There are limits of disturbance for Lots 1, 2, 6, and 7. As for Lots 3, 4, and 5, those are smaller lots, but they also have limits of disturbance. This was a point of contention previously. Staff thought that Lots 3, 4, and 5 were just setbacks, but those are limits of disturbance. That information can be found in the CC&Rs, which are referenced in the Conditions of Approval.

Mr. Nunez believed he was saying that the Planning Commission erred in its decision because of what is in the CC&Rs. Mr. Theobold stated that it is because of what is in the Conditions of Approval. He is often told that the City will not enforce CC&Rs, but that is true unless the CC&Rs are specifically referenced by a Condition of Approval or by a plat. At that point, the City is enforcing the plat or Conditions of Approval and not the CC&Rs. Mr. Nunez believed the issue Mr. Theobold has is that what was approved is outside the current limit of disturbance and therefore should have gone through the CC&Rs. Mr. Theobold denied this. He clarified that the Planning Commission did not call it limits of disturbance and it is an important distinction.

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Mr. Day wondered whether Mr. Theobold would have an issue with the area being moved over if it was referred to as a limit of disturbance rather than a building plat. Mr. Theobold reiterated the importance of using the correct terminology, because how something is identified matters. Mr. Day asked about the size of the building pad within the limit of disturbance. Mr. Theobold explained that more specific information is included in the submitted materials. The red outline shown is 4,000 square feet, which is the building pad. It needs to fit within the limits of disturbance.

Mr. Day believed the appellant was stating that the plat does not lay out where the building pad is located and only lays out the limits of disturbance. Mr. Theobold confirmed this. Mr. Day noted that there is a 4,000-square-foot pad. Mr. Theobold explained that the rest of the limits of disturbance can contain a swimming pool, tennis court, and so on. However, outside of that, there cannot be anything added. Mr. Day understood that and asked about the other large neighboring pads. He wanted to know if those building pads have historically all been limited to under 4,000 square feet or if those are larger. Mr. Theobold noted that the information is on the plat. He reported that in the 1990s, the owner of Lot 2 wanted to build a larger house, so there was a Plat Amendment to increase the limits of disturbance. That owner went to the Army Corps of Engineers and received approval for that in 1999. There is documentation to confirm this.

If the Staff and Appeal Panel agree that this is a building pad only, it will impact every other lot in the subdivision and will set a precedent. Mr. Theobold expressed concerns about how this will impact future development. It is critical to make a distinction between a building pad and the limits of disturbance. He continued to review the "Response to Planning Department's "Opinion" of Rationale for Sauna Building Permit, November 9, 2021," document with those present. The black text is from Staff and the red text is his response. He reviewed some of the responses. Mr. Theobold discussed the importance of surveying the area. The Army Corps was very serious about the wetlands and so was the City in 1993. Mr. Theobold referenced equestrian lots and setbacks. He stressed the importance of looking at Exhibit F of the CC&Rs, as referenced in the Conditions of Approval. Staff at that time was not diligent and focused on expedience instead.

Chair Strachan suggested that the appellant focus on the lot in question as there is a limited amount of time to present information. He understands the reasoning behind the sauna document that has been shared but noted that the current appeal relates to the Planning Commission decision on 2685 Meadow Creek Drive. Mr. Theobold argued that the Planning Commission erred on the decision, because of the references to a building pad rather than to limits of disturbance. Chair Strachan confirmed that he understood the argument made by the appellant

Mr. Theobold shared the Notice of Final Action for the Willow Ranch Subdivision. It stated that action was taken by the Planning Commission on January 27, 1993, and action was taken by the City Council on January 28, 1993. He read the following language from the document:

- Information shall be included on the plat regarding the following:
    - House and barn building pads, sizes, and heights;
    - Wildlife corridors;
    - Fire sprinkling.
- 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.

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- 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.

Mr. Theobold explained that this is not a typical subdivision with typical CC&Rs. It is recognized to have wetlands. It cannot be defined by the LMC. There have to be special considerations in this case, and there are. Unfortunately, the applicant deleted the CC&Rs in their entirety. It is impossible to look at the internal documents submitted and know what is going on. The City says that they do not enforce CC&Rs, but the Conditions of Approval need to be enforced. The planners need to at least look at the CC&Rs. He asked whether the information that he submitted to the Appeal Panel was reviewed. Chair Strachan confirmed that all of the documents were read.

Mr. Theobold read definitions from one of the documents submitted. The reference to "barn limits of disturbance area" is only included in the CC&Rs. He believed the City should review the CC&Rs since it is part of the Conditions of Approval. Another definition included in the document was for "floor area." The CC&Rs changed the floor area and it is now referenced as living area as opposed to the previously referenced floor area. He read the following language:

- 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 in Exhibit F of this declaration. For an equestrian lot, the lawful creation and maintenance of ponds, diversions, canals, and other irrigation structures and their appearances shall not be subjected to the Limits of Disturbance 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.

Mr. Theobold stated that the applicant and the Chair of the Planning Commission deleted the CC&Rs and deleted this provision. Mr. Nunez wondered whether Mr. Theobold was suggesting that the existence of the wetlands would not be known because the HOA deleted something. Mr. Theobold confirmed this. Mr. Nunez pointed out that in the report from Staff, it stated that the approval could not go through unless there was another survey. Mr. Theobold stated that the Planning Staff did not recognize wetlands until he brought up the issue two years ago. Mr. Nunez noted that the presentation from Staff mentioned that the wetlands are on record and there will be a survey by the Army Corps of Engineers. He is confused about the assertion that there is no record. Mr. Theobold explained that this area does not show up on the wetland maps in the City. Mr. Nunez pointed out that the Appeal Panel is only here to consider the applicant lot.

Mr. Theobold believed that if the CC&Rs do not state that there are wetlands, any new buyer on any lot will not be aware of this issue. Chair Strachan pointed out that there would be clarity about that based on the zoning map, as it is in the Sensitive Land Overlay. Additionally, there are the Army Corps of Engineers determinations to consider as well. Mr. Theobold stated that the Army Corps put the wetlands notification in the CC&Rs for a reason and that information was deleted.

Chair Strachan asked about the newly proposed area for the limits of disturbance. If that is placed where the applicant desires, he wants to understand whether the appellant would consider that inside or outside of the wetlands area. Mr. Theobold was not certain. He explained that he does

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not have a problem with moving it, since it is in wetlands, but it should be called limits of disturbance instead of building pad and there should be clarity about the meaning of the definition.

Mr. Nunez referenced the CC&Rs that were rescinded or deleted. It seems that Mr. Theobold wants the Appeal Panel to make a decision based on what is outlined in the CC&Rs, but the Planning Commission made a determination based on the LMC. Mr. Nunez asked for a specific legal case where there is a precedent to illustrate that originally recorded CC&Rs would supersede the decision of the Planning Commission that was based on the LMC. He did not see that in the documentation provided and believed a point of clarification was needed to make a decision. Mr. Theobold explained that he has spoken with the Ombudsman about this matter. He reported that there is precedent in Park City, but it is for plat notes and not CC&Rs.

Mr. Theobold stated that he is willing to file for an Ombudsman review for the issue of CC&Rs. Mr. Day pointed out that the Ombudsman normally takes four or five months to issue an opinion. Mr. Theobold explained that the Ombudsman is aware of the issue and has an interest because it could impact a lot of cases. He is not sure how long it will take for the review to be done.

Charles Pearlman introduced himself as counsel for the applicant. He stated that the Staff presentation was clear. Nothing the appellant has brought up points to how the LMC was not complied with. Additionally, nothing that was shared pointed out how the decision was arbitrary, capricious, or illegal, which is the standard for overturning a land use decision. The Planning Commission record provided plenty of substantial evidence for the decision made. The appellant has failed to make the proper argument against that decision. Ultimately, what was disclosed by the appellant at the beginning of the meeting seems to be what this appeal is about. Mr. Theobold does not care whether the plat is amended to move the building pad or limit of disturbance from one location to another. In fact, the appellant stated that there is good cause if the environmental study shows that it should be moved. The real reason for this appeal is because the appellant wants the Appeal Panel to issue a decision that states the City should have enforced the CC&Rs so that determination can be used in his lawsuit against the City and Planning Commission Chair.

Chair Strachan asked that the arguments made remain specific to the appeal and whether the LMC was inappropriately or incorrectly applied by the Planning Commission. Mr. Pearlman shared the plat the Appeal Panel looked at earlier. He pointed out the references to house building pad, which is very straightforward. The Planning Commission relied on this record and it provides substantial evidence that this is a building pad. The characterization of a building pad the appellant made was inaccurate. The building pad is an area in which building can occur. The house may be limited to a 4,000-square-foot floor plan, but it can be built anywhere within the building pad, which is much larger. There was a mischaracterization of what a building pad is.

Mr. Pearlman shared the plat that was amended and pointed out that it also references the building pad. Throughout the documents and materials, there are references to the building pad. The appellant continues to reference a previous Board of Adjustment decision that was granted a few years ago, but that decision is actually why the Appeal Panel was created. The City decided that it was necessary to have a panel with more expertise because the view was that the decision made was inappropriate. Chair Strachan asked that the discussions focus on the appeal.

Mr. Day asked for clarification about the limits of disturbance versus house building pad and the various other terms used. Mr. Pearlman explained that limits of disturbance is the area that can be disturbed during construction. A building pad is the area in which someone can actually construct something. When there is a platted building pad, there is a 10-foot area around it that

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constitutes the limits of disturbance. Regarding the statement from the appellant that the CC&Rs are relevant here and that there was a special approach taken, that statement is baseless. Mr. Pearlman noted that he has represented developers in the past and has done CC&Rs for developers. The City always wants to see the CC&Rs before the plat is approved. However, every single one of the CC&Rs allows for amendments. He has never seen CC&Rs that state it is not possible to amend them. Referencing a document does not mean it cannot be amended.

Chair Strachan asked Staff to respond to the comments made by the applicant and appellant. Planner Cawley explained that the question before the Appeal Panel is whether the Planning Commission incorrectly applied the standards in the LMC to this application for a Plat Amendment. For an application within the Sensitive Land Overlay, there is a requirement that there be a map delineating all wetlands established by using the 1987 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, as amended. Any other Plat Amendment in the subdivision would have to go through this process. Discussions were had about the setbacks.

Attorney, Todd Godfrey, explained that the land remains within the Sensitive Land Overlay. Any land use application has to go through the full Sensitive Land Overlay review. Once that has been done, if a Building Permit comes in and it is outside of the setback for the wetland delineation, there is no further Sensitive Land Overlay process required other than what was required for the original platting of the lot. Planner Cawley confirmed the information shared.

Planner Cawley reported that the Willow Ranch Subdivision contains four equestrian lots and three single-family lots. There is also a 10.29-acre open space lot, which is Lot A and is subject to a conservation easement and owned by the City. There are eight lots total in the subdivision. That is immaterial to whether the Commission erred in approving the Plat Amendment for the Smith Subdivision and does not implicate the standard of review as it relates to good cause.

The Planning Commission also correctly applied the Sensitive Land Overlay requirements regarding wetlands, requiring an updated wetlands determination to evaluate the proposed changes to platted elements. Amending building pads for the single-family dwelling and barn, and evaluating the relocated driveway based on a 1993 Army Corps wetland determination, as the appellant argues, would be contrary to the LMC. The appellant fails to allege an incorrect application of the LMC. The Planning Commission followed the Sensitive Land Overlay process.

The following information was shared by Staff with the Appeal Panel:

- The Army Corps Preliminary Jurisdiction Determinations and Aquatic Resources Determinations do not determine whether any specific governmental body has authority over those wetlands;
- The determination has a limited lifespan of five to ten years;
- The appellant claims the City must be bound to the 1993 CC&Rs regarding wetlands. However, wetlands shift, which the updated determination confirms. The Planning Commission did not err in approving the Plat Amendment to shift the building pads in compliance with the Sensitive Land Overlay requirements;
- The Planning Commission correctly established the regulations for the Smith Subdivision First Amended Plat;
- The appellant fails to allege an incorrect application of the LMC and appears to be concerned with future permits and applications;

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- The Planning Commission approved amendments to the existing restrictions on the existing plat - no more, no less;
- Single-Family Dwelling and Barn Building Pads carry forward and add relevant Willow Ranch Subdivision plat notes.

The appellant argues there is not a distinction between building pad and limits of disturbance, but that is not the case. The misunderstanding of the appellant is evident, as they incorrectly associate the Willow Ranch Subdivision equestrian lots with the single-family lots. The Willow Ranch Subdivision equestrian lots, including Lot 6, have a building pad for a single-family dwelling and a building pad for a barn. Regarding limits of disturbance and building pads, the following information was shared:

- The 1992 LMC and current LMC provide different definitions for limits of disturbance and building pads;
- On both the Willow Ranch and Smith Subdivision plats, it is plainly stated that they are building pads;
- The Willow Ranch limits of disturbance table are not tied to a geographic area beyond the specific lot;
- The 2022 Board of Adjustment decision applies to a different type of lot with different regulations specified on the plat.

The Board of Adjustment determination of Lot 5 (Single-Family lot) does not apply to Lot 6 (Equestrian lot). The Board of Adjustment does not have the authority to review Plat Amendments. It was clarified that The Board of Adjustment only reviews Final Action to determine whether the Land Use Authority erred. The Board of Adjustment determination is not relevant to the Planning Commission or Appeal Panel review. Additionally, the Planning Commission is not tasked with reviewing CC&Rs. The LMC states: “The City does not enforce private restrictive covenants, nor shall any such covenant have the effect of modifying the regulations herein.”

The appellant argues the CC&Rs are City business because of the 1993 Final Action Letter language:

- 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;
- Staff shall revise the language in the CC&Rs regarding accessory apartments to limit the unit square footage so as to preclude the construction of duplexes, ensure adequate parking, restrict nightly rentals, and require entrance from the main structure.

These conditions required City review of the CC&Rs prior to the original plat recordation. No conditions require the City to re-review the CC&Rs at any future date, nor does it prohibit the HOA from amending the CC&Rs pursuant to Utah Code. The appellant fails to argue that the CC&Rs are relevant to the Planning Commission's review of the proposal to shift the single-family dwelling building pad and barn building pad. There was no allegation that the Plat Amendment application violates some provision of the LMC, as applicable to the good cause standard. The Planning Commission found the Plat Amendment complied with the LMC and there was good cause for the Plat Amendment. It was noted that the Planning Commission found compliance with the Estate, Sensitive Land Overlay, and Subdivision Procedure Chapter of the LMC.

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Staff recommends that the Appeal Panel review the appeal of the Planning Commission's approval of the Smith Subdivision First Amended Plat, conduct a public hearing, and consider denying the appeal and affirming the Planning Commission's decision based on the Findings of Fact and Conclusions of Law in the Draft Final Action Letter.

Planning Director, Rebecca Ward, shared the Willow Ranch Subdivision map and pointed out the legend. As outlined by Planner Cawley and Technician Ehlers, this is a very restrictive and detailed plat, with 18 plat notes. The legend clearly shows what is a building pad for a house and what is a building pad for a barn. Additionally, there is a table that shows the limits of disturbance. Within the barn building pad and the house building pad, there is maximum square footage for the home and the barn. Depending on where that is constructed within the building pad, there are further limits of disturbance. The Commission found good cause to take what is clearly platted as a house and barn building pad and shift it to comply with the updated wetlands delineation.

Chair Strachan noted that the appellant now has an opportunity to rebut any of the new issues raised. Mr. Theobold clarified that he did not state that there is a limitation of 4,000 square feet, but that is the footprint if there are two stories. He asked for clarification about the comments made by Mr. Pearlman related to the Appeal Panel being formed because of the Board of Adjustment decision. Chair Strachan stated that it is not relevant to the current appeal.

Mr. Theobold asked what the limits of disturbance chart meant on the plat. Chair Strachan clarified that this is not a question-and-answer session. This is the time when there is a rebuttal of the points raised. Mr. Theobold stated that there has not been a declaration of what it means or where the definition can be found. He reiterated his earlier arguments about the term limits of disturbance and noted that the Conditions of Approval state that the CC&Rs are included.

Chair Strachan opened the public hearing.

Gerry Hall explained that he is one of the other owners of the Willow Ranch Subdivision. He wanted to rebut some of the comments made by Mr. Theobold. The CC&Rs have not been deleted but have been amended. The limits of disturbance references in the CC&Rs have also not been deleted, but amendments were made. An amendment of CC&Rs that are 30 years old is normal and that was done a handful of years ago. The wetlands notification requirements have not been deleted from the CC&Rs and the notification requirement exists within the 1992 Army Corps permit itself. Future owners need to be notified of the wetlands. Mr. Hall discussed the limits of disturbance. In the original 1993 CC&Rs, there were a number of allowed uses outside of the building pads, such as ponds, irrigation ditches, and irrigation structures. The definition of building pad and limits of disturbance in 1993 is different than the definition and application now.

When the Smith Subdivision was resubdivided in the late 1990s, the limits of disturbance area reference was dropped. Lot 2 was also re-platted in 1999. The limits of disturbance reference was changed from “limits of disturbance” to “impacted area,” and specifically references building footprints. Mr. Hall pointed out the different lots on a map of the area. He acknowledged that there was some confusion. In the plat that the Planning Commission approved, there is no real reference to the Willow Ranch HOA. It says Smith Subdivision. That could be an issue in the future.

Paul Caraher stated that he is the owner of Lot 6. A lot of time has been spent ensuring that the Sensitive Land Overlay requirements are met. He appreciates the Appeal Panel for taking the

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time to address this appeal. He also wanted to thank the Planning Commission for their thorough review of the application. Mr. Caraher hoped the Appeal Panel will uphold the decision.

Will Lang informed the Appeal Panel that he owns Lot 7 and shared a 1,000-foot boundary with Lot 6 to the south. He asked that the Appeal Panel rule in favor of the applicant.

There were no further comments. The public hearing was closed.

The Appeal Panel discussed the information that was shared. Mr. Day has not seen enough compelling evidence that the Planning Commission erred in the decision. He has not been swayed by the argument about limits of disturbance versus building pad. It seemed clear on the plat that it is a house-building pad, so he is inclined to deny the appeal. Mr. Nunez stated that based on what was presented, he is also inclined to deny the appeal. The burden of proof was not met, which is something that the appellant is required to do in any appeal. Chair Strachan agreed with the other Appeal Panel members. The standard for a Plat Amendment is good cause and moving out of the wetlands area is good cause to move the place of construction. He noted that Staff prepared a Draft Final Action Letter. He looked it over earlier and thought it was accurate, but noted that it could be reviewed in more detail and returned to Staff if desired. Mr. Day thought it was appropriate to review what was drafted after the decision was made.

It was determined that the Appeal Panel will review the Draft Final Action Letter. Discussions were had about whether or not there should be a motion made for the record. Attorney Godfrey preferred that there be a motion on the record to state that the appeal is denied and that the letter will be reviewed by the Appeal Panel before being returned to Staff for finalization.

MOTION: Matthew Day moved to DENY the appeal of 2685 Meadow Creek Drive Final Action. Mr. Nunez seconded the motion.

VOTE: Adam Strachan-Aye; Matthew Day-Aye; Esteban Nunez-Aye. The motion passed with the unanimous consent of the Appeal Panel.

Following the vote to deny the appeal, Chair Strachan reiterated that the Draft Final Action Letter will be reviewed and revised by Appeal Panel members before being sent back to Staff.

5. ADJOURNMENT

MOTION: Adam Strachan moved to adjourn.

The meeting adjourned at approximately 6:28 p.m.

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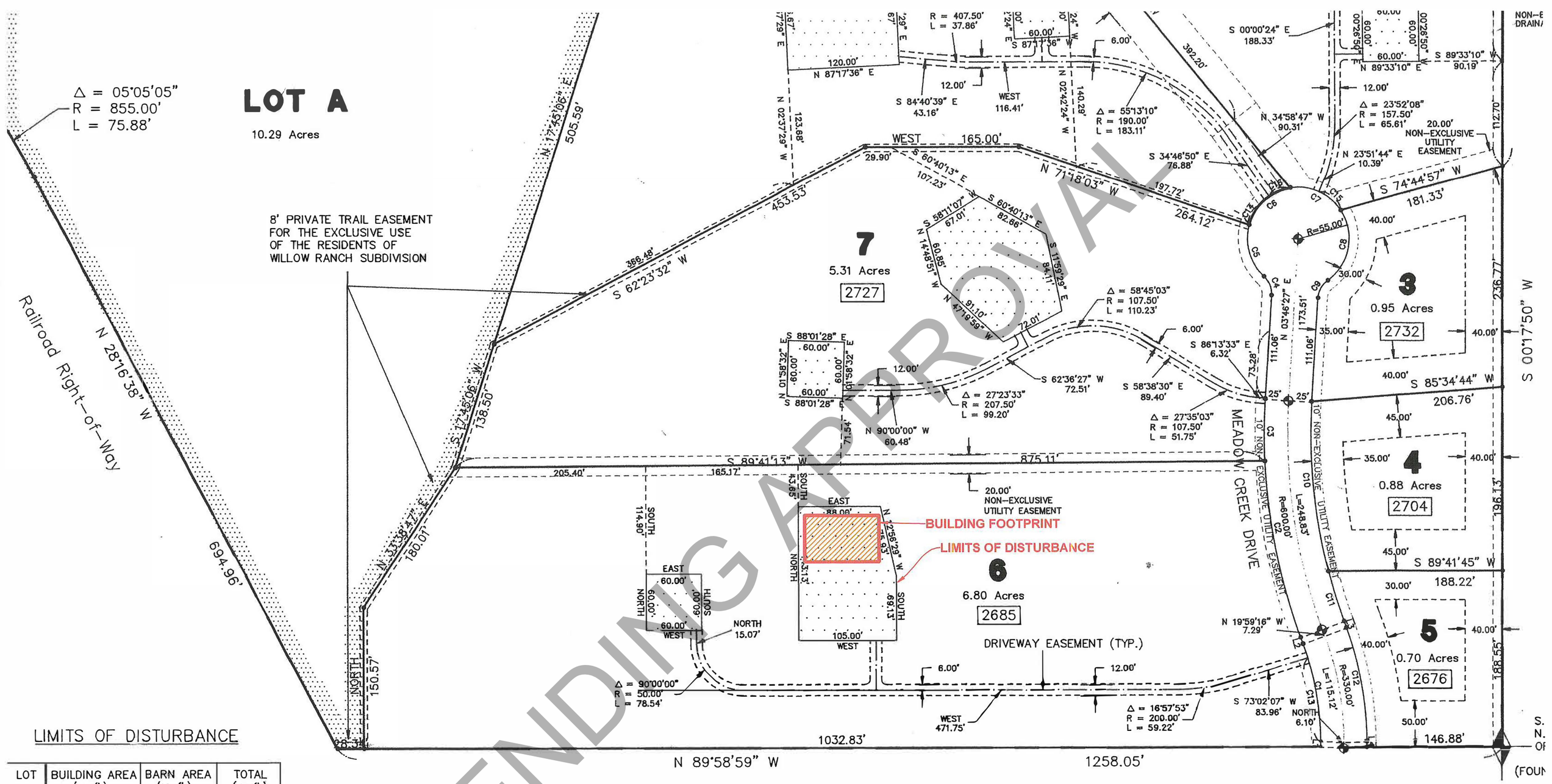


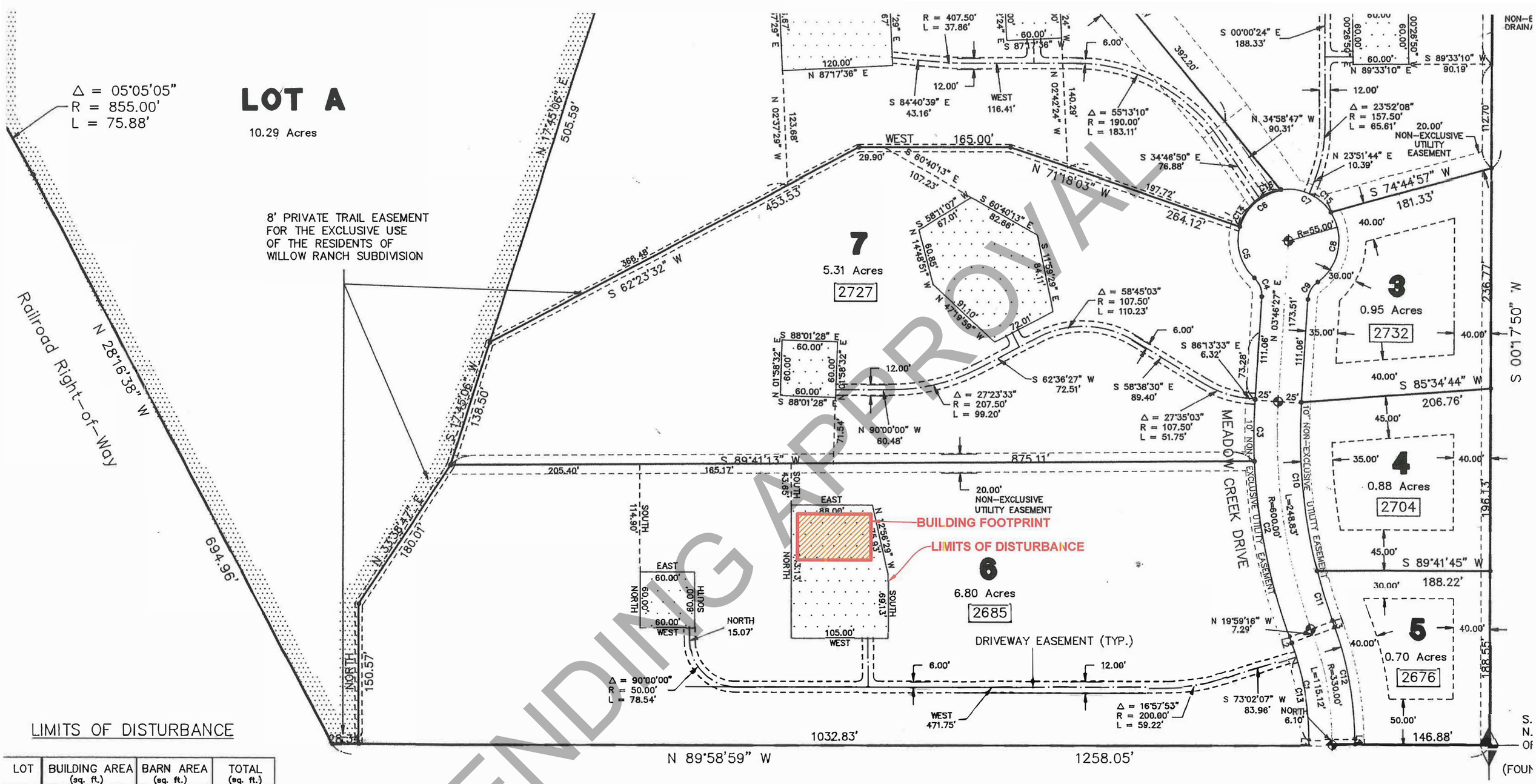
PENDING APPROVAL

LIMITS OF DISTURBANCE

LOT	BUILDING AREA (sq. ft.)	BARN AREA (sq. ft.)	TOTAL (sq. ft.)
LOT 1	14,000	3600	17,600
LOT 2	14,000	3600	17,600
LOT 6	14,400	3600	18,000
LOT 7	14,400	3600	18,000
		TOTAL	71,200

McLeod Creek Subdivision

NORTH
SCALE:1" = 100'



PENDING APPROVAL

LIMITS OF DISTURBANCE

LOT	BUILDING AREA (sq. ft.)	BARN AREA (sq. ft.)	TOTAL (sq. ft.)
LOT 1	14,000	3600	17,600
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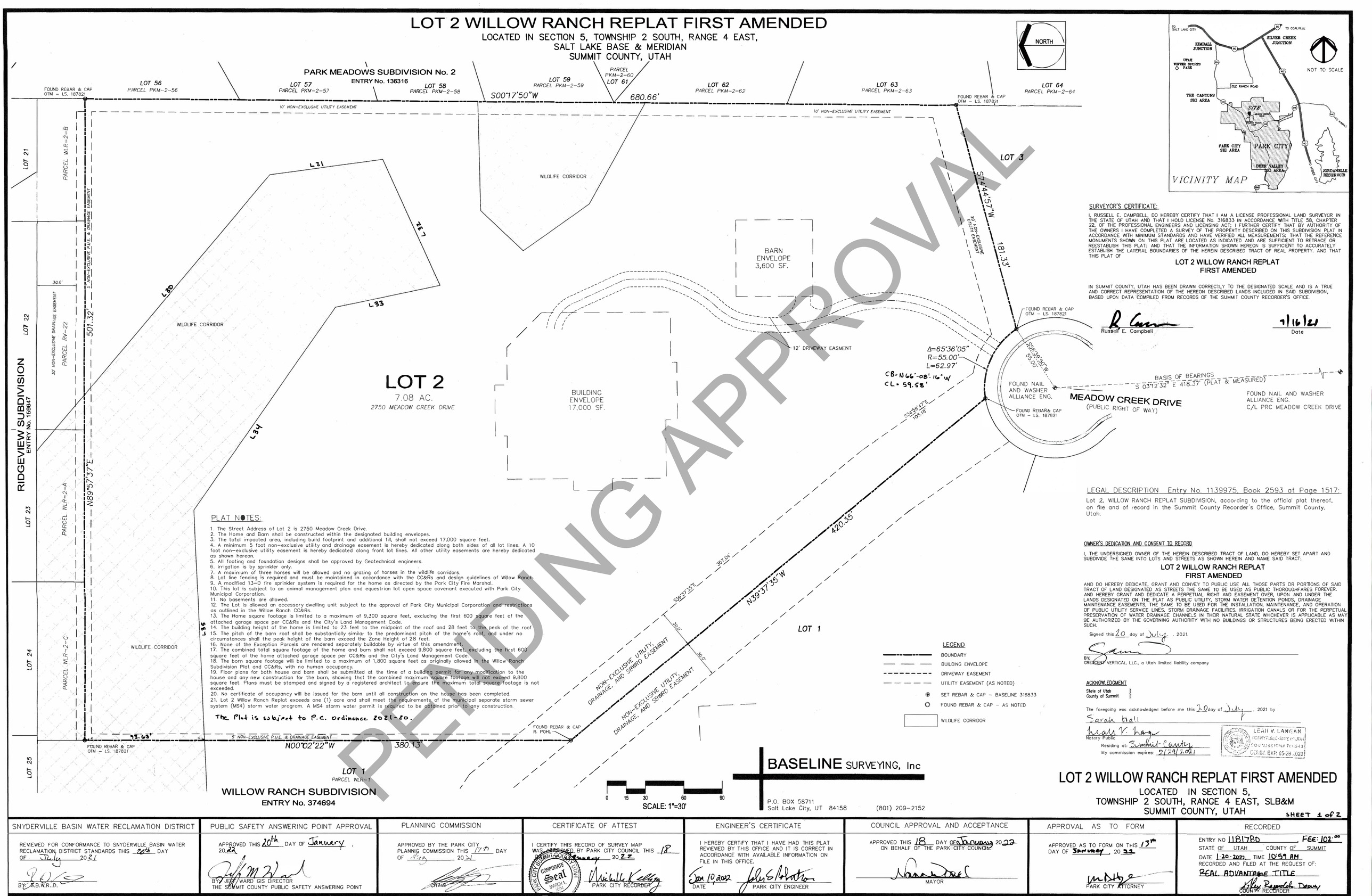
LOT 6	14,400	3600	18,000
LOT 7	14,400	3600	18,000
		TOTAL	71,200

McLeod Creek Subdivision

NORTH
SCALE:1" = 100'

LOT 2 WILLOW RANCH REPLAT FIRST AMENDED

LOCATED IN SECTION 5, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE & MERIDIAN
SUMMIT COUNTY, UTAH



PLAT NOTES:

1. The Street Address of Lot 2 is 2750 Meadow Creek Drive.
2. The Home and Barn shall be constructed within the designated building envelopes.
3. The total impacted area, including build footprint and additional fill, shall not exceed 17,000 square feet.
4. A minimum 5 foot non-exclusive utility and drainage easement is hereby dedicated along both sides of all lot lines. A 10 foot non-exclusive utility easement is hereby dedicated along front lot lines. All other utility easements are hereby dedicated as shown hereon.
5. All footing and foundation designs shall be approved by Geotechnical engineers.
6. Irrigation is by sprinkler only.
7. A maximum of three horses will be allowed and no grazing of horses in the wildlife corridors.
8. Lot line fencing is required and must be maintained in accordance with the CC&Rs and design guidelines of Willow Ranch.
9. A modified 13-D fire sprinkler system is required for the home as directed by the Park City Fire Marshal.
10. This lot is subject to an animal management plan and equestrian lot open space covenant executed with Park City Municipal Corporation.
11. No basements are allowed.
12. The Lot is allowed an accessory dwelling unit subject to the approval of Park City Municipal Corporation and restrictions as outlined in the Willow Ranch CC&Rs.
13. The Home square footage is limited to a maximum of 9,300 square feet, excluding the first 600 square feet of the attached garage space per CC&Rs and the City's Land Management Code.
14. The building height of the home is limited to 23 feet to the midpoint of the roof and 28 feet to the peak of the roof.
15. The pitch of the barn roof shall be substantially similar to the predominant pitch of the home's roof, and under no circumstances shall the peak height of the barn exceed the Zone Height of 28 feet.
16. None of the Exception Parcels are rendered separately buildable by virtue of this amendment.
17. The combined total square footage of the home and barn shall not exceed 9,800 square feet, excluding the first 600 square feet of the home attached garage space per CC&Rs and the City's Land Management Code.
18. The barn square footage will be limited to a maximum of 1,800 square feet as originally allowed in the Willow Ranch Subdivision Plat and CC&Rs, with no human occupancy.
19. Floor plans for both house and barn shall be submitted at the time of a building permit for any modification to the house and any new construction for the barn, showing that the combined maximum square footage will not exceed 9,800 square feet. Plans must be stamped and signed by a registered architect to ensure the maximum total square footage is not exceeded.
20. No certificate of occupancy will be issued for the barn until all construction on the house has been completed.
21. Lot 2 Willow Ranch Replat exceeds one (1) acre and shall meet the requirements of the municipal separate storm sewer system (MS4) storm water program. A MS4 storm water permit is required to be obtained prior to any construction.

The Plat is subject to P.C. Ordinance 2021-20.

LEGEND

- BOUNDARY
- BUILDING ENVELOPE
- DRIVEWAY EASEMENT
- UTILITY EASEMENT (AS NOTED)
- SET REBAR & CAP – BASELINE 3168.33
- FOUND REBAR & CAP – AS NOTED
- WILDLIFE CORRIDOR

0 15 30 60 90
SCALE: 1"=30'

BASELINE SURVEYING, Inc
P.O. BOX 58711
Salt Lake City, UT 84158 (801) 209-2152

SURVEYOR'S CERTIFICATE:

I, RUSSELL E. CAMPBELL, DO HEREBY CERTIFY THAT I AM A LICENSE PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH AND THAT I HOLD LICENSE No. 316833 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND LICENSING ACT; I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS SUBDIVISION PLAT IN ACCORDANCE WITH MINIMUM STANDARDS AND HAVE VERIFIED ALL MEASUREMENTS; THAT THE REFERENCE MONUMENTS SHOWN ON THIS PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS PLAT; AND THAT THE INFORMATION SHOWN HEREON IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE HEREIN DESCRIBED TRACT OF REAL PROPERTY; AND THAT THIS PLAT OF

LOT 2 WILLOW RANCH REPLAT FIRST AMENDED

IN SUMMIT COUNTY, UTAH HAS BEEN DRAWN CORRECTLY TO THE DESIGNATED SCALE AND IS A TRUE AND CORRECT REPRESENTATION OF THE HEREON DESCRIBED LANDS INCLUDED IN SAID SUBDIVISION, BASED UPON DATA COMPILED FROM RECORDS OF THE SUMMIT COUNTY RECORDER'S OFFICE.

Russell E. Campbell — Date: 7/16/21

LEGAL DESCRIPTION Entry No. 1139975, Book 2593 at Page 1517:

Lot 2, WILLOW RANCH REPLAT SUBDIVISION, according to the official plat thereof, on file and of record in the Summit County Recorder's Office, Summit County, Utah.

OWNER'S DEDICATION AND CONSENT TO RECORD

I, THE UNDERSIGNED OWNER OF THE HEREIN DESCRIBED TRACT OF LAND, DO HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AND STREETS AS SHOWN HEREIN AND NAME SAID TRACT:

LOT 2 WILLOW RANCH REPLAT FIRST AMENDED

AND DO HEREBY DEDICATE, GRANT AND CONVEY TO PUBLIC USE ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS STREETS THE SAME TO BE USED AS PUBLIC THOROUGHFARES FOREVER. AND HEREBY GRANT AND DEDICATE A PERPETUAL RIGHT AND EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED ON THE PLAT AS PUBLIC UTILITY, STORM WATER DETENTION PONDS, DRAINAGE MAINTENANCE EASEMENTS, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE, AND OPERATION OF PUBLIC UTILITY SERVICE LINES, STORM DRAINAGE FACILITIES, IRRIGATION CANALS OR FOR THE PERPETUAL PRESERVATION OF WATER DRAINAGE CHANNELS IN THEIR NATURAL STATE WHICHEVER IS APPLICABLE AS MAY BE AUTHORIZED BY THE GOVERNING AUTHORITY WITH NO BUILDINGS OR STRUCTURES BEING ERECTED WITHIN SUCH.

Signed this 20 day of July, 2021.

BY: CRESCENT VERTICAL, LLC., a Utah limited liability company

ACKNOWLEDGMENT

State of Utah
County of Summit

The foregoing was acknowledged before me this 20 day of July, 2021 by Sarah Hall

Notary Public
Residing at: Summit County
My commission expires: 2/29/2024

LEAH V. LANGAN
NOTARY PUBLIC-STATE OF UTAH
COMMISSION# 711343
COMM. EXP. 05-29-2023

LOT 2 WILLOW RANCH REPLAT FIRST AMENDED

LOCATED IN SECTION 5,
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SLB&M
SUMMIT COUNTY, UTAH

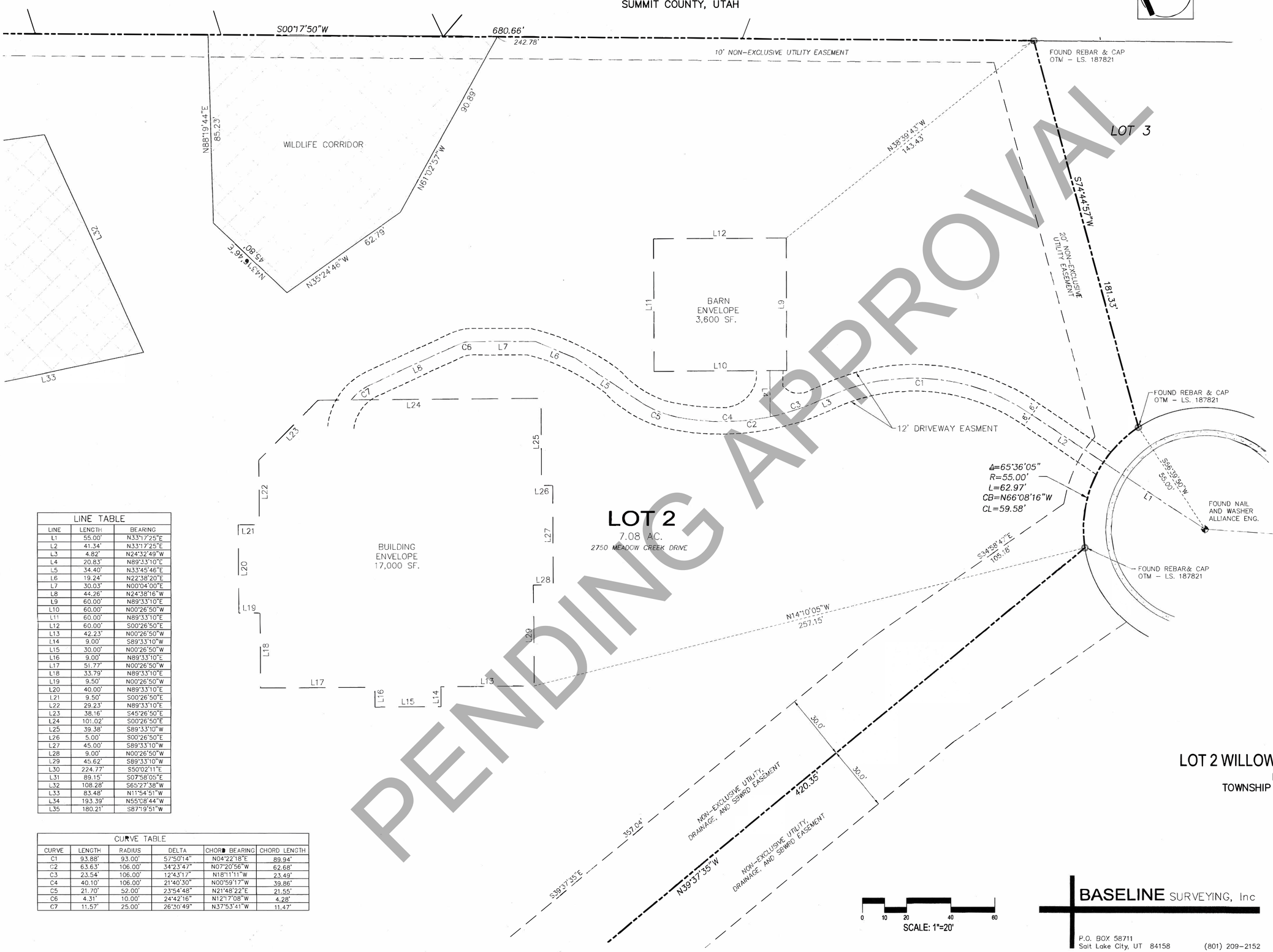
SHEET 1 of 2

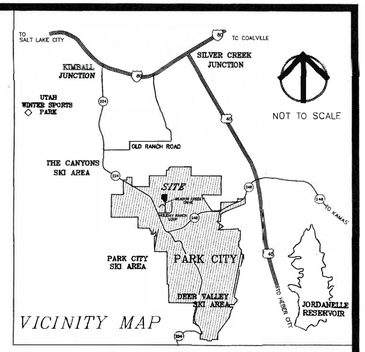
SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PUBLIC SAFETY ANSWERING POINT APPROVAL	PLANNING COMMISSION	CERTIFICATE OF ATTEST	ENGINEER'S CERTIFICATE	COUNCIL APPROVAL AND ACCEPTANCE	APPROVAL AS TO FORM	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS THIS 20th DAY OF July 2021 BY: S.B.W.R.D.	APPROVED THIS 20th DAY OF January, 2022 BY: JEFF WARD GIS DIRECTOR THE SUMMIT COUNTY PUBLIC SAFETY ANSWERING POINT	APPROVED BY THE PARK CITY PLANNIG COMMISSION THIS 17th DAY OF July 2021 CHAIR	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 18 DAY OF January 2022 PARK CITY RECORDER	I HEREBY CERTIFY THAT I HAVE HAD THIS PLAT REVIEWED BY THIS OFFICE AND IT IS CORRECT IN ACCORDANCE WITH AVAILABLE INFORMATION ON FILE IN THIS OFFICE. Jan 10, 2022 DATE PARK CITY ENGINEER	APPROVED THIS 18 DAY OF January 2022 ON BEHALF OF THE PARK CITY COUNCIL MAYOR	APPROVED AS TO FORM ON THIS 13th DAY OF January 2022 PARK CITY ATTORNEY	ENTRY NO 1181780 FEE: 102.00 STATE OF UTAH COUNTY OF SUMMIT DATE 1-20-2022 TIME 10:59 AM RECORDED AND FILED AT THE REQUEST OF: REAL ADVANTAGE TITLE Kelly Reynolds, Deputy COUNTY RECORDER

PENDING APPROVAL

LOT 2 WILLOW RANCH REPLAT FIRST AMENDED

LOCATED IN SECTION 5, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE & MERIDIAN
SUMMIT COUNTY, UTAH





LINE TABLE		
LINE	LENGTH	BEARING
L1	55.00'	N33°17'25"E
L2	41.34'	N33°17'25"E
L3	4.82'	N24°32'49"W
L4	20.83'	N89°33'10"E
L5	34.40'	N33°45'46"E
L6	19.24'	N22°38'20"E
L7	30.03'	N00°04'00"E
L8	44.26'	N24°38'16"W
L9	60.00'	N89°33'10"E
L10	60.00'	N00°26'50"W
L11	60.00'	N89°33'10"E
L12	60.00'	S00°26'50"E
L13	42.23'	N00°26'50"W
L14	9.00'	S89°33'10"W
L15	30.00'	N00°26'50"W
L16	9.00'	N89°33'10"E
L17	51.77'	N00°26'50"W
L18	33.79'	N89°33'10"E
L19	9.50'	N00°26'50"W
L20	40.00'	N89°33'10"E
L21	9.50'	S00°26'50"E
L22	29.23'	N89°33'10"E
L23	38.16'	S45°26'50"E
L24	101.02'	S00°26'50"E
L25	39.38'	S89°33'10"W
L26	5.00'	S00°26'50"E
L27	45.00'	S89°33'10"W
L28	9.00'	N00°26'50"W
L29	45.62'	S89°33'10"W
L30	224.77'	S50°02'11"E
L31	89.15'	S07°58'05"E
L32	108.28'	S65°27'38"W
L33	83.48'	N11°54'51"W
L34	193.39'	N55°08'44"W
L35	180.21'	S87°19'51"W

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	93.88'	93.00'	57°50'14"	N04°22'18"E	89.94'
C2	63.63'	106.00'	34°23'47"	N07°20'56"W	62.68'
C3	23.54'	106.00'	12°43'17"	N18°11'11"W	23.49'
C4	40.10'	106.00'	21°40'30"	N00°59'17"W	39.86'
C5	21.70'	52.00'	23°54'48"	N21°48'22"E	21.55'
C6	4.31'	10.00'	24°42'16"	N12°17'08"W	4.28'
C7	11.57'	25.00'	26°30'49"	N37°53'41"W	11.47'

LEGEND

- BOUNDARY
- BUILDING ENVELOPE
- DRIVEWAY EASEMENT
- UTILITY EASEMENT (AS NOTED)
- ● SET REBAR & CAP – BASELINE 316833
- ○ FOUND REBAR & CAP – AS NOTED
- WILDLIFE CORRIDOR

SCALE: 1"=20'

PENDING APPROVAL

LOT 2 WILLOW RANCH REPLAT FIRST AMENDED

LOCATED IN SECTION 5,
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SLB&M
SUMMIT COUNTY, UTAH

SHEET 2 OF 2

BASELINE SURVEYING, Inc
P.O. BOX 58711
Salt Lake City, UT 84158 (801) 209-2152

RECORDED
ENTRY NO. 01181780
01/20/2022 10:59:26 AM B: 2718 P: 1582
Plat PAGE 1/1
RHONDA FRANCIS, SUMMIT COUNTY RECORDER
FEE 102.00 BY REAL ADVANTAGE TITLE
COUNTY RECORDER

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that the undersigned owners of the herein described tract of land, to be known hereafter as the LOT 2 WILLOW RANCH REPLAT, do hereby certify that we have caused this Lot Line Amendment Plat to be prepared, and we, John Thompson and Diana J. Thompson, husband and wife as joint tenants, hereby consent to the recordation of this Lot Line Amendment Plat.

ALSO, the owners or their representative, hereby irrevocably offer for dedication to the City of Park City all the streets, land for local government uses, easements, parks, and required utilities and easements shown on the plat and construction drawings in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set their hands this 27th day of October, 1999.

John Thompson
Owner

Diana J. Thompson
Owner

ACKNOWLEDGEMENT

State of Utah:
County of Summit:

On this 27th day of October, 1999, John Thompson and Diana J. Thompson personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, John Thompson and Diana J. Thompson acknowledged to me that they are the owners of the herein described tract of land and that they signed the above Owner's Dedication and Consent to Record freely and voluntarily.

Mary L. Peacock
Notary Public

NOTARY PUBLIC
MARY L. PEACOCK
Mail: SLTO Box 2664
Park City, UT 84060
My Commission Expires: 8-28-2002
State of Utah

My commission expires: 8-28-2002

SURVEYOR'S CERTIFICATE

I, John Demkowicz, certify that I am a Registered Land Surveyor and that I hold Certificate No. 163931, as prescribed by the laws of the State of Utah, and that by authority of the owner(s), I have prepared this Record of Survey map of LOT 2, WILLOW RANCH SUBDIVISION and that the same has been or will be monumented on the ground as shown on this plat.

John Demkowicz — 10-21-99 Date

REGISTERED LAND SURVEYOR
No. 163931
JOHN DEMKOWICZ
State of Utah

BOUNDARY DESCRIPTION

PARCEL #1

LOT 2, WILLOW RANCH SUBDIVISION, according to the official plat thereof on file and of record in the Summit County Recorder's Office.
Less and excepting the following described parcels: (Parcel A)

A part of Lot 2 of Willow Ranch Subdivision, being located in Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah, and being more particularly described as follows:

Beginning at a point which is South 89°57'38" West 258.71 feet from the northeast corner of said Lot 2; thence South 00°17'50" West 36.72 feet; thence South 89°57'38" West 119.00 feet; thence North 00°17'50" East 36.72 feet; thence North 89°57'38" East 119.00 feet to the point of beginning.

Also excepting: (Parcel B)

A part of Lot 2 of Willow Ranch Subdivision, being located in Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah, and being more particularly described as follows:

Beginning at the northeast corner of said Lot 2; thence South 00°17'50" West 36.72 feet; thence South 89°57'38" West 95.77 feet; thence North 00°17'50" East 36.72 feet; thence North 89°57'38" East 95.77 feet to the point of beginning.

Also excepting: (Parcel C)

A part of Lot 2 of Willow Ranch Subdivision, being located in Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah, and being more particularly described as follows:

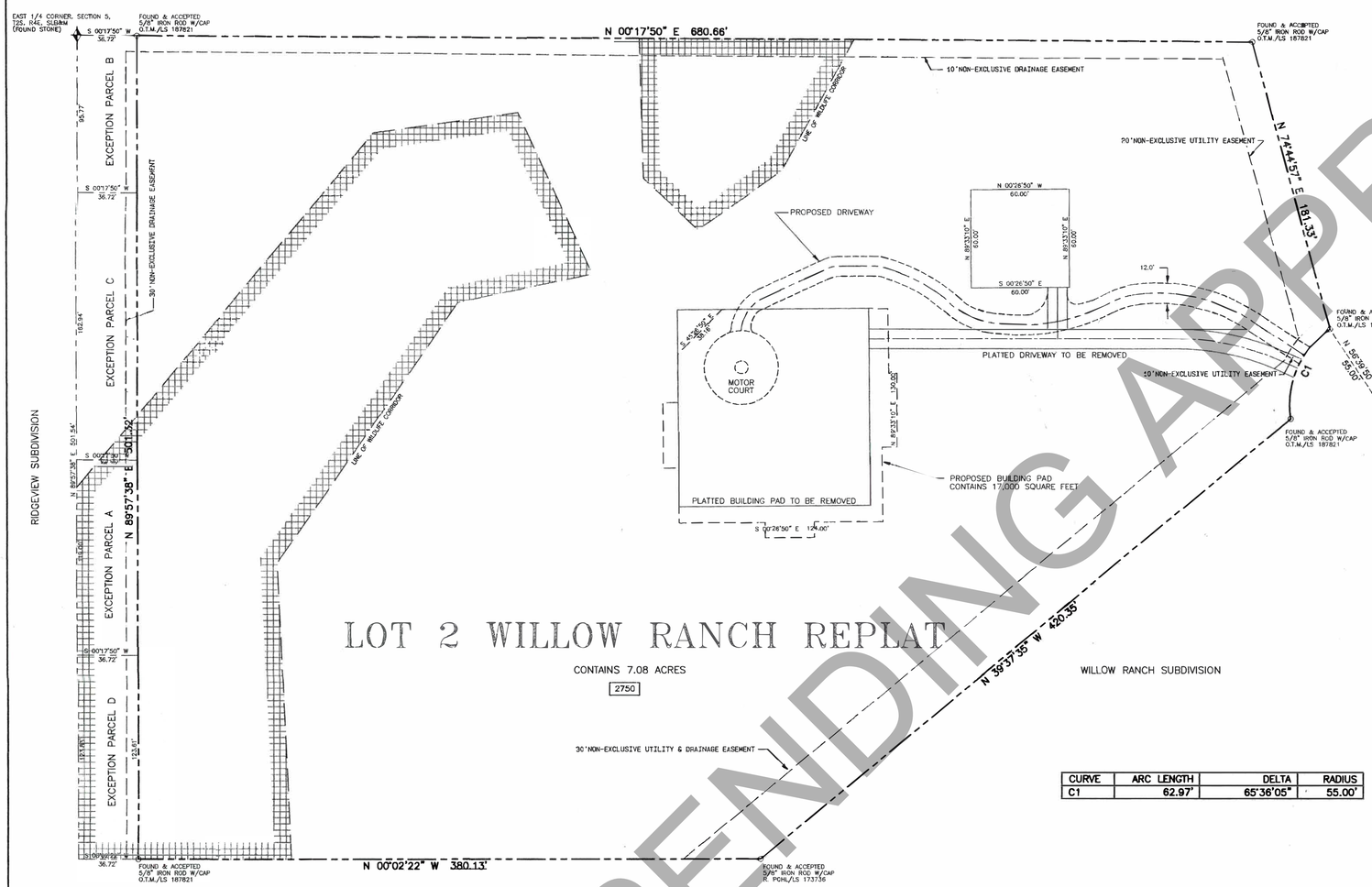
Beginning at a point which is South 89°57'38" West 95.77 feet from the northeast corner of said Lot 2; thence South 00°17'50" West 36.72 feet; thence South 89°57'38" West 162.94 feet; thence North 00°17'50" East 36.72 feet; thence North 89°57'38" East 162.94 feet to the point of beginning.

Also excepting: (Parcel D)

A part of Lot 2 of Willow Ranch Subdivision, being located in Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Summit County, Utah, and being more particularly described as follows:

Beginning at a point which is South 89°57'38" West 377.71 feet from the northeast corner of said Lot 2; thence South 00°17'50" West 36.72 feet; thence South 89°57'38" West 123.61 feet; thence North 00°02'22" West 36.72 feet to the northwest corner of said Lot 2; thence North 89°57'38" East 123.83 feet to the point of beginning.

PARK MEADOWS SUBDIVISION NO. 2



LOT 2 WILLOW RANCH REPLAT

CONTAINS 7.08 ACRES

2750

CURVE	ARC LENGTH	DELTA	RADIUS
C1	62.97'	65°36'05"	55.00'

NOTES

1. 2750 Street address on Meadow Creek Drive
2. The total impacted area on Lot 2, including building footprint and additional fill, shall not exceed 17,000 square feet.
3. The home square footage on Lot 2 will be limited to a maximum of 9,300 square feet.
4. The barn square footage on Lot 2 is limited to 500 square feet with no human occupancy.
5. The building height of the home on Lot 2 is limited to 23 feet to the midpoint of the roof and 28 feet to the peak of the roof and the building height of the barn on Lot 2 is limited to 18 feet to the peak of the roof. The barn shall not have a flat roof.
6. Property corners were set under a separate survey: Recorded #S-3466, Summit County, Utah
7. None of the exception parcels shown hereon are rendered seporately buildable by virtue of this replat.
8. All notes and easements on The Willow Ranch Subdivision plat remain in effect and apply to this replat.

LEGEND

- Found survey monument
- Found iron rod & cap

40' 0 40' 80'

LOT LINE AMENDMENT PLAT

L O T 2 W I L L O W R A N C H R E P L A T

LOCATED IN SECTION 5
TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE
AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH

PENDING APPROVAL

JOB NO.: 14-5-98 FILE: Z:\Wil\dwg\srv\plat98\140598p.dwg

(435) 649-9467
Alliance Engineering Inc
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS 29th DAY OF OCTOBER 1999 A.D.
BY S.B.S.I.D.

PLANNING COMMISSION
APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 1st DAY OF NOVEMBER, 1999 A.D.
BY CHAIRMAN

ENGINEER'S CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 27th DAY OF OCTOBER 1999 A.D.
BY PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS 1st DAY OF November, 1999 A.D.
BY PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 3rd DAY OF JUNE, 1999 A.D.
BY PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 3rd DAY OF JUNE, 1999 A.D.
BY MAYOR

RECORDED
#551979
STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF Equity Title
DATE 11-3-99 TIME 8:52 AM BOOK ___ PAGE ___
$31.00 FEE
Alan Spriggs RECORDER

WILLOW RANCH SUBDIVISION

A PART OF THE NORTH HALF OF SOUTHEAST QUARTER OF SECTION 5, T. 2S, R. 4E, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH

LOT	CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
6	C1	305.00'	106.40'	105.86'	N 05°59'38" W	19°59'16"
6	C2	625.00'	192.71'	191.95'	S 11°09'16" E	17°39'59"
7	C3	625.00'	66.49'	66.46'	S 00°43'35" W	06°05'43"
7	C4	25.00'	22.39'	21.65'	N 21°53'06" W	51°19'04"
7	C5	55.00'	60.50'	57.49'	S 16°02'01" E	63°01'14"
1	C6	55.00'	62.96'	59.58'	S 48°16'19" W	65°35'25"
2	C7	55.00'	62.96'	59.58'	N 66°08'16" W	65°35'25"
3	C8	55.00'	84.89'	76.71'	N 10°52'29" E	88°26'04"
3	C9	25.00'	22.39'	21.65'	S 29°25'59" W	51°19'04"
4	C10	575.00'	182.74'	181.97'	S 05°19'50" E	18°12'33"
3	C11	575.00'	55.72'	55.70'	S 17°12'41" E	05°33'09"
5	C12	355.00'	123.84'	123.21'	N 09°59'38" W	19°59'16"
6	C13	305.00'	90.31'	89.98'	N 08°28'56" W	16°57'53"
1	C14	55.00'	24.32'	24.12'	S 28°08'33" W	25°19'54"
2	C15	55.00'	31.48'	31.05'	N 49°44'25" W	32°47'43"
1	C16	55.00'	24.81'	24.60'	S 68°08'36" W	25°50'51"

LINE	DIRECTION	DISTANCE
L1	S 00°00'00" E	6.09'
L2	N 19°59'16" W	7.29'
L3	S 19°59'16" E	7.29'
L4	N 00°00'00" E	6.10'

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents: That the undersigned is the owner of the herein described tract of land, and hereby causes the same to be divided into a public street and lots, together with easements as set forth on the attached plat, hereafter to be known as Willow Ranch Subdivision.

Also the owner hereby dedicates to Summit County, Snyderville Basin Sewer Improvement District, Park City Fire Protection District, and Park City Municipal Corporation a non-exclusive easement over the utility and drainage easements shown on this plat for the purpose of providing access for utility installation, maintenance, use and eventual replacement.

Executed this 12th day of FEBRUARY, 1993.

Richard Dudley - President

Willow Ranch Development Inc., a Utah corporation

ACKNOWLEDGEMENT

State of Utah)
County of Summit)

On the 12th day of February, 1993 personally appeared before me, Richard Dudley, who, being by me duly sworn, did say that he is the President of Willow Ranch Development Inc., a Utah Corporation and that within and forgoing Owner's Dedication and Consent to Record, was signed on behalf of said Corporation and said Richard Dudley acknowledged to me that said Corporation executed the same.

Notary Public — My commission expires: 1/6/96

NOTARY PUBLIC
MIKI BRINGHURST
7672 Avercamp Drive
Salt Lake City, Utah 84121
My Commission Expires
June 1, 1996
STATE OF UTAH

LEGAL DESCRIPTION

Beginning at the East Quarter Corner of Section 5, Township 2 South, Range 4 East, Salt Lake Base and Meridian; thence along the East line of the North half of the Southeast Quarter of said Section 5, South 00°17'50" West 1338.83 feet to the Southeast Corner of the North half of the Southeast Quarter of said Section 5, said point also being the Northeast Corner of McLeod Creek Subdivision as recorded; thence along the South line of the North half of the Southeast Quarter of said Section 5, said South line also being the North line of said McLeod Creek Subdivision, North 89°58'59" West 1258.05 feet to a point on the Easterly most line of a 50 foot wide railroad right-of-way; thence along said railroad right-of-way the following two (2) calls: 1) North 28°16'38" West 894.96 feet to a point of a 855.00 foot radius curve to the left; thence 2) along the arc of said curve 75.88 feet thru a central angle of 05°05'05"; thence North, 387.86 feet; thence South 79°53'25" East 262.94 feet; thence North 82°51'53" East 140.99 feet; thence South 88°02'27" East 185.69 feet; thence North 60°24'25" East 345.20 feet; thence North 26°38'08" East 153.78 feet to a point on the center section line of said Section 5, said point also being on the south line of Ridgeview Subdivision as recorded; thence North 89°57'38" East along said center section line and said subdivision line 679.64 feet to the POINT OF BEGINNING.

Contains: 41.48 acres of land, more or less.

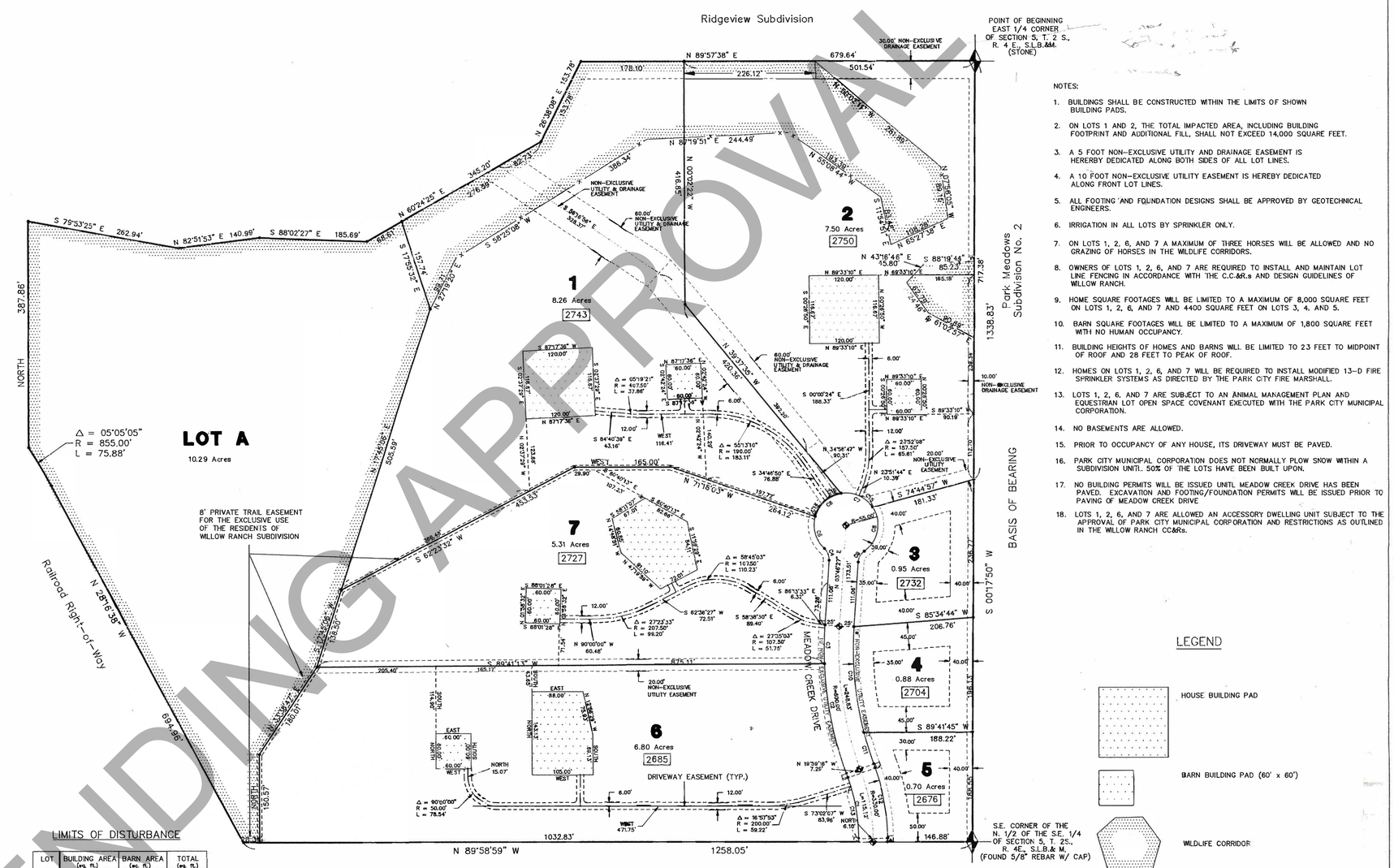
SURVEYOR'S CERTIFICATE

I, JACK J. JOHNSON, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. 4496 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT A SURVEY HAS BEEN MADE OF THE LAND SHOWN ON THIS PLAT AND DESCRIBED HEREON. I FURTHER CERTIFY THAT THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND SURVEYED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF THE LAW.

JACK J. JOHNSON — DATE: February 12, 1993

LIMITS OF DISTURBANCE

LOT	BUILDING AREA (sq. ft.)	BARN AREA (sq. ft.)	TOTAL (sq. ft.)
LOT 1	14,000	3600	17,600
LOT 2	14,000	3600	17,600
LOT 6	14,400	3600	18,000
LOT 7	14,400	3600	18,000
		TOTAL	71,200



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.
16. PARK CITY MUNICIPAL CORPORATION DOES NOT NORMALLY PLOW SNOW WITHIN A SUBDIVISION UNITL 50% OF THE LOTS HAVE BEEN BUILT UPON.
17. NO BUILDING PERMITS WILL BE ISSUED UNITL MEADOW CREEK DRIVE HAS BEEN PAVED. EXCAVATION AND FOOTING/FOUNDATION PERMITS WILL BE ISSUED PRIOR TO PAVING OF MEADOW CREEK DRIVE
18. LOTS 1, 2, 6, AND 7 ARE ALLOWED AN ACCESSORY DWELLING UNIT SUBJECT TO THE APPROVAL OF PARK CITY MUNICIPAL CORPORATION AND RESTRICTIONS AS OUTLINED IN THE WILLOW RANCH CC&Rs.

LEGEND

- HOUSE BUILDING PAD
- BARN BUILDING PAD (60' x 60')
- WILDLIFE CORRIDOR
- 2676 ADDRESS
- STREET MONUMENT

PLOTTED: JANUARY 22, 1993

PENDING APPROVAL

CITY COUNCIL APPROVAL

PRESENTED TO THE BOARD OF PARK CITY COUNCIL THIS 28TH DAY OF FEBRUARY A.D. 1993 AT WHICH TIME THIS RECORD OF SURVEY WAS APPROVED.

MAYOR Rusty A. Ahl

Anita L. Sheldon
CITY RECORDER

CITY ENGINEER

APPROVED AND ACCEPTED BY THE PARK CITY ENGINEERING DEPARTMENT ON THIS 25TH DAY OF FEBRUARY A.D. 1993.

Eric W. DeHaan P.E.
CITY ENGINEER

CITY PLANNING COMMISSION

APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS 22nd DAY OF February A.D. 1993

CHAIRMAN

APPROVAL AS TO FORM

APPROVED AS TO FORM ON THIS 22nd DAY OF February A.D. 1993

CITY ATTORNEY

RECORDED

No. 324694
STATE OF UTAH.
COUNTY OF SUMMIT.
RECORDED AND FILED AT THE REQUEST OF:
Coalition Title
Date: 02-26-93
Time: 11:15 AM
Fee: $22.00

COUNTY RECORDER

3-16-93 SB
SEE S. TERRIE
WILLOW RANCH

THE JACK JOHNSON COMPANY
1910 Prospector Avenue * Park City, Utah 84060
(801) 645-9000 * fax (801) 649-1620

22-80

PARK CITY MUNICIPAL CORPORATION
APPEAL PANEL MEETING
SUMMIT COUNTY, UTAH
MARSAC MUNICIPAL BUILDING
May 20, 2024

MEMBERS IN ATTENDANCE: Adam Strachan, Esteban Nunez, Matthew Day

EX OFFICIO: Rebecca Ward, Planning Director; John Robertson, City Engineer; Mark Harrington, City Attorney; Becky Gutknecht, Public Improvements Engineer; Dave Thacker, Chief Building Official

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1. ROLL CALL

Chair Adam Strachan called the meeting to order at 5:00 p.m.

2. MINUTES APPROVAL

A. Consideration to Approve the Appeal Panel Meeting Minutes from April 30, 2024.

B. Consideration to Approve the Appeal Panel Meeting Minutes from May 6, 2024.

Chair Strachan reported that he was unable to review the minutes as he was under the impression that a meeting was not to be held tonight per an email received earlier in the day from Planning Director, Rebecca Ward.

MOTION: Adam Strachan moved to CONTINUE approval of the meeting minutes until the next meeting. The motion was seconded by Matthew Day. The motion passed with the unanimous consent of the Panel.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Director Ward apologized for the confusion and stated that there was a miscommunication from an applicant's representative earlier in the day who was not aware of the meeting. In an effort to ensure that the applicant had a fair opportunity to prepare, staff recommended the matter be continued. As the day progressed, they were able to obtain the correct phone number for a different applicant's representative who was available and present. Because staff was not able to reach the Appeal Panel Members until 30 minutes earlier and because of the time and to allow

PENDING APPROVAL

them and the Board to prepare, staff recommended the matter be continued to the earliest availability of the Panel. The other panel members agreed and were less prepared than they would have liked in order to proceed tonight.

5. REGULAR AGENDA

A. Appeal of 844 Empire Avenue Plate Amendment Final Action – The Appeal Panel will Review an Appeal of the Final Action Taken by the Planning Commission Denying a Plat Amendment to Remove a Plat Note for a Significant Historic Structure in the Historic Residential-1 Zoning District. PL-24-06100.

Chair Strachan opened the public hearing.

Laura Suesser wished to confirm that the Appeal Panel received the architectural drawings for the application. She did not believe they were part of the original packet and considered them to be important. She previously requested that Director Ward forward the architectural drawings to the Appeal Panel.

There were no further public comments. The public hearing was closed.

It was suggested that the Appeal Panel hear the request on June 17. It was likely to be combined with the other upcoming appeal. Director Ward stated that staff's intent was to conduct two hearings that evening.

The Appellant's legal counsel asked if the matter could be moved up since all of the evidence is already in the record and they are prepared. They do not want to wait one month since there are other approvals needed to move the project forward. He requested a meeting be held on Tuesday, May 28. Chair Strachan stated that this is only the fourth meeting of the Appeal Panel and they are still working through scheduling and other issues. It was reported by the Appellant's legal counsel that the staff member assigned to the matter was communicating with him and he was prepared and aware of tonight's meeting; however, that Planner is no longer employed by the City and there was internal miscommunication within the Planning Department.

Director Ward clarified that there are several applicant's representatives for this project and this morning, one of those applicant representatives was in the City Offices and was not aware of this meeting. As a result, staff worked to reach the applicant's counsel but the phone number provided in the email was not accurate. As a result, it took time to find the correct phone number. Because the original applicant's representative was unaware of this meeting and another was on vacation, staff was not able to solidify and confirm that there would be representation present at this meeting. For that reason, staff sent an email earlier in the day recommending that the meeting be continued.

A meeting was tentatively scheduled for June 3. Director Ward explained that tonight's meeting was publicly noticed as required. If the Appeal Panel continues the matter to June 3, further notice would not be needed. Matthew Day had a conflict but agreed to participate virtually. That was the preference of the Appellant's legal counsel.

MOTION: Chair Strachan moved to CONTINUE the matter to June 3, 2024, at 5:00 p.m. The motion was seconded by Esteban Nunez. The motion passed with the unanimous consent of the Panel.

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Chair Strachan opened the public hearing on matters not on the agenda.

Todd Godfrey reported that the noticing is fine because of the way the public hearing was opened and the meeting continued.

There were no further public comments. The public hearing was closed.

6. ADJOURNMENT

MOTION: Chair Strachan moved to ADJOURN. The motion was seconded by Esteban Nunez. The motion passed with the unanimous consent of the Panel.

The meeting adjourned at approximately 5:20 p.m.

PENDING APPROVAL

Appeal Panel
Staff Report

Subject: **844 Empire Avenue**
Application: **PL-24-06100**
Author: **Planning Team**
Date: **June 3, 2024**
Type of Item: **Appeal of Planning Commission Denial**

Recommendation

(I) Review the Appeal of the Planning Commission's April 10, 2024 denial of the 844 Empire Avenue Plat Amendment, (II) conduct a public hearing, and (III) affirm, reverse, or affirm in part and reverse in part the Planning Commission's denial and direct staff to prepare a Final Action letter accordingly.

Description

Applicant:	Todd Gilbert, Represented by Charles Pearlman, Hoggan Lee Hutchinson
Location:	844 Empire Avenue
Zoning District:	Historic Residential – 1 (HR – 1)
Adjacent Land Uses:	Residential, Public Right-of-Way
Reason for Review:	The Appeal Panel reviews appeals Final Action by the Planning Commission (LMC § 15-1-18).

DRC	Development Review Committee
HPB	Historic Preservation Board
HR – 1	Historic Residential - 1
LMC	Land Management Code

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § 15-15-1.

Summary

The Appellant owns 844 Empire Avenue, a Single-Family Dwelling designated a Significant Historic Site[1] on Park City's Historic Sites Inventory, located at the intersection of Empire Avenue, Crescent Tram Road, and the platted but unbuilt 9th Street Right-of-Way (public stairs). 844 Empire Avenue is Lot 1 of the 844 Empire Avenue Plat Amendment. The Appellant proposes the construction of an addition to the Significant Historic Structure with access from Crescent Tram. The 844 Empire Avenue Plat Note 3 requires "[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 Appellant requested the Planning Commission remove Plat Note 3 to allow for access to the property from Crescent Tram Road.

[1] LMC § 15-11-10(D)(2)(ad)

Figure 1: 1940s Tax Photograph of 844 Empire Avenue, looking southeast

Since the City Council adopted Ordinance No. 2016-26 approving the 844 Empire Avenue Plat Amendment in 2016, multiple changes have been made to Empire Avenue and the 9th Street Right-of-Way:

- In a September 20, 2022 Development Review Committee meeting, the Water Department raised concerns regarding the waterline and utility infrastructure that exists in the 9th Street Right-of-Way and stated the waterline could not sustain the weight of a vehicle passing over it.
- On October 6, 2022, the City Council approved a reduction of the speed limit from twenty-five miles per hour to twenty miles per hour (Minutes, p. 17).
- In 2024, the City completed construction of staircase improvements within the 9th Street Right-of-Way.

Figure 2: Vicinity Map showing Subject Property

Background

844 Empire Avenue previously included three parcels: one full Lot and two partial Lots, "all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyders Addition to the Park City Survey." The City Council adopted Ordinance No. 2016-26, approving the combination of the three parcels into one Lot and dedicating 932 square feet of Right-of-Way to the City along Crescent Tram Road. Ordinance No. 2016-26 Finding of Fact 15 states the Planning Director reviewed the site pursuant to LMC § 15-4-17 and determined the Lot is unusual and has three Front Lot Lines, one Side Lot Line, and one Rear Lot Line (see Figure 3).

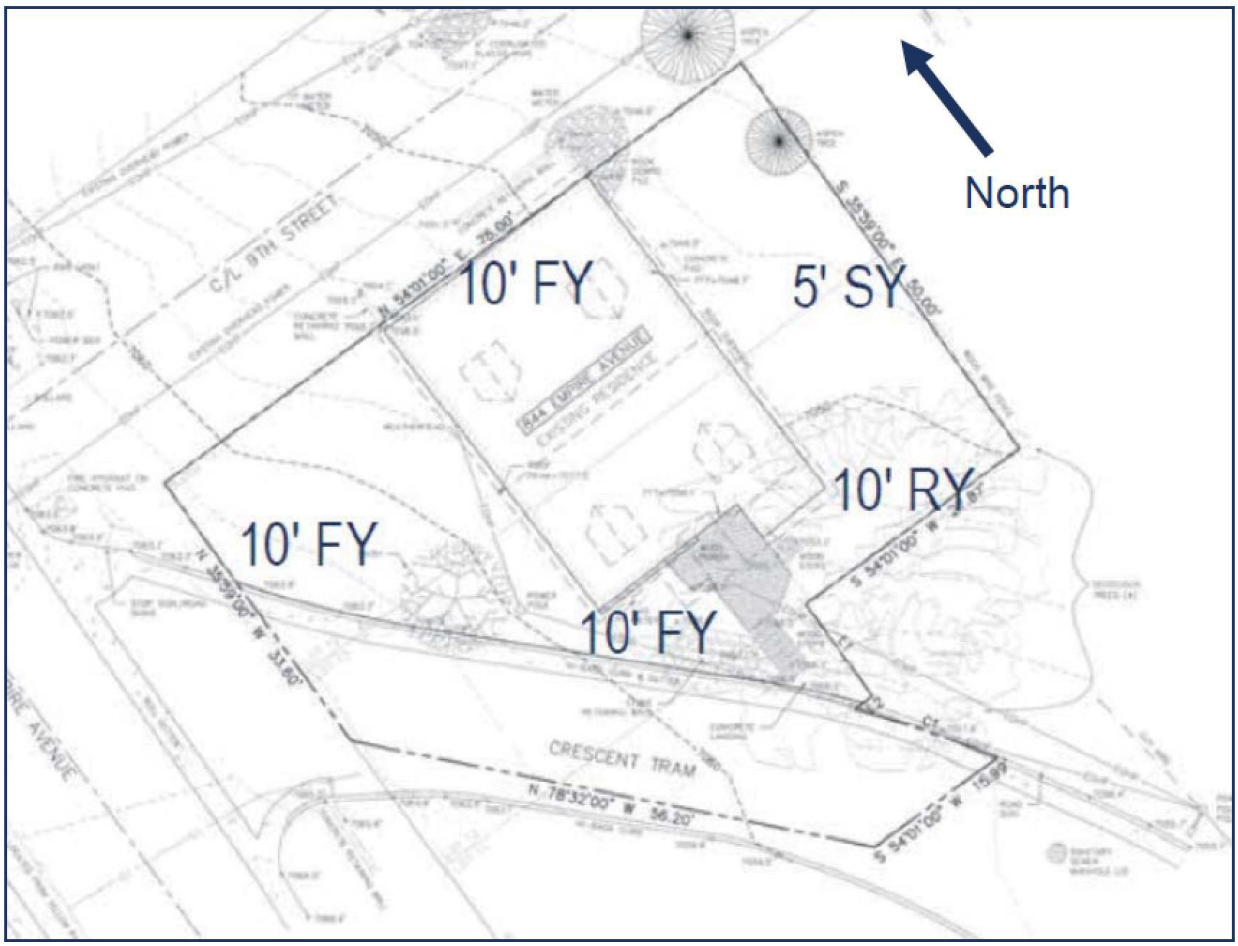

Figure 3: 2015 Planning Director Determination Diagram Showing Setbacks

In 2014, a fire damaged portions of the Historic Structure. On November 1, 2023, the Historic Preservation Board reviewed the Applicant's proposal for Material Deconstruction and Panelization of the Significant Historic Structure to facilitate the rehabilitation of the Structure and to accommodate an addition (Historic Preservation Board Packet, Item 5.C, Minutes, p. 6).

On February 7, 2024, the Historic Preservation Board conducted a site visit to evaluate the fire-damaged materials in advance of the Applicant's Material Deconstruction request later that evening. Following a public hearing, the Historic Preservation Board approved the proposed Material Deconstruction and Panelization

to facilitate the rehabilitation of the Significant Historic Structure and addition (Historic Preservation Board Packet, Item 6.A, Minutes, p. 3). The Findings of Fact made by the Historic Preservation Board as part of their approval may be found in the meeting minutes. The pending applicant plan is Exhibit B to the February 7, 2024 Staff Report.

On February 20, 2024, the Applicant submitted a Variance Application to permit the construction of the proposed detached garage within the northern and southern Front Setbacks. This application was continued following the Planning Commission denial.

On March 13, 2024, the Planning Commission conducted a public hearing and denied the Appellant's Plat Amendment application in a 4-2 decision (Planning Commission Packet, Item 7.B; Minutes, p. 13-23). The Planning Commission ratified the Final Action denial on April 10, 2024 (Planning Commission Packet, Item 6.B; Minutes, p. 5-9; Exhibit B). On April 22, 2024, the Appellant submitted an Appeal in accordance with LMC § 15-1-18.

Standard of Review

The Appeal Panel reviews appeals of Final Action on Plat Amendments taken by the Planning Commission pursuant to LMC § 15-1-8 and LMC § 15-1-18.

Per LMC § 15-1-18(G), the standard of review for Appeals is:

> "*The appeal authority shall act in a quasi-judicial manner. The appellant has the burden of proving that the land use authority erred. The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters. The appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.*"

Burden of Proof

The Appellant has the burden of proof to demonstrate the Planning Commission erred in denying the 844 Empire Avenue Plat Amendment (LMC § 15-1-18(G)).

When reviewing a Plat Amendment, the Planning Commission reviews the application for compliance with the Zoning District, underlying approvals, and Subdivision Procedures in LMC Chapter 15-7.1, including LMC § 15-7.1-6 *Final Subdivision Plat*.

LMC § 15-7.1-3(B) states that approval of a Plat Amendment 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.

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.

The question for the Appeal Panel is:

Did the Planning Commission incorrectly apply these standards to this application for a Plat Amendment?

Analysis

The Site is currently occupied by a Significant Historic Structure on which the Applicant proposes to construct an addition and detached garage. Pursuant to LMC § 15-2.2-4, existing Historic Structures that do not comply with Building Footprint, Building Height, Setbacks, Off-Street Parking, and driveway location standards are valid Non-Complying Structures. The northern wall of the existing house currently sits at the northern property line and is non-compliant with the required ten-foot Front Setback. The northern wall enclosed the historic front porch to provide additional bedroom space; the Applicant has proposed the restoration of the front porch in its existing location. The southern corner of the house is sited approximately four and a half feet from the southern front Lot Line. New construction, such as the proposed addition and detached garage, are required to comply with all applicable zoning requirements regardless of the proposed access to the property. The proposed removal of Plat Note 3 will not affect the proposal's compliance with Lot and Site Requirements as outlined in LMC Chapter 15-2.2.

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.

LMC § 15-15-1 defines *Good Cause* as "[p]roviding 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."

The Applicant also has a pending Historic District Design Review (HDDR) application, PL-22-05350, which was reviewed by the Development Review Committee (DRC) on September 20, 2022. During this review, the Park City Engineering and Water Departments expressed concern regarding the initial proposed access to the property from the unbuilt 9th Street public Right-of-Way. The Engineering Department outlined problems with Clear View requirements and distances between driveways and street intersections. The Water Department pointed out the presence of a water line in the 9th Street Right-of-Way that would not support the weight of vehicular access. The Applicant revised the proposed orientation and access of the detached garage in

response to these comments.

The HDDR was again reviewed by the DRC on September 5, 2023, where the Engineering and Water Departments acknowledged the changes the Applicant made in response to the prior comments. The DRC also noticed Plat Note 3 required access from Empire Avenue or the 9th Street Right-of-Way, which had been determined to be a non-viable option previously with Engineering and Water Department recommendation the Applicant amend the Plat to remove this note.

Right-of-Way along Crescent Tram Road and a snow storage easement were dedicated to the City as part of Ordinance No. 2016-26 and the prior Plat Amendment for this Site. These dedications are not impacted or vacated by the removal of Plat Note 3. The proposed construction of the garage would also provide one off-street parking space along a narrow and steep Right-of-Way, further improving public health, safety, and welfare.

As stated above, on February 7, 2024, the Historic Preservation Board conducted a site visit, conducted a public hearing, and approved the proposed Material Deconstruction and Panelization to facilitate the rehabilitation of the Significant Historic Structure and addition (Staff Report; Minutes, p. 3). The Findings of Fact made by the Historic Preservation Board as part of this approval may be found in the meeting minutes.

On March 13, 2024, the Planning Commission conducted a public hearing and denied the Appellant's Plat Amendment application. The Planning Commission made the following findings to support the denial:

(I) Finding of Fact 22(a) - No relevant facts have changed since the 2016 Findings of Fact were adopted by the Planning Commission and no changes have been made to Crescent Tram Road to justify different conclusions.
(II) Finding of Fact 22(b) - The proposal does not preserve the present Land Use because there is no off-street parking on the property and the historic structure is exempt from off-street parking requirements in accordance with LMC § 15-2.2-4 and on-street parking has historically been used.
(III) Finding of Fact 22(c) - The proposal does not contribute to the character or scale of the Historic District by adding a driveway where previously prohibited.
(IV) Finding of Fact 22(d) - The proposal is not consistent with the General Plan's policy of reducing parking and encouraging walkability.
(V) Finding of Fact 22(e) - The proposal creates actual Clear View sight lines or safe turning distances between driveways and intersections, despite meeting Chapter 15-3 *Off-Street Parking* of the Land Management Code.
(VI) Finding of Fact 22(f) - The proposal does not comply with LMC Chapter 15-7 *Subdivision General Provisions*.
(VII) Finding of Fact 22(g) - The proposal directly adversely affects the health, safety, and welfare of the citizens of Park City.
(VIII) The Planning Commission did not find Good Cause as required by LMC § 15-7.1-6.

(I) The Appeal Panel should determine whether the Planning Commission erred in applying the requirements for Plat Amendments pursuant to LMC § 15-7.1-6 *Final Subdivision Plat* and denying the 844 Empire Avenue Plat Amendment.

The Appellant argues that the Findings of Fact made by the Planning Commission are incorrect and therefore, the denial of the Plat Amendment should be reversed. First, the Appellant states Finding of Fact 22(a) is incorrect and that relevant facts have changed to justify different conclusions such as the construction of the public stairs in the 9th Street public Right-of-Way, the reduction in speed on Crescent Tram Road, and the professional finding of the City Engineer supporting access to the Site from Crescent Tram Road. The Appellant also asserts the prior City Engineer did not provide findings justifying barring vehicle access from Crescent Tram Road, which is confirmed in the Minutes from the May 11, 2016 Planning Commission meeting (see Exhibit P, page 4).

Next, the Appellant states Finding of Fact 22(b) is also incorrect. The Planning Commission found the proposed Plat Amendment would not preserve the present Land Use. A Site's *Use* is a defined term in LMC § 15-15-1 as "[t]he purpose or purposes for which land or Structures are occupied, maintained, arranged, designed, or intended." The property's Use is a Single-Family Dwelling; vehicular access to the site would not change the overall Use of the property since it would provide Off-Street Parking for the use of the homeowners.

Third, the Appellant states the provisions listed under the "Purpose" section of the Historic Residential – 1 (HR – 1) Zoning District are not supposed to be applied as standards themselves; instead, the subsequent sections and subsections in Chapter 15-2.2 are where the applicable standards are located. The finding made by the Planning Commission under Finding of Fact 22(c) is that the proposal does not "contribute to the character or scale of the Historic District by adding a driveway where previously prohibited." Chapter 15-13 of the Land Management Code outlines the Regulations for Historic Districts and Historic Sites ("Regulations") which are utilized in the development of historically-compatible construction in the Historic Districts. Driveways are neither prohibited nor discouraged in the Regulations.

The Appellant further asserts that the homeowner is undergoing a Historic District Review (HDR) wherein the project will be required to comply with the Regulations prior to submitting for a building permit. Planning Staff reviews all HDR applications for compliance with the Regulations to ensure any development in the Historic Districts is compatible and will not negatively affect historic materials and/or the character of the District or Streetscape. Specifically, standards for new driveways are outlined within the Regulations to ensure the installation of compatible vehicular access. Further, structures designated on the Historic Sites Inventory are also required to provide a Financial Guarantee to ensure compliance with the Historic Preservation Plan pursuant to LMC § 15-11-9 *Preservation Policy*.

Fourth, the Appellant claims Finding of Fact 22(d) is incorrect because consistency with the General Plan's policy of reducing parking and encouraging walkability is also

outlined under the *Purpose* section of the Historic Residential – 1 (HR – 1) Zoning District. As stated previously, these purpose statements are intended to provide context for the subsequent standards outlined in the chapter, not to establish requirements on their own.

Next, the Appellant states Finding of Fact 22(e) is incorrect and that the proposed driveway on Crescent Tram Road is compliant with the Clear View requirements as well as the minimum distances required between driveways and intersections adopted in LMC § 15-3-3(H)(1). The Applicant asserts the Planning Commission does not have the authority to determine whether there are "actual Clear View sight lines or safe turning distances" outside of the standards adopted in the Land Management Code. The minimum distance required between driveways and intersections as listed in LMC § 15-3-3(H)(1) is ten feet (10'); the proposed driveway on Crescent Tram Road is forty feet (40') from the intersection of Crescent Tram Road and Empire Avenue.

Further, the Appellant points out the Chapter of the Land Management Code referenced in Finding of Fact 22(f) (Chapter 15-7 *Subdivision General Provisions*) provides no standards for a proposed structure or development to meet and therefore the Appellant states the proposed Plat Amendment cannot possibly violate these provisions. Chapter 15-7 outlines the purpose, authority, and processes for subdivisions and plats but does not define the standards these plats must comply with. The criteria set forth for the review of Plat Amendments are listed in LMC Chapter 15-7.1 *Subdivision Procedures*.

Lastly, the Appellant argues that installing a driveway on Crescent Tram would provide Off-Street parking for the benefit of the homeowner and remove a vehicle from the on-street parking provided along Empire Avenue. The Appellant opines that parking, driving, and reversing along Empire Avenue, particularly during inclement weather, poses a greater risk to public health, safety, and welfare than the proposed driveway. As noted in the March 13, 2024 Planning Commission Staff Report (Exhibit E), the City Engineer determined access on Crescent Tram Road is safe and does not pose a risk to public safety.

Department Review

The Planning Department and City Attorney's Office reviewed this report.

Notice

Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on May 3, 2024. Staff mailed courtesy notice to property owners within 300 feet on May 6, 2024. The *Park Record* published courtesy notice on May 4, 2024.

Public Input

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

Alternatives

- The Appeal Panel may deny the Appeal and affirm the Planning Commission's denial of the 844 Empire Avenue Plat Amendment and direct staff to prepare a Final Action letter accordingly.
- The Appeal Panel may grant the Appeal and reverse the Planning Commission's denial of the 844 Empire Avenue Plat Amendment, and direct staff to prepare a Final Action letter accordingly.
- The Appeal Panel may grant the Appeal in part, deny in part, affirm in part, and reverse in part the Planning Commission's denial of the 844 Empire Avenue Plat Amendment and direct staff to draft a Final Action Letter.
- The Appeal Panel may grant the Appeal in part, deny in part, deny in part, affirm in part, and reverse in part the Planning Commission's denial of the 844 Empire Avenue Plat Amendment, direct staff to draft a Final Action Letter, and remand to the Planning Commission for further consideration on specific criteria.
- The Appeal Panel may continue the appeal to a date certain and request additional information.

Exhibits

Exhibit A: Appellant's Submittal
Exhibit B: April 10, 2024 Planning Commission Final Action Letter
Exhibit C: April 10, 2024 Planning Commission Staff Report
Exhibit D: April 10, 2024 Planning Commission Meeting Minutes
Exhibit E: March 13, 2024 Planning Commission Staff Report
Exhibit F: March 13, 2024 Planning Commission Meeting Minutes
Exhibit G: Ordinance 2016-26
Exhibit H: 844 Empire Avenue Plat Amendment Final Action Letter (September 2016)
Exhibit I: June 2, 2016 City Council Staff Report
Exhibit J: June 2, 2016 City Council Minutes
Exhibit K: March 23, 2016 Planning Commission Staff Report
Exhibit L: March 23, 2016 Planning Commission Minutes
Exhibit M: April 13, 2016 Planning Commission Staff Report
Exhibit N: April 13, 2016 Planning Commission Minutes
Exhibit O: May 11, 2016 Planning Commission Staff Report
Exhibit P: May 11, 2016 Planning Commission Minutes

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PARK CITY
PLANNING DEPT.

April 20, 2024

VIA EMAIL

Park City Appeal Panel
Michelle Kellogg, City Recorder
michelle.kellogg@parkcity.org
PO Box 1480
Park City, Utah 84060

Re: Petition to Appeal the Denial of the Plat Amendment Application for 844 Empire Ave. Denied at the April 10, 2024 Planning Commission Meeting

Dear Panelists,

Todd Gilbert (the "Appellant"), the Applicant for Plat Amendment application # PL-24-06049, files this petition to appeal the denial of the Plat Amendment by the Planning Commission.

BACKGROUND

On April 10, 2024, the Planning Commission approved a Final Action Letter with Findings of Fact and Conclusions of Law denying the 844 Empire Avenue Plat Amendment application. The Plat Amendment application sought to remove Plat Note 3 from the 844 Empire Avenue Amended Plat. Plat Note 3 currently requires any driveway access to 844 Empire Avenue to be from Empire Avenue or through platted unbuilt 9th Street. The goal of the Plat Amendment application was to allow the Appellant to access his property from Crescent Tram Road, as access through Empire Avenue or through 9th Street is less feasible due to underground utilities.

The implementation of Plat Note 3 was the result of negotiations between Mr. Gilbert and the City back in 2016. In 2016, Mr. Gilbert was seeking approvals so he could renovate the 844 Empire property to use as a family home. The City Engineer at the time thought access should be from Empire instead of Crescent Tram because he deemed access from Crescent Tram unsafe. After many discussions with City staff, Mr. Gilbert agreed to dedicate a portion of the 844 Empire property and the City agreed to let him access his property through the 9th street right-of-way. Thus, Plat Note 3 was added.

Despite having just agreed to let Mr. Gilbert access his property through the 9th Street Right-of-Way in May 2016, over that summer the City added and/or modified the utility improvements in the right-of-way which rendered it unable to handle the weight of a car driving over it regularly. In other words, at the same time the City pushed to have Mr. Gilbert's access to his property limited

by plat note, the City was planning utility modifications that the City knew or should have known would prevent Mr. Gilbert from building a driveway in the negotiated location. Instead of receiving the agreed upon alternative access to his property, Mr. Gilbert was effectively stripped of all vehicular access to his property.

Recently, as Mr. Gilbert reengaged with the City to proceed with a renovation and addition to the home on the property, he was informed that it was no longer possible to access the property via the negotiated route. Upon learning this, Mr. Gilbert immediately began working through the process with the City to have Plat Note 3 removed. City staff worked diligently to determine if the proposed plan for driveway access from Crescent Tram was safe and complied with code. Unlike in 2016 when the prior City Engineer refused to approve driveway access of Crescent Tram without any research or data underlying the decision, the current City Engineer conducted a traffic study and determined that driveway access off Crescent Tram would be safe and that he supports the proposal. Likewise, planning staff reviewed the application and determined that the plan complies with the necessary Land Management Code ("LMC") provisions.[1]

Despite the positive determinations from the City's own highly qualified professionals, the Planning Commission voted against approving the Plat Amendment on March 13th. Then, on April 10th, the Planning Commission approved a Final Action Letter formally denying the application. The Final Action Letter, however, contains Findings of Fact and Conclusions of Law that are patently incorrect. That is the basis of this appeal.

STANDARD OF REVIEW

Park City LMC § 15-1-18G instructs that the Appeal Panel "shall act in a quasi-judicial manner." "The appeal authority shall review factual matters de novo, without deference to the land use authority's determination of factual matters." And "[t]he appeal authority shall determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations, and interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." Finally, the Appeal Panel's review is not limited to the record below; rather, "[n]ew evidence may be received so long as it relates to the scope of the appeal."

ARGUMENT

The Appeal Panel should reverse the Planning Commission's decision to deny the Plat Amendment because the Findings of Fact pertaining to LMC compliance and both of the Conclusions of Law are incorrect.

Starting with Finding of Fact 22(a) ("No relevant facts have changed since the 2016 Findings of Facts were adopted by the Planning Commission and no changes have been made to the Crescent Tram Road to justify different conclusions."), there are several issues. Relevant facts have changed, and changes have been made to Crescent Tram Road that justify different conclusions.

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[1] *See,* Exhibit A, Planning Commission Staff Report (March 13, 2024).

First, the most important fact to change is that the City took away the only alternative driveway option for Mr. Gilbert as the City is saying that both Empire Avenue and 9th Street vehicular access is no longer an option. Another change to the relevant facts is that access off Crescent Tram Road is now supported by the City Engineer. The 2016 Findings of Facts state that "[t]he City Engineer is not willing to support vehicular access directly off Crescent Tram."[2] There is no evidence in the record that this was based on any study conducted. It was merely the prior City Engineer's unsupported opinion that it was unsafe. Today, the current City Engineer, who studied the traffic at the location, has concluded that access off Crescent Tram is safe and supports the Plat Amendment. This fact is certainly relevant since the justification for Plat Note 3 was entirely the prior City Engineer's unsupported opinion. Regarding changes to Crescent Tram Road, the speed limit on this road was lowered by 5 mph in 2022. While that may seem like a small amount, that is a reduction of 25%. This change makes the possibility of an accident occurring while pulling out of the proposed driveway significantly less likely. Thus, Finding of Fact 22(a) is incorrect.

Finding of Fact 22(b) is also incorrect. It says that "[t]he proposal does not preserve the present Land Use because there is no off-street parking on the property and the historic structure is exempt from off-street parking in accordance with LMC § 15-2.2-4 and on-street parking has historically been used[.]" This Finding of Fact was based on Commissioner Suesser's assertion in the March 13 Planning Commission meeting that she did not believe the proposal complied with LMC § 15-2.2-1(a).[3] This, however, misconstrues the word "Uses" in LMC § 15-2.2-1(A). LMC § 15-2.2-1(A) says one of the purposes of the HR-1 District is to "preserve present land Uses and character of the Historic residential Areas of Park City[.]" The LMC defines "Use" as "The purpose or purposes for which land or Structures are occupied, maintained, arranged, designed, or intended."[4] Each zoning district in the LMC has a list of allowed and conditional Uses for the district. The meaning of "Uses" in LMC § 15-2.2-1(A) is the Use in LMC § 15-2.2 (the provision that lists the allowed and conditional uses for the HR-1 District) that a property in the HR-1 District has been used as prior to an application. Here, the Use has always been "Single Family Dwelling"[5] and would still be upon approval of the Plat Amendment "Single Family Dwelling." Taking LMC § 15-2.2-1(A) as the Planning Commission has here, directly contradicts the City's historic application of this provision and, ultimately, would mean that any new type of amenity on a property in the HR-1 District that was not there before would violate this section. If the City were to proceed with this interpretation going forward, historic structures in HR-1 would not be permitted under the LMC to have a driveway or garage if they do not have one currently. Further, the many driveways and garages added to historic homes in HR-1 over the years would have been in violation of the LMC. Continuing with this interpretation, here, would deviate wildly from historic practice and set an absurd precedent. Finding of Fact 22(b), is, therefore, incorrect.

Next, Finding of Fact 22(c) is incorrect. Finding of Fact 22(c) reads: "The proposal does not contribute to the character or scale of the Historic District by adding a driveway where previously prohibited[.]" This Finding of Fact was likewise based on an assertion by Commissioner Suesser during the March 13 Planning Commission meeting. She said that she did not believe the proposal

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[2] Exhibit B, Planning Commission Staff Report (May 11, 2016).
[3] Exhibit C, Minutes from March 13, Planning Commission Meeting, at 21.
[4] LMC § 15-15-1.
[5] *See* LMC § 15-2.2-2(A).

complied with LMC § 15-2.2-1(C).[6] That provision says that another of the purposes of the HR-1 District is to "encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods[.]" The Finding of Fact here is incorrect for several reasons. First, this provision and the rest of LMC § 15-2.2-1 (including (A) discussed above) are not supposed to be applied as independent standards that an application is supposed to meet. LMC § 15-2.2-1 is supposed to outline the purpose of the HR-1 District to guide interpretations of the rest of the HR-1 District provisions. The code sections themselves are supposed to further this purpose. Assuming the code sections were drafted to successfully serve these purposes, compliance with the other code sections should result in a structure that "contribute[s] to the character and scale of the Historic District[.]" If a proposed structure complies with LMC §§ 15-2.2-2 – 15-2.2-12 but does not comply with LMC § 15-2.2-1(C), then the code was not properly drafted to serve its stated purposes. If that is the case, however, an applicant should not be punished for code's flaws.

Even if LMC § 15-2.2-1(C) were to be treated as an individual requirement for each proposed project, the proposed structure will meet those requirements. This project is going through the Historic District Design Review (HDDR) process. That process will result in a design that indisputably contributes to the character of the Historic District. Further, the structure will comply with the building footprint limit and the height limits for the HR-1 District which are intended to ensure structures do not exceed the appropriate scale for the Historic District. Adding a driveway does not automatically make a proposed structure somehow not contribute to the character and scale of the Historic District. If so, the many other driveways that have been added to historic structures in the HR-1 District did not comply with the LMC and should not have been approved. Once again, that would be an absurd precedent that goes against historic practice. There is nothing in the record that supports this Finding of Fact even if this provision does directly apply. Thus, Finding of Fact 22(c) is incorrect.

Further, Finding of Fact 22(d) is incorrect. Finding of Fact 22(d) reads: "The proposal is not consistent with the General Plan's policy of reducing parking and encouraging walkability[.]" This Finding of Fact was, once again, based on an assertion by Commissioner Suesser during the March 13 Planning Commission meeting.[7] She said that she did not believe the proposal complied with LMC § 15-2.2-1(D). Like the above referenced LMC sections, this one is also part of the list of purposes of the HR-1 District. The purpose listed here is to "define Development parameters that are consistent with the General Plan policies for the Historic core[.]" As above, this code provision is not supposed to be applied to individual applications but rather, to the entirety of LMC chapter 15-2.2. Finding of Fact 22(d) is, therefore, also incorrect.

Finding of Fact 22(e) is, likewise, incorrect. It says: "The proposal does[n't][8] create actual Clear View sight lines or safe turning distances between driveways and intersections, despite meeting Chapter 15-3 Off-Street Parking of the Land Management Code[.]" The incorrectness of this Finding of Fact is apparent on its face. The Planning Commission is saying that despite it having been officially determined by the Planning Department and City Engineer that the proposed driveway complies with the Clear View requirements of the LMC, under their personal opinions

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[6] Exhibit C, at 21.

[7] *Id.*

[8] Based on the Planning Commission discussion of the Final Action Letter, this was meant to say doesn't.

there are not Clear Views. There are in fact, however, actual Clear View sight lines and safe turning distances under the LMC standards. The Planning Commission does not have the authority to determine whether there are "actual Clear View sight lines or safe turning distances" under any standard other than the standards in the LMC which, as they state in the Finding of Fact, the proposal meets. Therefore, Finding of Fact 22(e) is incorrect.

Finding of Fact 22(f) is incorrect as well. It reads: "The proposal does not comply with LMC Chapter 15-7 *Subdivision General Provisions*[.]" This was stated by Commissioner Suesser at the March 13 Planning Commission as well.[9] She, however, failed to state in what way it did not comply. The proposed Plat Amendment does not violate this chapter because there is no possible way for an applicant to violate this chapter. The chapter provides no standards for a proposed structure or development to meet. Perhaps Commissioner Suesser mistakenly cited the wrong LMC chapter when she stated that she found the Plat Amendment to violate this chapter, but this chapter could not have possibly been violated. As this is the official Finding of Fact, and it could not possibly be correct, Finding of Fact 22(f) is incorrect.

Finally, the last Finding of Fact 22(g) is incorrect. It is: "The proposal directly adversely affects the health, safety, and welfare of the citizens of Park City." This finding is not supported by the record. The City Engineer found the proposed driveway off Crescent Tram to be safe. While it is unclear why the Planning Commission chose to ignore the expert employed by the City to make determinations about the safety of proposed projects such as this, what is clear is that the greater adverse effect to the health, safety, and welfare is preventing this property from having off-street parking. The only alternative to having parking on the property is street parking on Empire Avenue. Empire Avenue, however, already has problems with too many cars parked on the street during the winter. Cars parked along Empire Avenue during snowstorms result in only a strip out of the middle of the road being plowed. As snow accumulates throughout the winter, this results in essentially a single lane for two directions of traffic surrounded by large snowbanks. Frequently, two cars heading opposite directions meet where there is no room to pass and one of the cars is forced to backup hundreds of feet in low visibility and with little traction. This street is also frequented by pedestrians travelling between lodging at the PCMR base area and Main Street creating further congestion and potential for a fatal accident during a storm. In short, failure to approve the Plat Amendment has a greater adverse effect on the health, safety, and welfare of the citizens of Park City. Therefore, the net effect of approving the Plat Amendment is a positive one rather than adverse one, and Finding of Fact 22(g) is incorrect.

Just as the substantive Findings of Fact were all incorrect, so were the Conclusions of Law. The Conclusions of Law are related to those Findings of Fact and similarly unsupported by the record. Conclusion of Law (1) says that "[t]here is not Good Cause for the Plat Amendment to remove Plat Note 3 requiring driveway access from Empire Avenue" and Conclusion of Law (2) states that "[t]he Plat Amendment is not consistent with Land Management Code § 15-7.1-3(B), § 15-7.1-6, and Chapter 15-2.2 Historic Residential – 1 Zoning District." The first two LMC sections cited in Conclusion of Law (2) are the provisions that require the Planning Commission to find Good Cause. The Planning Commission is saying that the proposal does not meet LMC §§ 15-7.1-3(B) and 15-7.1-6 because they did not find Good Cause. There is, however, Good Cause for this Plat Amendment.

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[9] Exhibit C, at 21.

CONCLUSION

Based on the foregoing, we respectfully request that you reverse the Planning Commission's decision on applications # PL-24-06049. Thank you for your consideration in this matter. Please feel free to contact us if you have any questions.

Very Truly Yours,
HOGGAN LEE HUTCHINSON

Charles Pearlman

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Planning Department

April 10, 2024

Alliance Engineering, Inc.
Attn: Marshall King
844 Empire Avenue
Park City, UT 84060

CC: Todd Gilbert

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	844 Empire Avenue
Zoning District:	Historic Residential – 1 (HR – 1)
Application:	Plat Amendment
Project Number:	PL-24-06049
Action:	DENIED
Date of Final Action:	April 10, 2024
Project Summary:	The Applicant proposed removing Plat Note 3 from the 844 Empire Avenue Amended Plat which restricts vehicle access to the Site from Empire Avenue.

Action Taken

On March 13, 2024, the Planning Commission conducted a public hearing and denied the “844 Empire Avenue Plat Amendment – Lot 1 Amended” according to the following findings of fact and conclusions of law:

Findings of Fact

1. The property is located at 844 Empire Avenue in the Historic Residential – 1 (HR – 1) Zoning District.
2. 844 Empire Avenue is a Significant Historic Site on the Park City Historic Sites Inventory.
3. There is no vehicular access to the Site.

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4. Pedestrian access to the site is from Empire Avenue, the 9th Street Right-of-Way through use of the public stairs, or Crescent Tram Road.
5. On August 11, 2023, the Applicant submitted a Historic District Design Review application to construct an addition to the Significant Historic Structure and a detached garage.
6. On August 11, 2023, the Staff determined the application was complete.
7. The site is Lot 1 of the 844 Empire Avenue Plat Amendment.
8. On June 2, 2016, the City Council adopted Ordinance No. 2016-26, approving the 844 Empire Avenue Plat Amendment.
9. Ordinance No. 2016-26 Condition of Approval 5 requires driveway access to the site to be from Empire Avenue in a location approved by the City Engineer. Condition of Approval 5 was recorded as Plat Note 3 on the Amended Plat.
10. On September 20, 2022, the Development Review Committee identified concerns regarding proposed vehicular access on Empire Avenue and impact to water lines, Clear View Areas, and distances between driveways and street intersections.
11. Land Management Code Section 15-3-3(H)(2) allows for a minimum spacing of 7.5 feet between driveways in Historic Districts with ten feet minimum spacing from intersections.
12. The Applicant revised the proposal to reflect these comments and to shift vehicle access to Crescent Tram Road 20 feet from the intersection and approximately 50 feet from the nearest driveway.
13. On September 5, 2023, the Development Review Committee noted that Plat Note 3 would need to be removed to accommodate the proposed shift of the vehicle access from Empire Avenue to Crescent Tram Road.
14. On February 14, 2024, the Applicant submitted a Plat Amendment application to the Planning Department. On February 14, 2024, the Staff determined the application was complete.
15. A Single-Family Dwelling is an allowed use in the HR - 1 Zoning District.
16. Land Management Code Section 15-13-6 requires two Off-Street Parking Spaces for a Single-Family Dwelling. 844 Empire Avenue does not have Off-Street Parking. Pursuant to Land Management Code § 15-2.1-4, the Significant Historic Site is exempt from Off-Street Parking requirements.
17. The Development Review Committee reviewed the Plat Amendment and proposed access from Crescent Tram Road on February 20, 2024.

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18. The Development Review Committee determined the Applicant's proposal avoided impacts to significant utility lines.
19. On February 24, 2024, the *Park Record* published a courtesy notice of the Planning Commission's March 13, 2024 public hearing on the Plat Amendment.
20. On February 28, 2024, staff published notice of the March 13, 2024 Planning Commission review of the Plat Amendment and public hearing on the City's website and the Utah Public Notice website and posted notice to the property.
21. On February 28, 2024, staff mailed courtesy notice to property owners within 300 feet, providing information on the March 13, 2024 Planning Commission public hearing.
22. On March 13, 2024, the Planning Commission conducted a public hearing and directed staff to make findings for denial of removing Plat Note 3 from the 844 Empire Avenue Amended Plat:
    a. No relevant facts have changed since the 2016 Findings of Facts were adopted by the Planning Commission and no changes have been made to the Cresent Tram Road to justify different conclusions.
    b. The proposal does not preserve the present Land Use because there is no off-street parking on the property and the historic structure is exempt from off-street parking in accordance with LMC § 15-2.2-4 and on-street parking has historically been used;
    c. The proposal does not contribute to the character or scale of the Historic District by adding a driveway where previously prohibited;
    d. The proposal is not consistent with the General Plan's policy of reducing parking and encouraging walkability;
    e. The proposal does create actual Clear View sight lines or safe turning distances between driveways and intersections, despite meeting Chapter 15-3 *Off-Street Parking* of the Land Management Code;
    f. The proposal does not comply with LMC Chapter 15-7 *Subdivision General Provisions*; and
    g. The proposal directly adversely affects the health, safety, and welfare of the citizens of Park City.

Conclusions of Law

1. There is not Good Cause for the Plat Amendment to remove Plat Note 3 requiring driveway access from Empire Avenue.
2. The Plat Amendment is not consistent with Land Management Code § 15-7.1-3(B), § 15-7.1-6, and Chapter 15-2.2 *Historic Residential – 1 Zoning District*.

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Planning Department

If you have questions or concerns regarding this Final Action Letter, please call (435) 615-5063 or email caitlyn.tubbs@parkcity.org.

Sincerely,

DocuSigned by:
Sarah Hall – Planning Commission Chair 4/10/2024
0449CF71C9B8468...
Sarah Hall
Planning Commission Chair

CC: Caitlyn Tubbs, Senior Historic Preservation Planner

ATTACHMENT
Attachment 1: Proposed Plat

Planning Commission
Staff Report

Subject: 844 Empire Avenue
Application: PL-24-06049
Author: Caitlyn Tubbs, Senior Historic Planner
Date: April 10, 2024
Type of Item: Plat Amendment

Recommendation

(I) Review the draft Final Action Letter with Findings of Fact and Conclusions of Law Denying the 844 Empire Avenue Plat Amendment application (PL-24-06049) as directed by the Planning Commission following a public hearing on March 13, 2024, and (II) consider ratifying the Final Action Letter (Exhibit A).

Description

Applicant:	Todd Gilbert, represented by Marshall King (Alliance Engineering)
Location:	844 Empire Avenue
Zoning District:	Historic Residential – 1
Adjacent Land Uses:	Residential, City Right-of-Way
Reason for Review:	Plat Amendments are initially reviewed by staff and submitted to the Planning Commission for Final Action (LMC § 15-1-8).

Summary

The Applicant owns 844 Empire Avenue, a designated Significant Historic Site[1] on Park City's Historic Sites Inventory, located at the intersection of Empire Avenue, Crescent Tram Road, and the platted but unbuilt 9th Street Right-of-Way (public stairs). The Applicant proposed the construction of an addition to the western side of the Significant Historic Structure with a detached garage alongside Empire Avenue and vehicle access from Crescent Tram Road.

The 844 Empire Avenue Amended Plat Note 3 requires access from Empire Avenue. The Applicant proposed removing this Plat Note to allow access from Crescent Tram. On March 13, 2024, the Planning Commission conducted a public hearing and did not find Good Cause to remove Plat Note 3 based upon the following findings:

a. No relevant facts have changed since the 2016 Findings of Facts were adopted by the Planning Commission and no changes have been made to the Cresent Tram Road to justify different conclusions.
b. The proposal does not preserve the present Land Use because there is no off-site parking on the property and the historic structure is exempt from

[1] LMC § 15-11-10(D)(2)(ad)

off-street parking in accordance with LMC § 15-2.2-4 and on-street parking has historically been used;

c. The proposal does not contribute to the character or scale of the Historic District by adding a driveway where previously prohibited;
d. The proposal is not consistent with the General Plan's policy of reducing parking and encouraging walkability;
e. The proposal does create actual Clear View sight lines or safe turning distances between driveways and intersections, despite meeting Chapter 15-3 *Off-Street Parking* of the Land Management Code;
f. The proposal does not comply with LMC Chapter 15-7 *Subdivision General Provisions*; and
g. The proposal directly adversely affects the health, safety, and welfare of the citizens of Park City.

The Planning Commission directed Staff to return with a draft Final Action Letter denying the plat amendment application on April 10, 2024 (Staff Report; Audio).

Exhibits

Exhibit A: Draft Final Action Letter
Exhibit B: Applicant's Narrative
Exhibit C: 844 Empire Avenue Amended Plat (Currently Recorded)
Exhibit D: Ordinance 2016-26
Exhibit E: 844 Empire Avenue Amended Plat (Proposed)
Exhibit F: May 11, 2016 Planning Commission Staff Report
Exhibit G: April 13, 2016 Planning Commission Minutes
Exhibit H: May 11, 2016 Planning Commission Minutes
Exhibit I: June 2, 2016 City Council Minutes

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 10, 2024

COMMISSIONERS IN ATTENDANCE: Chair Sarah Hall, Vice Chair Christin Van Dine, Laura Suesser, 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; Dave Gustafson, Project Manager, Engineering Department; Tim Sanderson, Transportation Director; Sara-Rush Mabry, Public Works Administrator; Mark Harrington, City Attorney

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1. ROLL CALL

Chair Sarah Hall called the meeting to order at approximately 5:30 p.m. She announced that Commissioner Johnson was absent, however had indicated he might join later. She confirmed that the remaining Commissioners were all present.

Commissioner Suesser reported that Commissioner Johnson was attending a conference with his son, and had a poor connection; therefore he would likely be unable to join this meeting.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from March 13, 2024.

MOTION: Commissioner Suesser moved to APPROVE the Planning Commission Meeting Minutes from March 13, 2024. Commissioner Christin Van Dine seconded the motion.

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

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Rebecca Ward reminded the public that when making public comments, they should state their full name and sign in. Comments were limited to three minutes or less and should be directed to the Commission. She reminded speakers to be civil in making their comments.

4. PUBLIC COMMUNICATIONS

There were no public communications.

Approved 04.24.2024

5. CONTINUATIONS

A. 1115 Aerie Drive – Conditional Use Permit -- The Appeal Panel Granted an Appeal in Part and Remanded to the Planning Commission an Appeal in Part of the Planning Commission's July 13, 2022 Denial of a Conditional Use Permit to Construct a Private Recreational Facility at 1115 Aerie Drive. PL-21-05101 (A) Public Hearing; (B) Continue to April 24, 2024

Chair Hall stated there would be no presentation on this item but invited comments from anyone online or in chambers who wished to speak. There were no public comments.

MOTION: Commissioner Suesser moved to CONTINUE 1115 Aerie Drive – Conditional Use Permit, and the public hearing thereon to April 24, 2024. Commissioner Van Dine seconded the motion.

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

6. REGULAR AGENDA

A. 2436 Park Avenue (Park City Peaks Hotel) – The Planning Commission will Review an Updated Parking Demand Study for the Peaks Hotel as Required by the Planning Commission's Conditional Use Permit Approval Dated July 26, 2023. PL-23-05669.

City Planner, Spencer Cawley, explained this was a one-year follow-up of the Park City Peaks Hotel Conditional Use Permit ("CUP") that was approved in July 2023. He noted the applicant's representative, Sean Rayner, was present to answer any questions. Planner Cawley advised that in 2022, the Planning Commission reviewed a CUP for a courtyard tent and Versante on the Lawn. One of the Conditions of Approval was a one-year follow-up to review the mitigation and traffic concerns around Versante. He reminded that when this came back for review in July 2023, the proposal had changed because Versante had discontinued and the review addressed only the courtyard tent.

As part of the approval, the applicant was allowed to install the tent in the summer and the winter. The summer period is the last week of May to the first week of October for private, invite-only events. The winter period runs from the last week in November to the second week of April and was for the use of hotel guests.

Planner Cawley reported that each installation of the tent required an operational or fire permit and an inspection by the City's Fire Marshall. He noted that in the Conditions of Approval from July 2023, the applicant was required to provide an updated winter parking demand study for President's Day week of 2024. Additionally, the applicant was required to come before the Planning Commission within four weeks of the end of the winter season for a review.

Planner Cawley stated that Land Management Code ("LMC") Section 15-3-7 authorized the Planning Commission to reduce the parking requirements. He reported that the required parking for the uses at the Peaks Hotel was 168 parking spaces. The site has 135 available parking spaces. The parking study from the summer of 2023 covered the period of July 17 to August 1.

Approved 04.24.2024

Within that study, the site reached capacity only one time, on a Friday at 6:00 p.m., but then demand significantly dropped the next hour.

Planner Cawley reported that in the updated parking study that covered President's Day week of 2024, the highest number of cars parked was 91 at 7:00 p.m. on a Saturday. Parking did not reach capacity during this time. He referenced the Parking Management Plan included in the Staff Report, and advised that these items had not changed since the reviews in 2022 and 2023.

The issue before the Commission was whether the parking study during peak summer and winter seasons and the Parking Management Plan provided by the applicant adequately mitigated the request for a parking reduction of 33 spaces, in order to allow for the applicant's continued installation of the tent as conditioned in the July 26, 2023 approval.

Chair Hall invited clarifying questions from the Commission.

Commissioner Van Dine asked if there had been any complaints from neighbors. Planner Cawley advised that no complaints had been received.

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

Commissioner Frontero asked the applicant if the data received on the winter parking was self-directed or whether they hired an outside firm. Applicant-representative Sean Rayner advised that they conducted the study themselves.

In terms of the comparison of the winter data from 2024 to 2023, Applicant-representative Rayner stated that he had that data, but did not review it prior to this meeting. He expressed that the numbers were likely pretty similar as they had essentially the same occupancy during that time period.

Commissioner Frontero asked what the policy was when they reached capacity, and where they directed the other cars to go. Applicant-representative Rayner stated that he would not be present during those times, and could not speak directly to what was done; however, he stressed that it happened infrequently. He surmised that any overflow was directed to the driveway in the front of the hotel.

Commissioner Shand observed that they reached the highest capacity on Friday, Saturday, and Sunday evenings around dinner, and asked if that demand was related to Versante. Applicant-representative Rayner confirmed that was accurate. He also confirmed that during other times they averaged between 30 – 80 cars parked.

Commissioner Suesser asked if the applicant kept count of the number of cars in the garage during those times. Applicant-representative Rayner advised that he walked the lots and the garage to count the vehicles.

Commissioner Frontero commented that he would like to see some thought to creating a plan for those times when peak parking was reached. He would like the hotel to create an organized, thoughtful plan for if and when they reach capacity. He felt it was insufficient to come in and state that they did not really have a plan for when they reached peak. Applicant-representative Rayner stated they would put a plan together and provide it to Planner Cawley. Applicant-representative

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Rayner added that in their confirmation information sent out to everyone who books a room, they include the parking restrictions in an effort to reduce the number of cars at the hotel.

Commissioner Frontero noted that the highest parking numbers were typically when Versante was busy, so advising the hotel guests might be directed at the wrong parties. He suggested a plan from the restaurant side to be able to move the cars when they reach capacity.

In response to a question from Commissioner Suesser, Applicant-representative Rayner advised that the hotel did not charge overnight guests for parking. He also confirmed that the hotel did not provide a shuttle from the airport.

Commissioner Van Dine sought clarification on the requested action by the Commission. Director Ward advised that the Condition of Approval required the applicant to provide a report to the Planning Commission, and if the Commission found that further mitigation was needed specific to the parking, this would be the opportunity to require that. She noted the reporting was an ongoing requirement.

Planner Cawley clarified that the Conditions of Approval from last year only required this one report to the Commission.

Director Ward stated if the Commission wanted to review it again next year, or would like further mitigation or a plan, they could address that.

Commissioner Suesser asked about the lawn restaurant service, and Applicant-representative Rayner stated that was not planned for this year. He explained with the limited parking available, they could only run the courtyard tent or the lawn but they could not do both. Therefore, last year they decided to eliminate the lawn. He noted it helped the parking situation tremendously as they did not really experience any issues at all with parking. Commissioner Suesser understood that the applicant did not have the parking capacity that would allow for the lawn service.

Chair Hall asked about the disassembly and installation of the tent for summer versus winter. Planner Cawley advised that during the winter installation, the tent remained up for the entirety of the time period.

For the summer installation, the top canopy is removed after an event, but the framing remains. He noted that the tent was required to be dismantled at the end of each period and reinstalled and inspected by the Fire Marshall.

Commissioner Sigg asked if there was any lighting draped on the frame. Applicant-representative Rayner explained that there was lighting draped on the frame, but it was only on when they had events. He confirmed the lighting was Dark Sky compliant.

Commissioner Suesser proposed that the Commission revisit this next year.

Commissioner Frontero commented that if this plan were a little tighter now, he would be willing to give the applicant two years before coming back before the Commission. He expressed concern that it was not that tight, and there was some leeway in the current Conditions of Approval.

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Commissioner Suesser clarified that she was not suggesting that the applicant return annually for an indefinite period of time into the future; rather, she just suggested they return next year.

Commissioner Sigg referenced the prior discussion regarding a contingency plan, and would also like to see something more formal and definitive to address peak days. He noted that parking in front of the hotel only afforded six or so additional spaces. He stated that if the applicant had such a plan, it would weigh in favor of not requiring an annual review.

Commissioner Suesser wondered if the parking in front of the hotel was compliant with fire safety. Applicant-representative Rayner stated it was compliant on the right-hand side; the left side was the fire lane and the curb was painted red.

Commissioner Shand concurred with Commissioner Sigg and Commissioner Frontero and would also like to see a contingency plan for overflow parking. He recognized that based on the data it did not happen very often, but it would be nice to have a plan in place. He suggested reviewing the contingency plan in a year. He noted the neighbors were not complaining, and the hotel did not reach full capacity very often, but it would be nice to have a contingency plan. Applicant-representative Rayner reported that they could prepare a contingency plan. Commissioner Suesser agreed and asked how they effectuate such a requirement.

Senior City Attorney, Mark Harrington advised that the Commission could technically add an additional mitigation Condition of Approval that would require a submittal for Staff review. He reported that the application before the Commission was related neither to the hotel nor Versante operations; rather it was related to the tent CUP. He cautioned the Commission to ensure that the scope of the plan should address a remedy that pertains to the tents, as opposed to the operations that had sufficient Code parking. He stressed that the mitigation implemented should be for the tents.

Commissioner Suesser noted that the peak capacity was during dinnertime, but noted that those same days are likely when events would occur. City Attorney Harrington stated as long as the connection was real, then it would be sound. He cautioned about regulating what occurs at every other property that does not have a tent and isolating it from the tent. Commissioner Suesser asked if there was a correlation between peak demand and events with the tent. Applicant-representative Rayner could not answer that question.

City Attorney Harrington stated that the Commission could make it clear that Staff could make the correlation between peak days and events. Commissioner Suesser stated that would be helpful. City Attorney Harrington advised that the motion would be something along the lines of finding the annual report was sufficient, with the additional requirement of an overflow parking plan being submitted to Staff for review and approval consistent with the Planning Commission's discussion.

MOTION: Commissioner Suesser moved to APPROVE the Conditional Use Permit provided that the Applicant submit a Parking Management Plan within the next six months to address overflow parking consistent with this discussion. Commissioner Frontero seconded the motion.

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

B. 844 Empire Avenue – Plat Amendment – On March 13, 2024, the Planning Commission Conducted a Public Hearing and Directed Planning Staff to Draft a

Approved 04-24-2024

Final Action Letter Denying the Proposed Plat Amendment to Remove Plat Note 3 from the 844 Empire Avenue Amended Plat. PL-24-06049.

Senior Historic Preservation Planner, Caitlyn Tubbs reported that the above item sought Commission ratification of the Draft Final Action Letter denying the proposed 844 Empire Avenue Plat Amendment. The Planning Commission reviewed the proposed Plat Amendment on March 13, 2024, at which time a public hearing was held. The Commission denied the requested Plat Amendment with a 4-to-2 vote.

Planner Tubbs reported that following that hearing, the Commission directed Staff to return with a Final Action Letter that detailed the Commission's Findings of Fact for ratification. Therefore, the scope of review for this hearing was limited to review of the Draft Final Action letter to determine if it included all of the Findings of Fact expressed by the majority in the March 13 vote. Staff recommended the Commission review the Draft Final Action Letter denying the Plat Amendment for 844 Empire Avenue and consider ratifying the Draft Final Action Letter.

Chair Hall stated that because this item just involved ratification of the Draft Final Action Letter, there would not be a public hearing.

Commissioner Suesser requested a correction to Finding of Fact 22.b. and noted the second line should read "off-street parking for the property" rather than "off-site parking on the property." She asked about the wording of Finding of Fact 22.e. and proffered that this was not determined in the prior Staff Report; rather, it was a question raised during Commission discussion. She stated that nothing further had been submitted that confirmed this Finding, therefore she could not confirm the accuracy of the wording in that Finding of Fact.

Planner Tubbs believed it was confirmed but noted she would have to check with the Engineering Department. City Attorney Harrington stated that in reviewing the Staff Report and the City Engineer's testimony, Staff felt that the City Engineer confirmed that it met the actual standard from the Code. Because the Commission found there were no clear sight lines due to the grade change and the separation, they did not want that contradiction that would provide an easy basis for an appeal if the finding was otherwise wrong factually. He explained that if there was a finding and then a conclusion that it did not meet Code, when in fact the City Engineer found it had, and Staff did not want to include that contradiction. The alternative would be removing Finding of Fact 22.e. altogether.

Commissioner Suesser commented that this was not presented at the hearing, and while the City Engineer spoke on that issue, there was no verification provided to the Commission. City Attorney Harrington stated that a third option was to continue this item and request Staff to provide the actual evidence supporting that Finding of Fact.

Commissioner Suesser next mentioned Finding of Fact 22.a. that "no relevant facts have changed since the 2016 Findings." She noted the stairs were constructed which made access from Empire Avenue more difficult than it was in the past. However, she understood from the City Engineer that even in 2016 access over the 9th Street Right-of-Way would have been problematic given the number of utilities in that Right-of-Way. She commented that it was suggested in the 2016 report that access over the 9th Street Right-of-Way to this property was plausible, but the City Engineer confirmed to her that it was not a solution because of the number of utilities.

Approved 04.24.2024

City Attorney Harrington made it clear that this Finding of Fact was taken verbatim from Commissioner Frontero's comments that because there was no change in the condition of the road, there was no reason for the Commission to revisit eliminating the Condition of Approval. He reiterated that this Finding of Fact mirrored with Commissioner Frontero said during the last hearing on this item, and if Commissioner Frontero wanted to refine his statement, they could amend it as the majority found appropriate. Commissioner Suesser understood this explanation, and stated that with her proposed edit to Finding of Fact 22.b. she was satisfied with the Draft Final Action Letter.

MOTION: Commissioner Suesser moved to RATIFY the Draft Final Action Letter denying the Plat Amendment for 844 Empire Avenue, as amended as follows:

Findings of Fact

1. The property is located at 844 Empire Avenue in the Historic Residential – 1 (HR – 1) Zoning District.

2. 844 Empire Avenue is a Significant Historic Site on the Park City Historic Sites Inventory.

3. There is no vehicular access to the Site. Planning Department

4. Pedestrian access to the site is from Empire Avenue, the 9th Street Right-of-Way through use of the public stairs, or Crescent Tram Road.

5. On August 11, 2023, the Applicant submitted a Historic District Design Review application to construct an addition to the Significant Historic Structure and a detached garage.

6. On August 11, 2023, the Staff determined the application was complete.

7. The site is Lot 1 of the 844 Empire Avenue Plat Amendment. 8. On June 2, 2016, the City Council adopted Ordinance No. 2016-26, approving the 844 Empire Avenue Plat Amendment.

8. Ordinance No. 2016-26 Condition of Approval 5 requires driveway access to the site to be from Empire Avenue in a location approved by the City Engineer. Condition of Approval 5 was recorded as Plat Note 3 on the Amended Plat.

9. On September 20, 2022, the Development Review Committee identified concerns regarding proposed vehicular access on Empire Avenue and impact to water lines, Clear View Areas, and distances between driveways and street intersections.

10. Land Management Code Section 15-3-3(H)(2) allows for a minimum spacing of 7.5 feet between driveways in Historic Districts with 10-foot minimum spacing from intersections.

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11. The Applicant revised the proposal to reflect these comments and to shift vehicle access to Crescent Tram Road 20 feet from the intersection and approximately 50 feet from the nearest driveway.

12. On September 5, 2023, the Development Review Committee noted that Plat Note 3 would need to be removed to accommodate the proposed shift of the vehicle access from Empire Avenue to Crescent Tram Road.

13. On February 14, 2024, the Applicant submitted a Plat Amendment application to the Planning Department. On February 14, 2024, the Staff determined the application was complete.

14. A Single-Family Dwelling is an allowed use in the HR-1 Zoning District.

15. Land Management Code Section 15-13-6 requires two Off-Street Parking Spaces for a Single-Family Dwelling. 844 Empire Avenue does not have Off-Street Parking. Pursuant to Land Management Code § 15-2.1-4, the Significant Historic Site is exempt from Off-Street Parking requirements.

16. The Development Review Committee reviewed the Plat Amendment and proposed access from Crescent Tram Road on February 20, 2024.

17. The Development Review Committee determined the Applicant's proposal avoided impacts to significant utility lines.

18. On February 24, 2024, the Park Record published a courtesy notice of the Planning Commission's March 13, 2024 public hearing on the Plat Amendment.

19. On February 28, 2024, staff published notice of the March 13, 2024, Planning Commission review of the Plat Amendment and public hearing on the City's website and the Utah Public Notice website and posted notice to the property.

20. On February 28, 2024, staff mailed courtesy notice to property owners within 300 feet, providing information on the March 13, 2024 Planning Commission public hearing.

21. On March 13, 2024, the Planning Commission conducted a public hearing and directed staff to make findings for denial of removing Plat Note 3 from the 844 Empire Avenue Amended Plat:

    a. No relevant facts have changed since the 2016 Findings of Facts were adopted by the Planning Commission and no changes have been made to the Crescent Tram Road to justify different conclusions.

    b. The proposal does not preserve the present Land Use because there is no off-street parking for the property and the historic structure is exempt from off-street parking in accordance with LMC § 15-2.2-4 and on-street parking has historically been used;

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c. The proposal does not contribute to the character or scale of the Historic District by adding a driveway where previously prohibited;

d. The proposal is not consistent with the General Plan's policy of reducing parking and encouraging walkability;

e. The proposal does create actual Clear View sight lines or safe turning distances between driveways and intersections, despite meeting Chapter 15-3 Off-Street Parking of the Land Management Code;

f. The proposal does not comply with LMC Chapter 15-7 Subdivision General Provisions; and

g. The proposal directly adversely affects the health, safety, and welfare of the citizens of Park City.

Conclusions of Law

1. There is not Good Cause for the Plat Amendment to remove Plat Note 3 requiring driveway access from Empire Avenue.

2. The Plat Amendment is not consistent with Land Management Code § 15-7.1-3(B), § 15-7.1-6, and Chapter 15-2.2 Historic Residential – 1 Zoning District.

Commissioner Frontero seconded the motion.

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

C. 85 King Road – Conditional Use Permit – The Applicant Proposes a Nightly Rental within an Existing Single-Family Dwelling in the Historic Residential Low-Density Zoning District. PL-24-06028.

City Planner, Virgil Lund explained that Nightly Rentals in the western sub-neighborhood of the Historic Residential – Low Density Zoning District require a CUP. This property is located in the HR-L Zoning District. He stated this would be the final available CUP for this Zoning District. The Planning Commission had approved 11 of the 12 CUPs in this neighborhood, and this would be the last Nightly Rental CUP. He reported that 85 King Road was built in 2004. It is a four-bedroom Single-Family Dwelling.

Planner Lund reported that the proposal complied with the Zoning District requirements, off-street parking requirements, and all CUP criteria. He stated that Conditions of Approval 2 through 5 were reflected in the applicant's draft Lease Agreement, as required for Nightly Rental CUPs in this zone. He explained that Nightly Rental parking for structures of less than 6 bedrooms was based on the requirement for the dwelling, which was 2 parking stalls. The garage measures 25' x 22.5' and meets the requirement for 2 parking spaces.

Planner Lund stated that 85 King Road was in a central location with access to Deer Valley and Park City Mountain Resort. He noted it was also within walking distance to Main Street and the Old Town Transit Center. He reported that Staff recommended the Commission review the

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proposed CUP for Nightly Rentals at 85 King Road, open a public hearing, and consider approving the CUP based on the Final Action Letter.

Chair Hall opened the public hearing. It was noted that the applicant, Erik Tolzmann, was present on Zoom. There was no public comment. The public hearing was closed.

Commissioner Suesser sought clarification regarding parking. She understood there was a two-car garage, and asked if parking was required to be exclusively in the garage and not on the driveway.

Planner Lund stated there was enough room for two cars to park in the garage, as this garage was 22.5' x 25' and garages were required to be at least 20' x 20' for two cars. Condition of Approval 9 provided that the garage must only be used for parking and could not be used for storage.

Commissioner Suesser asked if parking would be permitted on the driveway. Planner Lund referenced Condition of Approval 2 requiring that all rental agreements for the Nightly Rentals shall include language that limits the vehicles to two, which must be parked on-site in the two-car garage.

MOTION: Commissioner Van Dine moved to APPROVE 85 King Road – Conditional Use Permit for a Nightly Rental, pursuant to the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter as follows:

Findings of Fact

1. Nightly Rentals in the western sub-neighborhood of the Historic Residential Low Density (HRL) Zoning District require a Conditional Use Permit (CUP).

2. Up to 12 CUPs are allowed within the western sub-neighborhood of the HRL Zoning District.

3. The Planning Commission approved 11 of the 12 total CUPs for the western sub-neighborhood of the HRL Zoning District.

4. The Applicant proposes the last Nightly Rental CUP for the western sub-neighborhood of the HRL Zoning District.

5. On October 9, 2023, the City Council approved the 85 King Road Subdivision, creating a 4,079-square-foot Lot (Summit County Recorder Entry No. 682906).

6. On September 8, 2004, the City issued a Building Permit for a four-bedroom Single-Family Dwelling at 85 King Road (Permit Number B03-08960).

7. The proposal for a Nightly Rental at 85 King Road complies with Land Management Code (LMC) Chapter 15-2.1, HRL Zoning District Requirements.

8. The proposal, as conditioned, complies with the CUP criteria outlined in LMC § 15-1-10(E):

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1. Size and Location of the Site

• 85 King Road is a 3,744-square-foot Single Family Dwelling with four bedrooms on a 4,079-square-foot Lot. Nightly Rentals require an active Business License. Nightly Rental occupancy is determined at the time of Business License issuance and is limited by the International Residential Code. The Building Department will conduct an inspection to ensure that appropriate emergency egress openings are provided at the time of Business License inspection.

2. Traffic

• All rental agreements for the Nightly Rental shall include language that limits the vehicles to two.

3. Utility Capacity

• The Development Review Committee reviewed this proposal on March 5, 2024, and confirmed the proposal conforms with their requirements.

d. Emergency Vehicle Access

• The Park City Fire District reviewed the proposal on March 5, 2024, and confirmed the proposal conforms with their requirements.

e. Parking

• Parking for Nightly Rentals with less than six bedrooms is based on the parking requirement for the dwelling, which is two parking stalls. Two-car garages for Single-Family Dwellings must be at least 20 feet wide and 20 feet deep. The garage at 85 King Road measures 25 feet wide by 22.5 feet deep and complies with this requirement.

f. Internal Vehicular and Pedestrian Circulation System

• No change to the internal vehicular or pedestrian circulation system is proposed.

g. Fencing, Screening, and Landscaping

• No change to the fencing, screening, or landscaping is proposed.

h. Building Mass, Bulk, and Orientation

• No addition is proposed; no modifications to the existing Single-Family Dwelling are proposed.

i. Useable Open Space

• No changes to the Lot or Site are proposed.

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j. Signs and Lighting

• No signs or changes to the exterior lighting are proposed. Compliance with the City's dark sky ordinance is required prior to issuance of the Nightly Rental Business License.

k. Physical Design and Compatibility with Surrounding Structures

• No changes to the Structure are proposed.

l. Noise, Vibration, Odors, Steam, or Other Mechanical Factors

• The property owner is responsible for regulating the occupancy and noise created by occupants of the Nightly Rental. Violations of Municipal Code of Park City Chapter 6-3, Noise, illegal conduct, or any other abuse which violates Nightly Rental regulations or Conditions of Approval are grounds for business license revocation.

m. Control of Delivery and Service Vehicles, Loading and Unloading Zones, and Screening of Trash and Recycling Pickup Areas

• Trash and recycling receptacles shall be stored on-site and placed for trash and recycling pickup in compliance with Municipal Code of Park City § 6-1-11

n. Expected Ownership and Management

• 85 King Road is owned by Erik Tolzmann. The Nightly Rental shall be managed in conformance with Municipal Code of Park City § 4-5-3 Regulation of Nightly Rentals.

o. Within and Adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, and Park City Soils Ordinance, Steep Slopes, and Appropriateness of the Proposed Structure to the Existing Topography of the Site.

• No changes to the existing Structure are proposed.

p. Reviewed for Consistency with the Goals and Objectives of the Park City General Plan.

• Objective 7C of the General Plan recommends locating nightly rental units to resort neighborhoods. 85 King Road is in a central location with access to Park City Mountain Resort. 85 King Road is located within walking distance to Main Street and the Old Town Transit Center.

9. Staff mailed courtesy notices to property owners within 300 feet on March 26, 2024.

10. Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on March 27, 2024.

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11. *The Park Record* published notice on March 27, 2024.

Conclusions of Law

1. The Application, as conditioned, complies with LMC § 15-1-10(E) Conditional Use Permit Criteria, LMC Chapter 15-2.1, Historic Residential Low-Density Zoning District, and LMC Chapter 15-3, Off-Street Parking Requirements.

2. The proposed Use, as conditioned, is compatible with the surrounding structures in Use, scale, mass, and circulation.

3. The proposed Use is consistent with the Park City General Plan.

4. The effect of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval

1. The Applicant shall obtain a valid Business License for the Nightly Rental and the property shall be inspected by the Building Department prior to being offered for Nightly Rental.

2. All rental agreements for the Nightly Rental shall include language that limits the vehicles allowed to two, which must be parked on-site in the two-car garage.

3. All rental agreements shall include language indicating that all-wheel drive vehicles are required during the winter season.

4. All rental agreements shall provide Nightly Renters with information regarding walkable access to skiing, to Park City's Historic Main Street, to Old Town, and to Park City's free transit service.

5. Property management contact information shall be displayed in a prominent location inside the Nightly Rental.

6. Signs advertising the Nightly Rental are prohibited.

7. The property owner is responsible for regulating the occupancy and noise created by occupants of the Nightly Rental. Violations of Municipal Code of Park City Chapter 6-3, Noise, illegal conduct, or any other abuse which violates Nightly Rental regulations or Conditions of Approval are grounds for business license revocation.

8. Trash receptacles shall be stored on-site and placed for trash pickup according to the Municipal Code of Park City § 6-1-11.

9. The two-car garage must be maintained and used for parking only.

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10. The Applicant must bring the outdoor lighting fixtures into compliance with the Dark Sky Code prior to submitting a Business License application. All outdoor lighting shall be Fully Shielded, down-directed, with bulbs 3,000 degrees or less. Outdoor lighting shall be on a timer system and shall only be used when needed.

11. The Applicant shall comply with Municipal Code of Park City § 4-5-3(B) Management Standards, including requirements for property management services.

Commissioner Suesser seconded the motion.

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

D. 2250 Deer Valley Drive South – Conditional Use Permit – The Applicant Proposes a New Passenger Tramway (Ski Lift), Approximately 4.62 Miles of New Beginner Ski Runs, an 8,483 Square-Foot Terminal and Lift Building, and a 375-Square Foot Operator House in the Recreation and Open Space Zoning District and Sensitive Land Overlay. PL-23-05938.

Planner Lund reported that Staff would address the zoning requirements and the Sensitive Lands Analysis for this application. He noted that the Planning Commission would visit the site on April 15, 2024, at 2:00 p.m., therefore Staff recommended the item be continued until April 24, 2024. He stated that at the April 24 meeting, they would address all other items, including the Flagstaff Open Space Management Plan and wildlife.

Planner Lund presented a map that showed the general location of the proposed ski lift in relation to Two Peaks Bald Mountain, Flagstaff Mountain, Silver Lake Village, and the Snow Park Base. He explained that the proposal for Deer Valley Lift 7 included a six-passenger 0.56-mile long ski lift on Park Peak. It would also include 4.62 miles of new ski runs, an 8,483-square-foot terminal and lift storage building, and a 375-square-foot operator house.

Planner Lund reported that the proposal complied with the Recreation and Open Space ("ROS") Zoning District requirements. He presented images showing how the proposed lift terminal and storage building would maintain a 90-foot Setback from the nearest property line. He also noted that the top terminal would maintain an approximate 61-Setback. In addition, all ski runs would maintain and exceed a 25-foot Setback from all adjacent property lines.

With respect to removal of Significant Vegetation, Planner Lund advised that the Forestry Board reviewed this application and recommended a Condition of Approval that the applicant remove all dead and dying Significant Vegetation in an area equal in square footage to the proposed Areas of Disturbance. He presented a graphic and noted that the areas highlighted in blue would be those areas for removal of dead and dying Significant Vegetation.

Planner Lund explained that part of the Sensitive Land Overlay ("SLO") requirements included looking at ridgelines from Vantage Points within Park City. He noted that there were ski runs visible within ridgeline areas, and the proposed ski lift would be minimally visible from the Park Meadows Golf Course Clubhouse Vantage Point; however, the Planning Commission may require a Condition of Approval establishing a minimum required distance from the ridgeline area. Staff concluded that the lower placement to the left of the peak would blend with the natural contour of

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these landforms. Additionally, Staff recommended that the development be sited so as not to create a silhouette, thereby maximizing mitigation.

Planner Lund stated that the proposal complied with the criteria for Passenger Tramways and Ski Base Facilities outlined in the LMC. He noted that Staff recommended a Condition of Approval requiring an annual report that would provide an overview of the overflow on street parking no later than May 31st. The annual report and Planning Commission review would continue until the Transportation Demand Management and Parking Management Plan are updated, reviewed, and approved by the Planning Commission through the Snow Park Master Planned Development amendment, or other Planning Commission approval.

Staff recommended the Planning Commission review the proposal, open a public hearing, and continue this item until April 24, 2024.

Todd Bennett, Deer Valley President and Chief Operating Officer explained that they wanted to address just one piece of Deer Valley's Expanded Excellence Program, specifically the terrain expansion. He stated that Lift 7 was one of several lifts they had planned for this expansion, but it was an instrumental component to the plan as it is an area that would service a number of beginners. It would also serve the ski school. He added that they liked the plan of having skiers higher up on the mountain. Those who have skied Deer Valley know that many of the beginner areas were lower on the mountain, and this would benefit those beginners by being able to get higher up into the alpine environment.

Applicant-representative Bennett stressed that they were committed to working with the Planning Commission and the community to ensure that Deer Valley's future continues to be steeped in what they are known for.

Hannah Tyler, Deer Valley Vice-President of Resort Planning, stated that the proposed improvements included within this CUP fell within the ROS and the SLO. Similar to the process they underwent with the Burns Express Lift, she explained that Deer Valley was requesting Planning Commission review of this proposal, as this lift was not in Deer Valley's Master Plan boundary for their ski lifts. Therefore, this process would memorialize the addition of this lift as part of the Master Plan. She introduced Steve Graff, Deer Valley Vice President of Mountain Operations, to address the site orientation and overall proposal.

Applicant-representative Graff presented a photograph that showed Park Peak, which he noted was not visible from many places in Park City other than the golf course and in some locations along Bonanza and Deer Valley Drive. He stated that Park Peak was most visible from Upper Deer Valley off of Royal Street. He also presented a current ski map and pointed out the location of the proposed Lift 7 in relation to Deer Valley's current ski map.

Applicant-representative Graff explained that the proposal would change the typical orientation. He explained that the beginner runs come off Bald Mountain via Homeward Bound, and come off Flagstaff Mountain via Ontario and Trump. The bottom of Lift 7 will be located at the juncture of Ontario and Trump. He noted that the Lift 7 area and Park Peak were naturally conducive to beginner and low-intermediate terrain. He noted that most of Deer Valley's beginner terrain, especially on the upper mountain, was relegated to connecting runs. Therefore, the beginner runs today were the same runs that people take from east to west to access Empire or Silver Lake.

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Applicant-representative Graff stressed that Lift 7 would allow them to use Ontario as more of a connecting run and the circulation of the resort's beginning and low-intermediate skiers could use Lift 7. This would not only improve the high alpine experience for beginners, but it would improve everyone's experience by getting the ski schools off Ontario.

Applicant-representative Tyler presented a graphic to orient the Commission in relation to Deer Valley's overall Forestry Management Plan. As a part of this application, some trees would be removed, and they worked with Planning Staff and the Forestry Board to obtain approval of that removal. They worked with Staff and the Forestry Board to accept Conditions of Approval that would allow Applicant to continue its Forest Management Plan in an area outside of what would be impacted. She noted that Applicant was appreciative of the Condition of Approval that calls for removal of all of the dead and dying vegetation in the 15 acres that surround the impacted area.

Applicant-representative Graff stated that Deer Valley currently did much more than 15 acres of forest health work every year, and would add this 15 acres to the work it already does in this regard. He stated they would implement forest health, wildfire mitigation, and an aggressive invasive species and noxious weed program in this area. He explained they would mitigate the 15-acre area on site, and anything left over would be done within the surrounding area within the City limits.

Applicant-representative Tyler presented a slide that showed the overall management of the terrain and also provided information on the re-seeding efforts and different grading mitigation. She highlighted Deer Valley's stewardship on the existing runs and how special speed mixes specific to Deer Valley would be implemented in this case.

Applicant-representative Graff noted that the slide before the Commission showed how the terrain naturally supported what Deer Valley wants to do with the beginner and lower-intermediate runs. There would not be a lot of heavy grading, and the areas that require grading would be done as they traditionally have done. He explained they have a mix from three local seed companies called Deer Valley Mountain Meadow Mix. This mix is made up of wildfire grasses. He mentioned that whenever the earth is disturbed, invasive species generally populate the disturbed areas; Deer Valley is very committed to ensuring that does not happen. Each year they evaluate how the native grasses are taking hold and eliminate anything that is not native.

In response to an inquiry from Commissioner Suesser, Applicant-representative Tyler advised that in the red-shaded area, the ski run would match existing grading, and no grading would take place. Minimal grading and disturbance would occur in this area. The blue-shaded area would be an area where trees and existing vegetation would be removed, and Deer Valley would re-vegetate disturbed areas with stockpile topsoil and resort-approved seed mix. The area shaded in green would also involve ski run grading, and Deer Valley would re-vegetate disturbed areas with stockpile topsoil and resort-approved seed mix.

In response to Commissioner Suesser's further inquiry about the "resort-approved seed mix," Applicant-representative Graff stated while he was unaware of the specific seed types, it would be the Deer Valley blend. He stated that Deer Valley had this blend evaluated based on what naturally occurs in the area, and had the seed blend made for those conditions. He added that they use this blend annually, and place tons of it on the mountain every year.

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Applicant-representative Tyler next presented slides to help orient the Commission to the Base Terminal and the storage building. Because it would be greater than 600 square feet it triggered the need for a portion of this CUP. She stated that the architectural design and overall Site Plan for this would come back to the Commission as part of a second phase in the next 6 – 8 months. They included the maximum building pad in this application because they felt it was important for the Commission to understand the overall site context. She stated Deer Valley was looking for the maximum Building Footprints as part of this CUP, and explained that the proposed building would encompass the Lower Terminal and a connected building that would serve as chair storage when they take the chairs offline. She noted this was an area of high wind.

Applicant-representative Tyler reiterated that the Commission would have the opportunity to review this building specifically when the Applicant returns in another phase.

Commissioner Suesser asked if there was another comparable facility at Deer Valley. Applicant-representative Graff responded that the Jordanelle Gondola has cabin storage. He added that they would operate Lift 7 in a manner similar to the operations at the Jordanelle Gondola wherein the vast majority, if not all, of the chairs, would come offline every night. He mentioned that they did not contemplate storage of every chair in this building and the storage building would store those chairs that they could not store in the terminal itself. He explained they would stack chairs inside the Lower Terminal, and any remaining would be stored in the storage building. He confirmed that the line would be clear at night and throughout the summer. He also confirmed they would be bubble chairs.

Applicant-representative Tyler next addressed construction access and mentioned that they were looking at accessing this from Deer Valley's existing maintenance facility. Therefore, they would not have to create any new access roads.

Applicant-representative Graff explained that Ontario was one of the larger access ways that allowed them to get up the mountain for maintenance. He pointed out the location of the maintenance facility on the graphic before the Commission. The red line depicted access up Ontario and out into the meadow behind Bald Mountain and then up to the top of Park Peak. He noted that quite a bit of access was on existing roads, and there would be existing roads off into the meadow that would be improved and used during lift construction.

Applicant-representative Tyler proffered that this application complied with LMC Section 15-1-10D, and also believed that this project was compatible with the other uses in the ROS zone. She reiterated that they worked with Staff and were willing to accept all of the proposed Conditions of Approval. She specifically mentioned the grading issues and concerns with erosion and the parking review by the Commission in advance of the adoption of the Snow Park Development Agreement.

Chair Hall invited clarifying questions from the Commission.

Commissioner Van Dine asked Applicant if they planned to increase their base skier numbers with the installation of Lift 7. Applicant-representative Tyler responded that there was no proposal to increase Deer Valley's overall capacity.

Commissioner Suesser asked if the type of lift being installed required the large storage area. She observed that this storage capacity would not be needed if they were to install a high-speed quad. Applicant-representative Graff agreed they would not need this storage capacity for a high-

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speed quad, but for the longevity and expense of the bubble chairs they want to protect them and keep them stored. He added that as a result, that line would be clear when it is not being used.

Commissioner Suesser requested further information on whether this lift would be a real connector lift from the Deer Valley Resort to the Mayflower Resort, or whether it would just provide access to the beginner ski area.

Applicant-representative Graff stated this would be a great connector lift to the rest of the area. It would also be one of many ways for people to come off the mountain and get back to the Mayflower area and down to 40. He added that more advanced skiers would likely not stay in the area, so the circulating traffic on Lift 7 would be largely beginner skiers, with the exception of people wanting to get to other areas.

Commissioner Sigg appreciated the expanded beginner terrain, especially in that area. He noted that once you turn the corner past Trump on Ontario there are a lot of ski schools and it can be an over-trafficked and dangerous area. He asked if the Applicant had a plan for getting ski school traffic up to this area. He understood that most ski schools originated at Snow Park, and wondered if there was a plan to help mitigate ski school drop-off at Snow Park, assuming increased ski school capacity.

Applicant-representative Graff advised that they originated ski school at Snow Park, which is Deer Valley's current Base facility. East Village would also have a ski school component when it comes online. He noted that Silver Lake has a small ski school meeting area component. He added that private lessons generally originate at hotels. Skiers could access Lift 7 from Bald Mountain, which currently could not be done. The hope was expressed that Ontario would become more of a transport and not a circulating ski school area.

Commissioner Van Dine asked what would happen with mountain biking. Applicant-representative Graff responded that the intent was to replace all the existing mountain biking trails in the area. He added that while it looked like a lot of ski runs in the area, there would be little impact on the mountain biking trails. There would be impacts during construction, but they would be replaced upon completion of construction.

Commissioner Suesser asked if one of the reasons why they proposed storing the bubble chairs was that this was a high-wind area. Applicant-representative Graff responded that this area was susceptible to wind out of the south. He noted the bubbles were for comfort, but he did not feel this area was any windier than the other peaks.

Commissioner Sigg stated that in the past they had seen the notion of a connecting gondola from Mayflower to Silver Lake that would go over Park Peak. He asked Applicant to address how Lift 7 would impact the ability to do that.

Applicant-representative Graff stated that was in the Master Plan, and the first gondola coming out of East Village was a two-stage gondola. The first line ends at Big Dutch and then goes from Big Dutch to the south of Park Peak and lands in the valley south of Park Peak. He stated the design was contemplated to be able to have another one from the Park Peak gondola to the Silver Lake Village. He also noted the proposed replacement of the Silver Lake Express Chairlift by the fourth leg of the gondola into Snow Park Village.

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Commissioner Sigg asked if that gondola alignment would cross over Lift 7. Applicant-representative Graff confirmed that the gondola would cross over the top of Lift 7.

Commissioner Suesser recalled a discussion about the need for a redundancy lift from the Empire area. She sought clarification that Lift 7 would not address that because it was just connecting this area to Mayflower.

Applicant-representative Graff confirmed that Lift 7 would not address any redundancy need in the Empire area.

Chair Hall opened the public hearing. She reported that this Agenda Item was originally scheduled for action; however, because it was now scheduled to be continued there would be another opportunity for public comment at a later date.

There was no public comment. The public hearing was closed.

Commissioner Suesser asked if the site visit was open to the public and requested an extensive site visit to get a good overview of future CUPs in the area. Applicant-representative Tyler confirmed that the site visit was open to the public and that they would meet on the west side of the Sterling lift. She noted the Flagstaff mountain area was actually closed, so they would open it up specifically for this site visit. She stressed the importance of arriving by 2:00 p.m. on the west side of Sterling lift. She added that the tour would take people to Cushing's Cabin for an overall look down at the terrain. They would then ski down Ontario to the junction of Ontario and Trump. She mentioned it was groomed a bit so they would be able to walk up to the Base Terminal.

In response to a further inquiry, Applicant-representative Tyler stated they could discuss the feasibility of staking out the Terminal Building and storage structure, and could make it happen if possible.

MOTION: Commissioner Suesser moved to CONTINUE 2250 Deer Valley Drive South – Conditional Use Permit, and the public hearing thereon, to April 24, 2024. Commissioner Van Dine seconded the motion.

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

Following a short recess, Chair Hall called the meeting back to order and confirmed the presence of all Commissioners.

E. 7008 Silver Lake Drive – Plat Amendment – The Applicant Proposes to Amend the Area of Disturbance and Ski Easement at Lot 2 of the Evergreen Subdivision in the Residential Development Zoning District. PL-23-05964.

City Planner, Lillian Zollinger explained the property was located at 7008 Silver Lake Drive. The applicant proposed to modify the Area of Disturbance to reflect as-built conditions and to relocate the ski easement. She stated that this site was located in the Residential Development Zoning District, and presented an image of the existing Single-Family Dwelling, as well as a graphic that illustrated the configuration of the Lot.

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In 1995, the City Council passed an Ordinance for the Evergreen Subdivision, which authorized the creation of the Evergreen Architectural Committee to review and approve amendments to the Area of Disturbance for the Subdivision. She noted that several projects had received approvals from that Committee, as well as from the City Council in the form of Plat Amendments.

Planner Zollinger reported that the Evergreen Architectural Committee approved an addition for this site in 2003, which largely expanded the structure to where it is today. Regarding the ski easement, the applicant's neighbor agreed to the proposed modification. However, when this applicant was unable to obtain a review from the Evergreen Architectural Committee for the proposed ski easement modification and Area of Disturbance modification, they requested this review with the Planning Commission. She explained that the proposed Area of Disturbance and existing structures complied with the Residential Development Zoning District and SLO requirements. She referenced the Staff Report for Staff's analysis in that regard.

Planner Zollinger presented a graphic that showed the original Evergreen Subdivision Amended Plat. The red-dashed line depicted the original Area of Disturbance. The area highlighted in yellow represented the ski easement. She also presented a graphic that showed the proposed modifications to both the Area of Disturbance and the ski easement.

Staff found Good Cause to amend the Area of Disturbance to reflect the as-built conditions pursuant to the 2003 approval by the Evergreen Architectural Committee. Staff also found Good Cause to relocate the ski easement. She reported that the neighbor had agreed to a written amendment for the proposed relocation in 2019.

Planner Zollinger stated that the applicant requested the Planning Commission find Good Cause for further expansion of the Area of Disturbance to accommodate a 585-square-foot addition. She highlighted Condition of Approval 2 that this Plat Amendment approval would expire within one year unless there was an extension request. Condition of Approval 3 requires that future construction must comply with the platted Area of Disturbance.

Chair Hall invited clarifying questions from the Commission.

Commissioner Van Dine understood from the Packet that the addition would go into an area that was already disturbed as a patio. Planner Zollinger confirmed.

Commissioner Suesser expressed concerns about the original Area of Disturbance versus the current proposal, and how significantly different it was in terms of where the home was built. She wondered how they would address the applicant's failure to abide by what was originally approved.

Planner Zollinger explained that the original plat was approved in 1992, and the Single-Family Dwelling received a Building Permit in 1994. Based on the Building Permit, the Limit of Disturbance ("LOD") was not acknowledged, and the first part of the Single-Family Dwelling was constructed without consideration of the Limit of Disturbance. She confirmed that a LOD was set, but the LOD was not included in the plans that were submitted and approved by the City.

Planner Zollinger advised that a further addition to the structure was approved in 1997. In 2003, the Architectural Committee approved another addition to bring the structure to what it looks like today. Up to this point, the owners had not been required to record a Plat Amendment. She noted the likelihood that this home had been owned by a couple of different owners since the

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original approvals. This applicant proposed a 500-square-foot addition, which requires a Plat Amendment.

Commissioner Frontero asked when the current homeowner purchased the home, and if they had done any prior expansion of the home. Planner Zollinger deferred to the applicant. On behalf of the applicant, a representative from Magleby Construction advised that the applicant purchased the home in approximately 2008, and had not expanded the structure since obtaining ownership. She added that this was the applicant's first proposed expansion to the home.

Commissioner Frontero asked if the fact that the LOD was not followed was discovered as part of the work for this proposed addition. The Applicant-representative advised that Magleby Construction applied for the original Building Permit approximately one year ago and discovered the issue and then the owners proceeded with the plat process to remedy the situation.

Commissioner Shand understood that the ski easement went across the back of the property and was for the neighbor's access to the ski run. Planner Zollinger confirmed.

Planner Zollinger also pointed out the approximate location of the addition. It was mentioned that the patio would be remodeled and the gray square shown on the graphic represented the addition.

Commissioner Sigg requested clarification on the Architectural Committee Review. Planner Zollinger explained that as part of Staff's research, they found that an Architectural Review Committee review was required; however, the applicant was unable to locate anyone on the Committee to review and approve their request. She also confirmed that Staff was unable to locate any contact information related to previous approvals.

The applicant set forth their efforts to contact the Committee in a statement included in the Packet. Planner Zollinger confirmed that there was not a Homeowners' Association for this Subdivision.

Commissioner Suesser understood that the Architectural Review Committee was disbanded. Planner Zollinger clarified that they were not able to determine what happened with this Committee, but confirmed that the applicant was unable to obtain review by the Committee.

Commissioner Sigg asked if there was a Site Plan or Building Footprint for the neighboring home that uses the ski easement. Planner Zollinger stated that based on her information there was no structure built on the neighboring property.

Planner Zollinger presented an aerial view and there was discussion about its location. Commissioner Suesser asked Planner Zollinger to highlight the property in the image.

Commissioner Frontero asked for more information on the neighbor who agreed to the relocation of the ski easement. Planner Zollinger stated the applicant provided a modified Encroachment Agreement that was recorded with the County and showed the modified ski easement from the 7008 property to 6974 Silver Lake.

Planner Zollinger confirmed that the relocation of the easement would not require the clearing of any vegetation. She also noted that the stairs were for use of the applicant's property only, and were within the Area of Disturbance.

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Commissioner Sigg asked for information on the dimensions of the ski easement. He felt this easement was a lot wider than a trail. As he looked at the contour lines, it seemed as though a much-reduced easement could be accommodated. He noted that the aerial photograph showed quite a bit of vegetation in that area and wondered if someone could remove Significant Vegetation from the ski easement area.

In his mind, a ski easement only needed to be 10 to 20 feet wide to accommodate access from the adjacent vacant land, whereas this easement appeared to be close to 100 feet wide.

Commissioner Suesser stated it would be helpful to have an overlay with the original ski easement and the proposed ski easement. Planner Zollinger did not have an overlay but presented the side-by-side comparison shown earlier in her presentation. She mentioned that the recorded plat was not required to include the contour lines.

City Attorney Harrington noted that the City had been involved in extensive litigation over ski easements, and one of the issues was whether the City could even be involved in the relocation of a ski easement because the grantors and grantees are private Lot owners and the City is not a party. He advised that the City argued that because it involved a Plat Amendment, they were required to assess it for approval. He noted that one of these cases went as far as the Utah Supreme Court. He stated they were ecstatic that the property owners were in agreement and there was already a recorded Relocation Agreement so he felt it was kind of a non-issue. Vegetation removal would be an appropriate question, but this area was wide because most of the owners come in and out informally and at different angles. The width would provide maximum flexibility for people to go in both directions. He stated that he was not aware of any vegetation removal, but if the Commission wanted to add that as a Condition of Approval it might be appropriate, although he did not feel it was necessary.

City Attorney Harrington encouraged the Commission to not overthink the easement, as the property owners had reached a private agreement and recorded that agreement with the County. This Plat Amendment was simply to memorialize the new location.

Commissioner Suesser was not as concerned about the easement, but noted that a stone wall was constructed, and stressed that the development of the site was far beyond what was ever approved.

City Attorney Harrington stated the history was due to the way some of the early approvals were delegated to the Architectural Review Committee. He did not believe there was any home in this Subdivision built within the original LOD. He recalled that the Commission recently disallowed the further expansion of one home in this Subdivision, but the as-builts are what they are, and he felt it was fairly predominant.

Commissioner Suesser asked if retaining walls were included as part of the new addition. Planner Zollinger answered in the negative.

Commissioner Shand sought confirmation that the Commission was being asked to approve the as-built LOD, and were not reviewing the area for the addition. City Attorney Harrington explained that the addition would be within the as-built LOD. He confirmed that the design of the addition was not within the Commission's purview at this time.

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Commissioner Suesser added they were also considering the relocation of the ski easement. She requested a Condition of Approval that no vegetation would be cleared to accommodate the ski easement.

Commissioner Van Dine stated that could be difficult because some of these areas were somewhat dense and they might need to move small amounts of vegetation to make the easement useful. Commissioner Suesser suggested language that no Significant Vegetation could be removed to accommodate the ski easement.

City Attorney Harrington suggested, "The ski easement relocation does not authorize clear-cutting of the area and any removal of Significant Vegetation shall be minimized."

Commissioner Suesser would prefer that the Condition state "no Significant Vegetation removal."

Commissioner Sigg noted that this was called Evergreen Subdivision for a reason. In consideration of the density, he suggested that any proposal to remove trees would have to be presented as a specific plan. He opined the easement was way more than needed and there are Significant large evergreen trees on that property.

Commissioner Van Dine expressed that based on her experience, the ski easements in this area are mostly small paths and no trees are cut for most of these paths.

City Attorney Harrington suggested that the wide easement was actually better because it would facilitate the informal paths being dispersed throughout the whole area. The trees in these yards were really the only privacy for the homes, so there was no incentive to remove them. He suggested that a Condition about not clear-cutting or removal of Significant Vegetation was likely appropriate unless a different Landscape Plan was approved.

Commissioner Suesser expressed concern that someone might want to remove trees for a view. City Attorney Harrington noted that rear yards were not restricted so the owners could remove the trees today. He acknowledged this was a valid concern, but it was one the Commission did not want to draw too much attention to because it had worked so well. Commissioner Suesser suggested, "shall not be removed." Planner Zollinger stated that this ski easement only served the neighboring property. There was consensus on the language for Condition of Approval 4.

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

MOTION: Commissioner Van Dine moved to APPROVE 7008 Silver Lake Drive – Plat Amendment, pursuant to the Findings of Fact, Conclusions of Law, and Conditions of Approval set forth in the Draft Final Action Letter, as amended:

Findings of Fact

1. 7008 Silver Lake Drive is within the Residential Development Zoning District and Sensitive Land Overlay.

2. On March 19, 1987, the City Council approved the Evergreen Subdivision Plat.

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3. On May 17, 1988, the City Council approved an Amended Evergreen Subdivision Plat. The Amended Subdivision Plat establishes an area of disturbance for each Lot.

4. The Amended Evergreen Subdivision is part of the Deer Valley Master Planned Development.

5. On March 22, 1995, the City Council enacted Ordinance No. 95-17 that authorized the Evergreen Architectural Committee to review and approve changes to the area of disturbance for the Evergreen Subdivision Lots.

6. 7008 Silver Lake Drive is Lot 2 of the Amended Evergreen Subdivision Plat.

7. 7008 Silver Lake Drive is accessed from Silver Lake Drive, a public Right-of-Way.

8. There is an existing Single-Family Dwelling on Lot 2 of the Amended Evergreen Subdivision, constructed in 1994, with additions constructed in 1997 and 2003. The Single-Family Dwelling and subsequent additions were not built within the area of disturbance platted on Lot 2 of the Amended Evergreen Subdivision Plat.

9. On September 15, 2003, the Evergreen Architectural Review Committee approved the existing Single-Family Dwelling at 7008 Silver Lake Drive outside of the platted area of disturbance.

10. On October 13, 1994, the City Council passed Ordinance No. 94-42, which amended the area of disturbance for Lot 15 of the Amended Evergreen Subdivision Plat at 6715 Silver Lake Drive.

11. On March 22, 1995, the City Council passed Ordinance No. 95-17, which authorized the Evergreen Architectural Committee to review and approve amendments to the area of disturbance for the Evergreen Subdivision Lots.

12. On May 23, 2002, the City Council passed Ordinance No. 02-06, which amended the building pad and ski easement for Lot 23 of the Amended Evergreen Subdivision Plat at 6538 Silver Lake Drive.

13. On February 3, 2005, the City Council passed Ordinance No. 05-04, which amended the ski easement for Lot 10 of the Amended Evergreen Subdivision Plat at 7013 Silver Lake Drive.

14. On October 25, 2007, the City Council passed Ordinance No. 07-73, which adjusted a ski easement for Lot 6 of the Amended Evergreen Subdivision Plat at 14 Perseverance Court.

15. On January 16, 2020, the City Council passed Ordinance No. 2020-07, which amended the area of disturbance for Lot 1 of the Amended Evergreen Subdivision Plat at 7058 Silver Lake Drive.

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16. The Applicant proposes to amend the area of disturbance for Lot 2 of the Amended Evergreen Subdivision at 7008 Silver Lake Drive, increasing the area of disturbance from 3,756 square feet to 10,566 square feet, a total increase of 6,810 square feet to reflect the built and disturbed conditions.

17. The existing Single-Family Dwelling is constructed over the platted ski and trail easement.

18. The Applicant proposes to shift the Last Change Ski/Hiking Trail easement to the south end of the property. The existing ski easement is approximately 7,800 square feet and the proposed easement is approximately 9,050 square feet, an increase of 1,250 square feet.

19. The Plat Amendment and changes to the area of disturbance and ski easement does not increase unit count density or impact Significant Vegetation.

20. The Development Review Committee reviewed the proposed Plat Amendment on April 2, 2024, and did not require Conditions of Approval.

21. Staff published notice of the Planning Commission's public hearing on the City website, the Utah Public Notice website, and posted notice to the property on March 27, 2024. Staff mailed courtesy notice to property owners within 300 feet on March 27, 2024. *The Park Record* published courtesy notice on March 27, 2024.

Conclusions of Law

1. There is Good Cause for this Plat Amendment because it amends the area of disturbance to reflect built conditions that were approved by the Evergreen Architectural Review Committee in 2003 and shifts the platted ski easement which is not currently accessible due to the encroachment of the existing Single-Family Dwelling over the ski easement, and increasing the ski easement from approximately 7,800 square feet to 9,050 square feet, an increase of 1,250 square feet.

2. The Plat Amendment is consistent with the Land Management Code, including LMC Chapter 15-2.13 Residential Development (RD) District, Chapter 15-2.13 Sensitive Land Overlay Zone (SLO) Regulations as it pertains to properties within the Deer Valley Master Planned Development, and § 15-7.1-3(B) Classification Of Subdivision-Plat Amendment.

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 stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

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1. The City Planner, City Attorney, and City Engineer shall review and approve the final form and content of the Plat Amendment for compliance with State law, the Land Management Code, and these Conditions of Approval, prior to recordation of the plat.

2. The Applicant shall record this Plat Amendment 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 request for an extension is made in writing prior to the expiration date and an extension is granted by the Planning Director.

3. Future construction must comply with the platted area of disturbance.

4. The ski easement relocation does not authorize the clear-cut of the area and no Significant Vegetation shall be removed.

Commissioner Shand seconded the motion.

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

F. 1850 Sidewinder Drive – Plat Amendment – The Applicant Proposes to Amend the Park City Surgical and Medical Plaza Plat Notes to Allow for the Combination of Two or More Units to Use as One Functional Unit in the General Commercial Zoning District. PL-24-06072.

Planner Cawley reported that the purpose of this Plat Amendment was to combine the office spaces of one of the buildings on the site, specifically Units 320 and 420. He stated there was a 15-3/4' common platted wall separating these units. He added that the Condominium Declarations allow the unit owners to create smaller interior offices within the platted units as long as they meet minimum square footage and are approved by the Board of Trustees.

Planner Cawley stated that the LMC regulates the requirements to amend the Condominium Record of Survey to accommodate this proposal. He presented an image that illustrated the wall that would be removed, highlighted in green.

Planner Cawley stated that this proposal complied with the General Commercial Zoning District as well as the Frontage Protection Zone requirements. No exterior or structural changes were proposed. He added that the Plat Amendment also complied with off-site parking requirements in that since there would be no change of use, the requirements would remain the same.

Planner Cawley expressed that there was Good Cause in that this Plat Amendment would allow for flexibility of office space uses without modifying the exterior of the building, increasing the square footage, or increasing the parking requirements. Staff recommended the Commission review the proposed Plat Amendment, conduct a public hearing, and consider approving the Plat Amendment.

Chair Hall invited clarifying questions.

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Commissioner Shand sought clarification that the Condominium Association required no spaces could be smaller than 1,000 square feet. He noted the applicant was looking at making two smaller spaces into a single larger space.

Jon-Eric Greene, President of Park City Surgical and Medical Plaza Association, Inc., clarified that the Condominium Declaration also included a provision that allows two adjacent units to be combined for functional use. These two units were therefore allowed to be used as one functional unit without amending the plat; however, because that was inconsistent with Code regulations, they submitted this proposal. He surmised that the Code was written primarily for residential units. He noted that they had a tenant who occupied 100% of one of these units and wanted to expand into a portion of the adjacent unit. He confirmed that the same owner owned both of these units.

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

MOTION: Commissioner Suesser moved to APPROVE 1850 Sidewinder Drive – Plat Amendment, pursuant to the Findings of Fact, Conclusions of Law, and Conditions of Approval set forth in the Draft Final Action Letter, as follows:

Findings of Fact

1. Park City Surgical and Medical Plaza Condominium includes two buildings constructed in 1998 within the Prospector Square neighborhood, 1820 and 1850 Sidewinder Drive.

2. 1820 Sidewinder Drive is a three-story ambulatory surgical center (Units 100, 110, and 120).

3. 1850 Sidewinder Drive is a two-story office building (Units 310, 320, 410, and 420) with underground parking.

4. A large surface-level parking lot is between the two buildings.

5. The Park City Surgical and Medical Plaza Condominium is in the General Commercial (GC) Zoning District and the Frontage Protection Zone (FPZ).

6. The Park City Surgical and Medical Plaza Condominium is in the Prospector Square Subdivision but operates independently of the Prospector Square Property Owner Association.

7. On October 9, 1997, the City Council approved Ordinance No. 97-47 to create the Park City Surgical and Medical Plaza Condominium Plat.

8. Subsequently, the Condominium Plat was recorded with Summit County on March 10, 1998.

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9. The Park City Surgical and Medical Plaza Condominium Plat includes a Plat Note that enables flexibility of interior office space configurations. For 1850 Sidewinder Drive, the Plat Note states all units are designated convertible space pursuant to Sections 6.03 of the Condominium Declaration. The Condominium Declaration Section 6.03 allows unit owners to create interior office units within platted units so long as they are no less than 1,000 square feet and approved by the Board of Trustees. While the underlying ownership of the units does not change with interior office unit configurations within the platted units, the leased square footage within the building may be reconfigured to meet different tenant office needs.

10. The reason an amendment is now requested for the reconfiguration of interior office space between Units 320 and 420 is because there is a platted 15.75-foot common wall that is proposed to be removed to combine the Units.

11. LMC § 15-7.1-6(G) states that subject to a condominium declaration, a unit owner after acquiring an adjoining unit that shares a common wall with the unit owner's unit and after recording an amended condominium record of survey plat in accordance with the LMC, a unit owner may remove or alter a partition between the unit owner's unit and the acquired unit, even if the partition is entirely or partly common areas and facilities, or create an aperture to the adjoining unit or portion of a unit.

12. On March 18, 2024, the Planning Department received a complete Condominium Plat Amendment Application.

13. LMC § 15-2.18-2(A) establishes office uses as allowed uses within the GC Zoning District. A Plat Note limits uses within 1850 Sidewinder Drive to office only and no changes to use or the Plat Note are proposed.

14. Changes to office use require a future Plat Amendment.

15. The proposed Plat Amendment is consistent with the GC Zoning District Lot and Site requirements and the FPZ Setback requirements. It does not physically alter the existing Structures or common area parking lot.

16. LMC § 15-3-6(B) requires three parking spaces per 1,000 square feet of leasable floor area. No changes to office square footage are proposed in the removal of the 15.75-foot interior common wall to combine Units 320 and 420 at 1850 Sidewinder Drive. When the City Council approved the Park City Surgical and Medical Plaza Condominium, the Council required Condition of Approval 4: *A parking agreement, in a form approved by the City Attorney, shall address future parking calculation and requirements. This parking agreement shall be recorded with the Plat and CC&Rs.*

17. The required Parking Agreement and Restrictive Covenant is Exhibit D to the recorded CC&Rs. Unless there are changes to net usable office space or changes to the office use, no additional parking is required.

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18. Because the Plat Note restricts uses for 1850 Sidewinder Drive to office uses, the Applicant is unable to shift to any other use without further amending the plat. As a result, no increase to office square footage is proposed and no additional parking requirements result from the combination of Units 320 and 420. Any shift in the future office to other uses that may trigger additional parking evaluations will require the Applicant to pursue another amendment to the plat.

19. LMC § 15-7.1-6(G)(2) requires that the combination of units be evaluated to ensure it does not impair the structural integrity or mechanical systems of the building or either unit or reduce the support of any portion of the common areas and facilities of another unit, or violate state code or the IBC. The Building Department confirmed the combination of Unit 320 and 420 complies with the requirements of LMC § 15-7.1-6(G)(2).

20. Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on March 27, 2024.

21. Staff mailed courtesy notice to property owners within 300 feet on March 27, 2024.

22. *The Park Record* published courtesy notice on March 27, 2024.

Conclusions of Law

1. There is Good Cause for this Plat Amendment because it allows for flexibility of office space uses without modifying the exterior of the Structure and does not increase square footage or parking requirements.

2. The Plat Amendment is consistent with LMC § 15-7.1-3(B), § 15-7.1-6, and Chapters 12.18 General Commercial District and 15-2.20 Frontage Protection Overlay.

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 condominium plat for compliance with state law, the Land Management Code, and the Conditions of Approval prior to the recordation of the plat.

2. The Applicant shall record the plat at the County within one year from the date of the Planning Commission's 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.

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3. All plat notes established on the Park City Surgical and Medical Plaza Condominium Plat remain in full force and effect and shall be noted on the final plat.

Commissioner Sigg seconded the motion.

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

G. Land Management Code Amendments – The Planning Commission will Review Amendments to Define Public Transit Amenity Area, Add Public Transit Amenities as an Allowed Use in Certain Zoning Districts, and Establish Requirements to Construct and Maintain a Public Transit Amenity Area. PL-24-06036.

Planner Cawley mentioned that Dave Gustafson, Project Manager with the Engineering Department, and Tim Sanderson, Transportation Director, were present in chambers. Sara- Rush Mabry, Park City Transit was present on Zoom. Planner Cawley stated that the recommendations before the Commission related specifically to public transit amenities. They are also involved in the establishment of Public Transit Amenity Areas. He explained that the Code already included provisions that allowed for the installation of public transit amenities. This can be done through a Master Planned Development or Affordable Master Planned Developments. As a standalone, and depending on the zoning, there are also Essential Municipal Public Utility Use Facilities Service Structures that could be permitted on public or private property. With the exception of the Frontage Protection Zone, Planner Cawley stated there was no provision for a standalone amenity that straddles the City Right-of-Way and private or City-owned property. These amendments address those situations.

Planner Cawley reported that Park City Transit received approximately $43 million in various grants, and was using the funds to expand the electric bus fleet and install electrical bus chargers. These support the City's net-zero goals. He stated that the first charger would be installed on the western boundary of the Public Works campus on Shortline Road, in the General Commercial Zoning District. The charger would be located in the property Setbacks and would extend into the Right-of-Way. He stated that under the current Code, this installation would not be possible because of its location.

Planner Cawley presented a map depicting the Frontage Protection Zone, highlighted in green. The Frontage Protection Zone touches Park Avenue, Kearns Boulevard, Marsac Avenue, and Deer Valley Drive. Within these areas, bus shelters or bus lanes may be installed with an administrative permit. He referenced General Plan, Goal 3, which encourages alternative modes of transportation on a regional and local scale to maintain Park City's small-town character. The General Plan also speaks to prioritizing efficient public transportation and improving access to, and efficiency and experience of public transit.

Planner Cawley highlighted the four goals of these amendments:

- To define Public Transit Amenity Area;
- Establish the requirements that allow for the construction and maintenance of a Public Transit Amenity Area;
- Add these as allowed uses, subject to an administrative permit in certain Zoning Districts; and

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- Exempting these from Zoning District Setback restrictions.

He presented the definition of Public Transit Amenity Area and stated that this definition was designed to provide some flexibility and align with the Federal Transportation Administration's definition. They wanted a definition that would encompass the changes over time. He explained that the Public Transit Amenity Areas would require an administrative permit based on Staff level review and approval. Both the Planning Director and the City Engineer would need to review and approve these Public Transit Amenity Areas. He noted that this would allow for an exception to the Front Setback regulations. These amenities would include, but not be limited to, bus shelters, bus pullouts, and electric bus charging equipment.

Planner Cawley stated that these amendments would enact Section 15-4-24, which outlines the requirements for installation of the Public Transit Amenity Area, as well as the requirements for review of the proposed Amenity Area. The amendments would also allow these Amenity Areas as an allowed use in Historic Residential – Medium, Historic Recreation Commercial, Historic Commercial Business, General Commercial, Light Industrial, Frontage Protection, and Entry Corridor Protection Overlay. This would accommodate the expansion and improvements of key areas of the transit system.

Planner Cawley read the proposed language that "Public Transit Amenities, including bus pullouts, patron waiting shelters, electric bus charging equipment, and similar amenity infrastructure, would be allowed" in zones where these would be an allowed use.

In the Frontage Protection Zone, the language would provide a clarification to the existing requirements that the Public Transit Amenity Area "would be included as an Essential Public Facility." They also changed the language to "*shall* require an administrative permit."

Within the Entry Corridor Protection Overlay, Planner Cawley highlighted the addition that "Essential Public Facilities, such as bus lanes and Public Transit Amenity Areas, shall require an administrative permit with approval by the Planning, Engineering and Building Departments." He noted that within this zone there is quite a large Setback, so it was important to add this as an exception to the Setback. He explained that the reasoning behind this change was that the Entry Corridor Protection Overlay extends beyond where the Frontage Protection Zone would allow for these to be installed.

Planner Cawley stated that the recommendation was for the Planning Commission to review the proposed LMC Amendments, conduct a public hearing, and consider forwarding a positive recommendation for the City Council's consideration on May 16, 2024.

Chair Hall invited clarifying questions from the Commission.

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

Commissioner Suesser asked to see the definition of a Public Transit Amenity Area and asked if a sidewalk would fall within this definition. Director Ward noted that while sidewalks were already a Setback exception, it could be part of this definition. She added that in the current zoning regulations, anything that is at grade, such as a sidewalk, trail, or pathway, was already allowed in Setbacks.

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While a sidewalk could be a part of a Public Transit Amenity Area, they did not include it in the definition because they were already allowed within the Setbacks. She further explained that this definition was intended to address transit facilities that are split between private property and the Right-of-Way. She noted that some of the City's bus shelters were in the Right-of-Way so they do not go through the Planning permitting process; however, the ones that are partially on private property and need to be adjacent to the Right-of-Way, are currently addressed in the Code in the Frontage Protection Zone only. The amendments were intended to open that up to allow for those transit improvements when they would straddle between the private property and right-of-way. Commissioner Suesser asked if that would be a condemnation of the private property.

Director Ward stated that for a bus facility proposed to be installed on City-owned property in the General Commercial zone, the structure could not be installed in the Setback. Therefore, it would still be adjacent to the Right-of-Way, but now transit would need to go through a land use permit for what would be located on private property. She noted there were some transit stops that abut private property that either have an easement or the City purchased the property.

Commissioner Frontero felt the definition was fine, but was concerned with the inclusion of "bus electric charging equipment." He felt that buses pulled over in the Frontage Protection Zone to charge would be inconsistent with the Frontage Protection Zone Code. He felt strongly that they could not have that in town. He did not believe that installing a charging station in those areas highlighted in green and yellow was consistent with the goals of the Code.

Director Ward sought clarification that Commissioner Frontero was referring to both the Frontage Protection Zone and the Entry Corridor Protection Overlay. Commissioner Frontero believed it would be inconsistent to have buses pulled over and charging along the areas highlighted in green and yellow. He suggested amending the definition so they have a special place for the charging stations. He would like to put them behind buildings or in other inconspicuous places.

Director Ward asked Project Manager Gustafson to clarify the proposal for the installation on Shortline Road. Project Manager Gustafson stated that the charging station would be located in the bus pullout, so the bus would not be sitting in the road, per se. He stated that the proposal for Shortline Road was essentially the same as what was installed at the Old Town Transit Center and Kimball Junction Transit Center. He stated the only difference was it would involve a different provider of the charging equipment for the new Gillig buses. He stated the buses would come up Shortline Road to the north, and pull over to the right to charge for 8 – 10 minutes.

Commissioner Suesser pointed out that Shortline Road was not in the Frontage Protection Zone. She asked if there was a large bus depot near that bus pullout. Project Manager Gustafson confirmed and stated that the intent was to charge the buses with an overhead charger, which charges much faster than the plug-in charger.

Commissioner Van Dine asked if there were plans to install any of these chargers along Kearns Boulevard, SR-224, or SR-248. Project Manager Gustafson stated there were no current plans.

Commissioner Frontero stated that was good to hear, but he would like that memorialized somehow. Commissioner Suesser concurred and stated the charging stations would not be appropriate on those corridors.

Approved 04.24.2024

Commissioner Frontero felt that a bus charging for 10 minutes in a pullout was fine, but he would be more comfortable adding language that would limit or preclude the charging station.

Project Manager Gustafson explained that the reason they have the charger on Shortline Road and the Transit Center is that it would also take into account changing out the bus driver. He noted it was not a bus stop. He confirmed that Shortline Road was a great location based on the Commission's discussions. He could foresee that the future development of facilities at Deer Valley or Park City Mountain Resort might have a charging station. As it stood now, there was also a charging station at the Kimball Junction Transit Center.

Commissioner Shand proffered that the Commission was fine with the charging station at Shortline Road and installing a charger at the Resort Center; however, those chargers were baked into this amendment to the LMC that includes the Entry Corridors and Frontage Protection Zones. He suggested amending the language so that charging stations do not show up on SR-248 or SR-224.

Director Ward stated they could amend the Pending Ordinance to prohibit charging stations in these areas since right now it was allowed. Staff could refine the language for those two overlays so that it was clear that Entry Corridors and Frontage Protection Zones were protected specifically for the charging equipment, and leave the Draft Ordinance as is with the other allowances. She mentioned that the new Transportation Planning Director, Tim Sanderson, was present. Director Sanderson stated that from an operational perspective, the intention was not to install this equipment in these corridors, nor was it part of the Standard Operating Procedure for the location of the chargers, as they were made for the end of the line and not the middle of the street. He added that they were not necessarily going to install many more chargers, and as long as they were at these key locations they could serve multiple buses. He also noted these chargers were an interim technology, and as new products come online they likely would not require chargers as the technology evolves.

Commissioner Frontero appreciated these comments and felt there was consensus to alter the language to address these comments.

Director Ward suggested they would need to add language to the Frontage Protection Zone and the Entry Corridor Protection Overlay because Essential Public Facilities was a pretty broad definition. They would want to amend the language to clarify that it excludes the charging infrastructure, and they could work with the City Attorney's office to clarify the specific language. She referenced Lines 598 - 602 of the Draft Ordinance relating to the Frontage Protection Zone. As the language for the Entry Corridor mirrors the language in the Frontage Protection Zone, they would need to amend Lines 643 – 645 to reflect that Essential Public Facilities were allowed with the exception of electric bus charging infrastructure. Commissioner Frontero stated those changes would address his concerns.

Commissioner Suesser was not comfortable with this amendment and tried to understand exactly what it would capture beyond the language currently in the Code, other than the electric charging stations. She requested input on what prompted these changes.

Planner Cawley explained the key point was the straddling between public Right-of-Way and private property and being able to establish these facilities in those locations, which would in turn allow them in more locations. Currently, these were only allowed in the Frontage Protection Zone, whereas these amendments would allow them to occur in other areas. He mentioned that in the

Approved 04.24.2024

General Commercial zone, a charger could not be installed, as it would be required to be outside the Setbacks. These amendments would allow the facility to be in the Setback and the public Right-of-Way.

Commissioner Van Dine added that these amendments would establish these as accepted uses in other zones when they are already allowed in the Frontage Protection Zone.

MOTION: Commissioner Van Dine moved to forward a positive recommendation for Land Management Code Amendments to Define Public Transit Amenity Area as an Allowed Use Within Setbacks that Require an Administrative Permit in the Listed Zoning Areas and Overlays, as amended pursuant to the discussions herein, for City Council's consideration on May 16, 2024. Commissioner Frontero seconded the motion.

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

Commissioner Frontero confirmed that the Commissioners in chambers would not get together after this meeting.

7. ADJOURNMENT

MOTION: Commissioner Van Dine moved to adjourn.

The meeting adjourned at approximately 8:10 PM

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES

LAND MANAGEMENT CODE

Approved June 4, 2024

PARK CITY
1884

PUBLIC TRANSIT AMENITIES

Master Planned Development

Affordable Master Planned Development

Installation in City Right-of-Way

Standalone Essential Municipal Public Utility Use, Facility, Service, Structure on public or private property

No provision for standalone Amenities that straddle City ROW and private or City-owned Property/setbacks outside FPZ

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES

Park City Transit received $43 million in grants

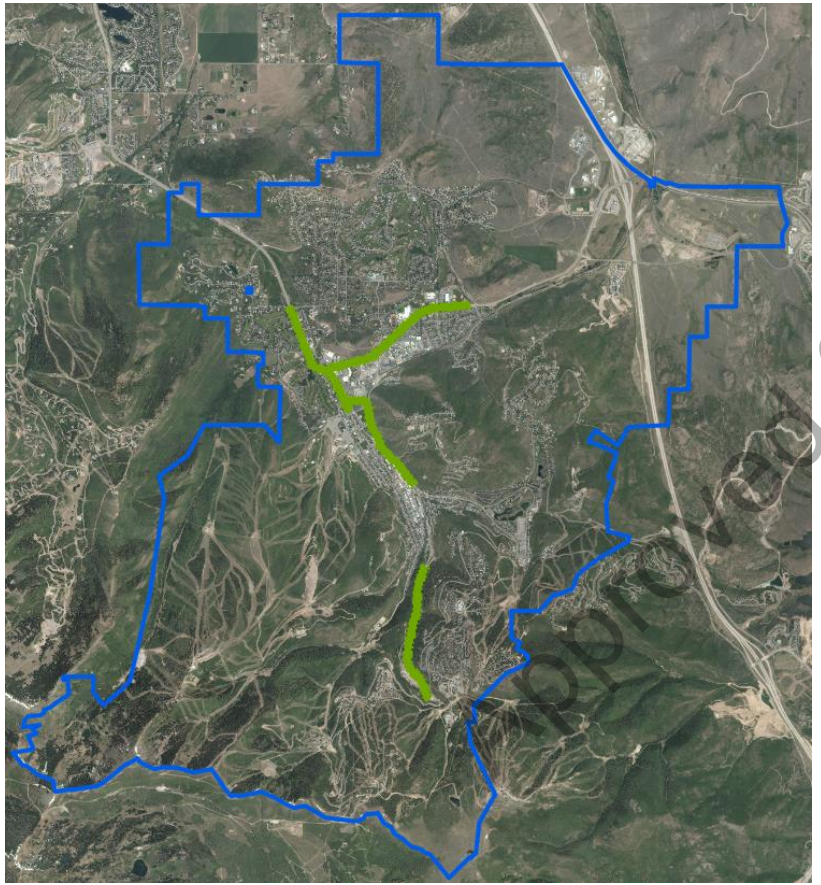
Expand electric bus fleet – support net-zero goal

Add overhead electric bus charger at the western boundary of Public Works Campus (Shortline Road)

Charger will be in the property setbacks and extend into the Right-of-Way (General Commercial Zoning District)

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES



Approved 04.24.2024

Frontage Protection Zone

Park Ave, Kearns Blvd, Marsac Ave, & Deer Valley Dr.

Bus shelters

Bus lanes

Administrative Permit

PUBLIC TRANSIT AMENITIES

General Plan Goal 3 – “Encourage alternative modes of transportation on a regional and local scale to maintain our small-town character”

Objective 3B – Prioritize efficient public transportation

Community Strategy 3.11 – Improve access to, efficiency, and experience of public transit.

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES

1. Define Public Transit Amenity Area
2. Establish requirements to construct and maintain a Public Transit Amenity Area
3. Add Public Transit Amenities as an Allowed Use subject to Administrative Permit approval in certain Zoning Districts
4. Exempt Public Transit Amenities from Zoning District setback restrictions.

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES

Approved 04.24.2024

Public Transit Amenity Area: Structures, infrastructure, and equipment necessary to operate public transit and public multi-modal transportation, including but not limited to items of comfort, convenience, and safety that are available to the general riding public, and bus pull-outs, bus shelters, bus electric charging equipment, benches, signage, and bike racks.

PUBLIC TRANSIT AMENITIES

Public Transit Amenity Areas

Administrative Permit (staff level)

Planning Director and City Engineer review and approval

Front Setback

Include but not limited to:

- Bus shelters
- Bus pull-outs
- Electric bus charging equipment

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES

Enact § 15-4-24

Approved 04.24.2024

- A general description and overview of the proposed scope of work, including construction timeline, materials, lighting, signs, landscaping, and Structures.
- A Site Plan that identifies:
    - The location of the Public Transit Amenity Area and distances from all Property Lines and existing Structures.
    - Elevation contours using United States Geological Survey measurements.
    - Detail of Right-of-Way (ROW) encroachments.
    - Significant Vegetation within 20 feet of the proposed Public Transit Amenity Area.
    - Dedicated snow storage areas.

The review of a proposed Public Transit Amenity Area includes:

- Courtesy notice pursuant to LMC § 15-1-12 and § 15-1-21.
- Written notice of the Property Owner's permission.
- Use shall not impede pedestrian circulation, emergency access, or any other public safety measure.

- Screening of trash and recycling from neighboring properties and the ROW.
- Compliance with the City's Sign Code and outdoor lighting requirements.
- A maximum height of 20 feet measured from Existing Grade.
- Compliance with Site Distance Triangle requirements with review and approval by the Engineering Department.
- Established Limits of Disturbance to mitigate loss of Significant Vegetation.

PUBLIC TRANSIT AMENITIES

Allowed Use in:
Historic Residential – Medium Density
Historic Recreation Commercial
Historic Commercial Business
General Commercial
Light Industrial
Frontage Protection
Entry Corridor Protection

Accommodate expansion and improvements in key areas of the transit system.

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES

Proposed language for Zoning Districts:

Public Transit Amenities, including bus pull-outs, patron waiting shelters, electric bus charging equipment, and similar amenity infrastructure.

FPZ proposed clarifications:

(D) Essential public facilities such as bus shelters, bus lanes, Public Transit Amenity Areas, highways, directional signs, and utility installations within the FPZ ~~may~~ shall require an ~~administrative~~ Administrative Permit or Administrative Conditional Use permit with approval by the Planning, Engineering, and Building Departments.

Approved 04.24.2024

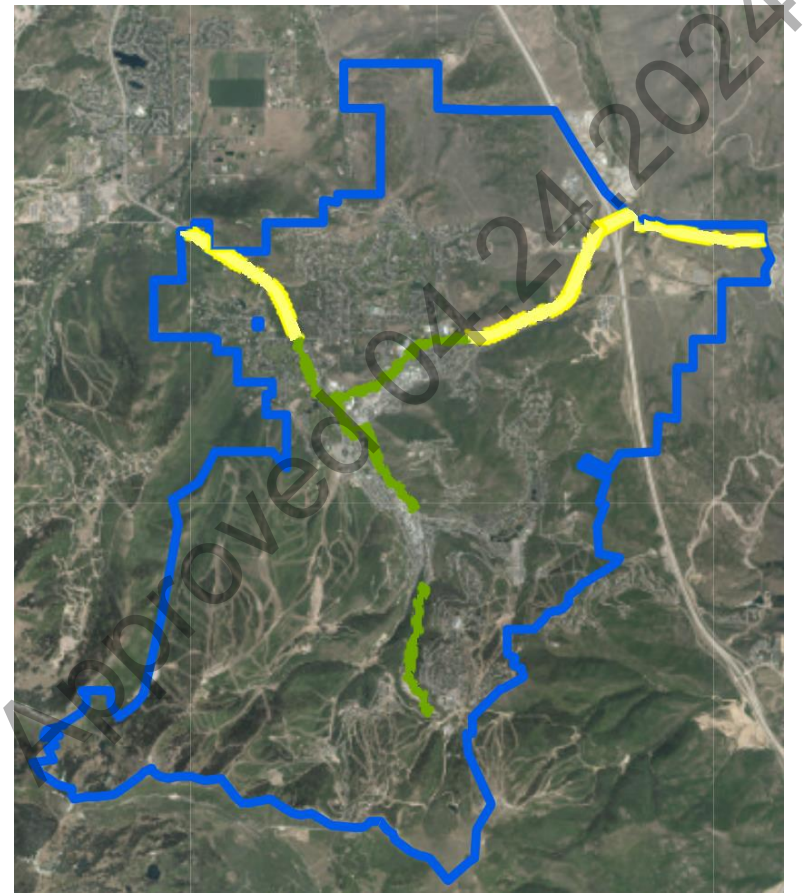
PUBLIC TRANSIT AMENITIES

Proposed language for ECPO:

Essential public facilities such as bus lanes, and Public Transit Amenity Areas shall require an Administrative Permit with approval by the Planning, Engineering, and Building Departments.

Approved 04.24.2024

PUBLIC TRANSIT AMENITIES



Approved 04.24.2024

PUBLIC TRANSIT AMENITIES

Recommendation

Review the proposed LMC amendments, conduct a public hearing, and consider forwarding a positive recommendation to the City Council for consideration on May 16, 2024.

Approved 04.24.2024

844 Empire Avenue

Plat Amendment

Background

On March 13, 2024, the Planning Commission held a public hearing and denied (4-2) the 844 Empire Avenue Plat Amendment request. The Commission directed staff to return April 10, 2024, with a Final Action Letter detailing the Commission's Findings for ratification.

This evening's scope of review is to determine if the Final Action Letter is complete with the Findings of Fact listed by the majority of the Commission.

Approved 04.24.2024

Recommendation

The Planning Commission (I) review the Final Action Letter denying the Plat Amendment for 844 Empire Avenue removing a plat note, and (II) consider ratifying the Final Action Letter.

Approved 04.24.2024

PARK CITY SURGICAL & MEDICAL PLAZA CONDOMINIUM

PLAT AMENDMENT

Approved 04.24.2024

PARK CITY 1884

1850 SIDEWINDER

Combine the office space of Units 320 and 420.

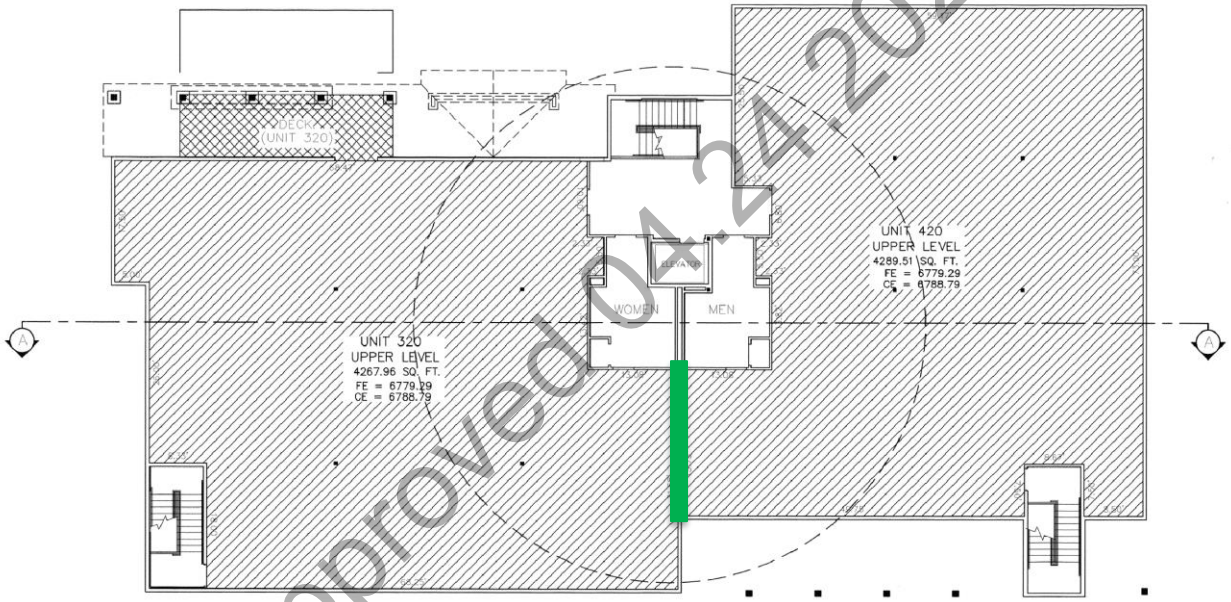
A 15.75-foot common platted wall separates the units.

The Condominium Declaration allows for unit owners to create smaller interior office units within platted units, no less than 1,000 square feet, and approved by the Board of Trustees.

LMC § 15-7.1-6(G) regulates the requirements to amend the condominium record of survey to accommodate this proposal.

Approved 04.24.2024

1850 SIDEWINDER



Approved 04.24.2024

1850 SIDEWINDER

The proposal complies with the GC Zoning District and Frontage Protection Zone requirements.

The plat amendment complies with Off-Site Parking requirements.

There is Good Cause because it allows for flexibility of office space uses without modifying the exterior of the office building and does not increase square footage or increase parking requirements.

Approved 04.24.2024

1850 SIDEWINDER

Review the proposed plat amendment, hold a public hearing, and consider approving the Plat Amendment.

Approved 04.24.2024

PARK CITY PEAKS HOTEL

ONE YEAR FOLLOW-UP

Approved 04.24.2024

PEAKS HOTEL

July 2023 Approval

- Summer – Last week of May to first week of October.
- Private event only.
- Winter – Last week of November to second week of April.
- Use of hotel guests.
- Operational (Fire) Permit required each install.

Approved 2024

PEAKS HOTEL

Conditions of Approval required by Planning Commission from July 2023 Final Action Letter.

15. The Applicant shall provide an updated winter parking demand study for President's Day week 2024 for review by the Planning Commission at the end of the Winter season.
16. The Applicant shall return for review with the Planning Commission within four weeks of the end of the Winter season.

Approved 04.24.2024

PEAKS HOTEL

LMC § 15-3-7 authorizes the Planning Commission to reduce parking requirements.

Required Parking: 168.2 spaces

Available Parking: 135 spaces

Parking Study Summer 2023 – July 17 to August 1

Reached capacity one Friday (7/8, 6:00 PM) and dropped the next hour.

Approved 04.24.2024

PEAKS HOTEL

Parking Study 2024 President's Day weekend – Highest number of cars parked, 91 at 7:00 PM on Saturday (2/17).

Parking did not reach capacity.

Packet 04.24.2024

PEAKS HOTEL

Parking Management Plan

- Two on-site bike racks (36 total).
- Garage remains open to the public for use during hotel invite-only events.
- Maintains a towing contract.
- “No Parking” signs and a painted red curb along the hotel’s side of Jupiter View Drive.
- Security to manage traffic during events.
- Directional signs to the garage entrance.
- Parking requirements outlined on guest contracts.

Approved 04.24.2024

PEAKS HOTEL

Does the Planning Commission find the parking studies during peak summer and winter seasons and the parking management plan provided by the Applicant adequately mitigate the request for a parking reduction (33 spaces) for the Applicant's continued installation of the Tent as conditioned in the July 26, 2023, approval?

Approved 04.24.2024

Planning Commission
Staff Report

Subject: 844 Empire Avenue
Application: PL-24-06049
Author: Caitlyn Tubbs, Senior Historic Planner
Date: Mach 13, 2024
Type of Item: Administrative - Plat Amendment

Recommendation

(I) Review the proposed Plat Amendment removing Plat Note 3 from the 844 Empire Avenue Amended Plat, (II) conduct a public hearing, and (III) consider approving the Plat Amendment based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter (Exhibit A).

Description

Applicant:	Todd Gilbert, represented by Marshall King (Alliance Engineering)
Location:	844 Empire Avenue
Zoning District:	Historic Residential – 1
Adjacent Land Uses:	Residential, City Right-of-Way
Reason for Review:	Per LMC § 15-1-8 "Plat Amendments are initially reviewed by staff and submitted to the Planning Commission for Final Action."

DRC	Development Review Committee
HDDR	Historic District Design Review
HPB	Historic Preservation Board
HR-1	Historic Residential – 1
LMC	Land Management Code

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § 15-15-1.

Summary

The Applicant owns 844 Empire Avenue, a designated Significant Historic Site[1] on Park City's Historic Sites Inventory, located at the intersection of Empire Avenue, Crescent Tram Road, and the platted but unbuilt 9th Street Public Right of Way (public stairs). The Applicant has proposed the construction of an addition to the western side of the Structure with a detached garage alongside Empire Avenue. The proposed

Figure 1: 1940s Tax Photograph

[1] LMC § 15-11-10(D)(2)(ad)

access to the garage is off Crescent Tram Road but the recorded Plat Note 3 requires "[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." Plat Note 3 must be removed for the proposed access onto Crescent Tram Road.

Since Plat Note 3 was recorded in 2017, multiple changes have been made to Empire Avenue and the 9th Street Right of Way which necessitates vehicular access from Crescent Tram Road:

- In 2024, the City completed construction of staircase improvements within the 9th Street Right of Way;
- On October 6, 2022, the City Council approved a reduction of the speed limit from twenty-five miles per hour to twenty miles per hour (Minutes, p. 17);
- In a September 20, 2022 DRC meeting, the Water Department raised concerns regarding the waterline and utility infrastructure that exists in the 9th Street Right of Way and stated the waterline could not sustain the weight of a vehicle passing over it;

Figure 2: Vicinity Map showing Subject Property

Background

The 844 Empire Avenue Site previously included three parcels; one full Lot and two

partial Lots[2]; “all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyders Addition to the Park City Survey.” The 2016 Plat Amendment was approved under Ordinance 2016-16 (Exhibit D) and combined the three parcels into one Lot and dedicated 932 square feet of right-of-way to the City along Crescent Tram Road. As acknowledged in Ordinance 2016-16 Finding of Fact 15, the Planning Director reviewed the property under LMC § 15-4-17 and determined the unusual Lot has three Front Lot Lines, one Side Lot Line, and one Rear Lot Line (see Figure 3).

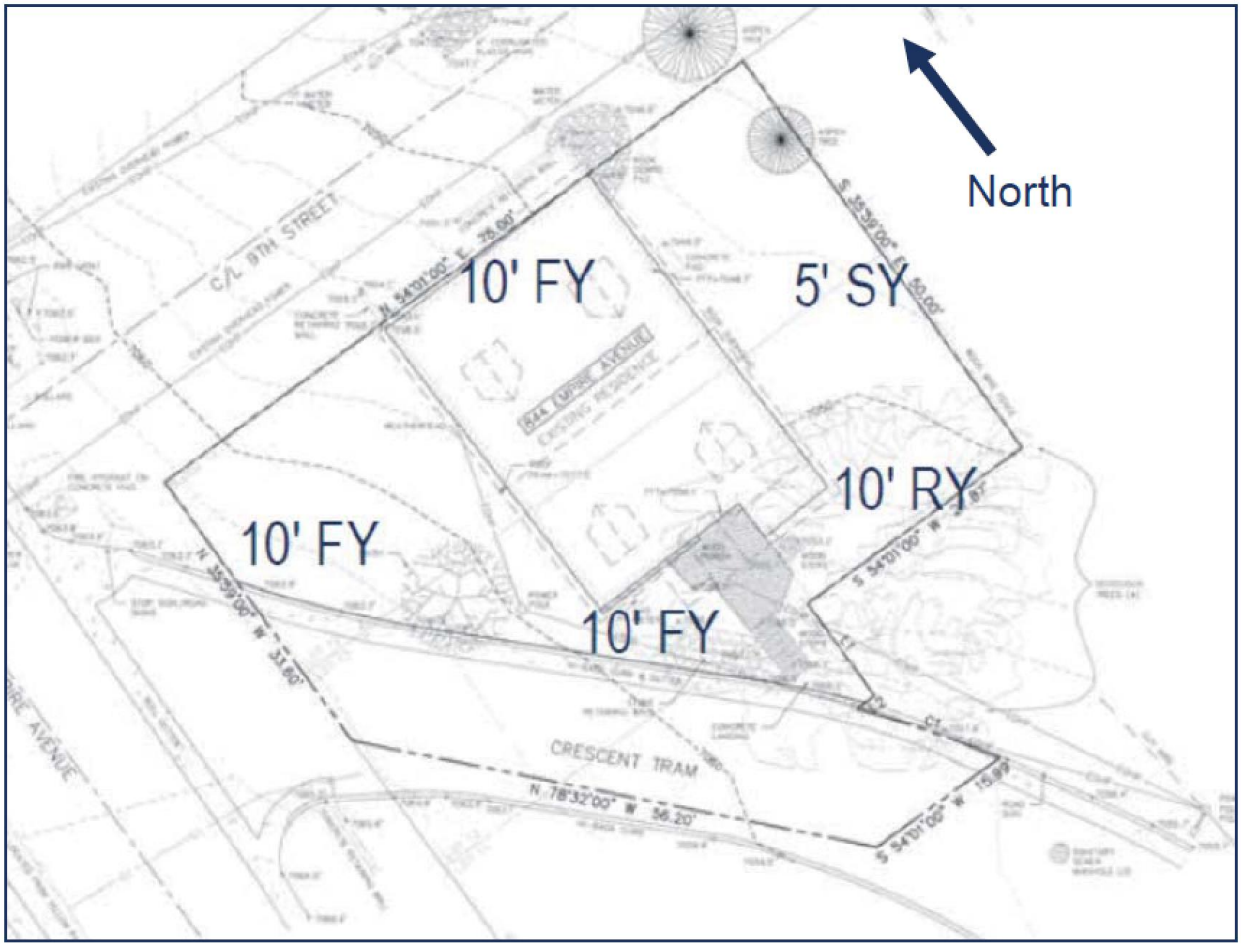


Figure 3: 2015 Planning Director Determination Diagram Showing Setbacks

In 2014, a fire damaged portions of the Historic Structure. On February 7, 2024, the Historic Preservation Board conducted a site visit to look at the fire-damaged materials in advance of the Applicant’s Material Deconstruction request later that evening. Following a public hearing, the Historic Preservation Board approved the proposed Material Deconstruction and Panelization to facilitate the development of this property (Staff Report).

On February 20, 2024, the Applicant submitted a Variance Application to permit the construction of the proposed detached garage within the northern and southern Front

[2] May 11, 2016 Planning Commission Staff Report (Exhibit F)

Setbacks. The Board of Adjustment will need to take Final Action on the Variance request and the proposed Plat Amendment will need to be recorded with the Summit County Recorder's Office before the Applicant may proceed to the final HDDR hearing with the Planning Director. Before the Applicant may proceed to the final HDDR hearing with the Planning Director they will need 1) Final Action from the Board of Adjustment regarding the proposed Variance; 2) Final Action from the Planning Commission regarding the proposed Plat Amendment; and 3) recordation of the Amended Plat with the Summit County Recorder's Office.

Analysis

Land Management Code § 15-1-8(H) lists the Planning Commission as the Land Use Authority for Plat Amendments.

(I) The proposal to amend the 844 Empire Avenue Amended Plat to remove Plat Note 3 complies with LMC Chapter 15-2.2: *Historic Residential (HR -1) District*.

The purpose of the HR-1 District is to:

A. Preserve present land Uses and character of the Historic residential Areas of Park City;
B. Encourage the preservation of Historic Buildings and/or Structures;
C. Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods;
D. Define Development parameters that are consistent with the General Plan policies for the Historic core; and
E. Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment[3].

The Site is currently occupied by a Significant Historic Structure on which the Applicant intends to construct an addition and detached garage. Pursuant to LMC § 15-2.2-4, existing Historic Structures that do not comply with Building Footprint, Building Height, Setbacks, Off-Street Parking, and driveway location standards are valid Non-Complying Structures. The northern wall of the existing house currently sits at the northern property line and is non-compliant with the required ten-foot Front Setback. The northern wall enclosed the historic front porch to provide additional bedroom space; the Applicant has proposed the restoration of the front porch in its existing location. The southern corner of the house is also sited approximately four and a half feet from the southern front Lot Line. New construction, such as the proposed addition and detached garage, are required to comply with all applicable zoning requirements regardless of the proposed point(s) of access to the property. The proposed removal of Plat Note 3 will not affect the proposal's compliance with Lot and Site Requirements as outlined in LMC Chapter 15-2.2.

(II) The proposal to amend the 844 Empire Avenue Amended Plat to remove Plat Note 3 complies with the Plat Amendment requirements outlined in LMC Chapter

[3] LMC § 15-2.2-1

15-7.1.

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.

LMC § 15-15-1 defines *Good Cause* as "[p]roviding 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."

The Applicant also has a pending Historic District Design Review (HDDR) application, PL-22-05350, which was reviewed by the Development Review Committee on September 20, 2022. During this review, the Park City Engineering and Water Departments expressed concern regarding the initial proposed access to the property from the unbuilt 9th Street public right-of-way. The Engineering Department outlined problems with Clear View requirements and distances between driveways and street intersections. The Water Department pointed out the presence of a massive water line in the 9th Street Right of Way that would not support the weight of vehicular access. The Applicant revised the proposed orientation and access of the detached garage in response to these comments.

The HDDR was again reviewed by the DRC on September 5, 2023, where the Engineering and Water Departments acknowledged the changes the Applicant made in response to the prior comments. The DRC also noticed Plat Note 3 required access from Empire Avenue or the 9th Street Right of Way, which had been declared non-viable options previously and recommended the Applicant amend the Plat to remove this note.

Right-of-Way along Crescent Tram Road and a snow storage easement were dedicated to the City as part of Ordinance 2016-26 and the prior Plat Amendment for this Site. These dedications are not impacted or vacated by the removal of Plat Note 3. The proposed construction of the garage would also provide one off-street parking space along a narrow and steep Right-of-Way further improving public health, safety and welfare.

(III) The Development Review Committee reviewed the Plat Amendment proposal on February 20, 2024.[4]

[4] The Development Review Committee meets the first and third Tuesday of each month to review and provide comments on Planning Applications, including review by the Building Department, Engineering Department, Sustainability Department, Transportation Planning Department, Code Enforcement, the City Attorney's Office, Local Utilities including Rocky Mountain Power and Dominion Energy, the Park City Fire District, Public Works, Public Utilities, and the Snyderville Basin Water Reclamation District (SBWRD).

The Development Review Committee (DRC) reviewed the proposed Plat Amendment on February 20, 2024, and provided the following comments:

The DRC expressed its satisfaction with the proposed Plat Amendment removing Plat Note 3 and had no further concerns.

Department Review

The Planning Department, Engineering Department, and City Attorney's Office reviewed this report.

Notice

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 courtesy notice to property owners within 300 feet on February 28, 2024. The *Park Record* published courtesy notice on March 2, 2024.[5]

Public Input

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

Alternatives

- The Planning Commission may approve the Plat Amendment;
- The Planning Commission may deny the Plat Amendment and direct staff to make Findings for the denial; or
- The Planning Commission may request additional information and continue the discussion to a date certain or uncertain.

Exhibits

Exhibit A: Draft Final Action Letter
Exhibit B: Applicant's Narrative
Exhibit C: 844 Empire Avenue Amended Plat (Currently Recorded)
Exhibit D: Ordinance 2016-26
Exhibit E: 844 Empire Avenue Amended Plat (Proposed)
Exhibit F: May 11, 2016 Planning Commission Staff Report

[5] LMC § 15-1-21

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

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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.

Approved 04.10.2024

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

Approved 04.10.2024

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

Approved 04.10.2024

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

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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.

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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.

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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

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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.

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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

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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.

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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.

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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.

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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.

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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.

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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.

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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

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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

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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

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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

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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,

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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

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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 the 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

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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.

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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.

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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.

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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.

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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

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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 Commission 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.

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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.

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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

Approved 04.10.2024

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.

Approved 04.10.2024

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	*LMC § 15-2.10-3(A) requires that all uses (except Duplexes) have a minimum Lot Size of 3 Acres.* **Complies**: Parcel B has a Lot Size of 6.4 Acres
Lot Width	*LMC § 15-2.10-3(B) requires a minimum Lot Width of 100 feet.* **Complies**: Parcel B has a Lot Width of 304 feet.
Setbacks	*LMC § 15-2.10-3(C) establishes that Setbacks for Front, Rear, and Sides to be 30 feet.* **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	*LMC § 15-2.10-4 sets a Building Height of 28 feet from Existing Grade.* **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.

Approved 04.10.2024

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.

Approved 04.10.2024

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.

Approved 04-10-2024

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

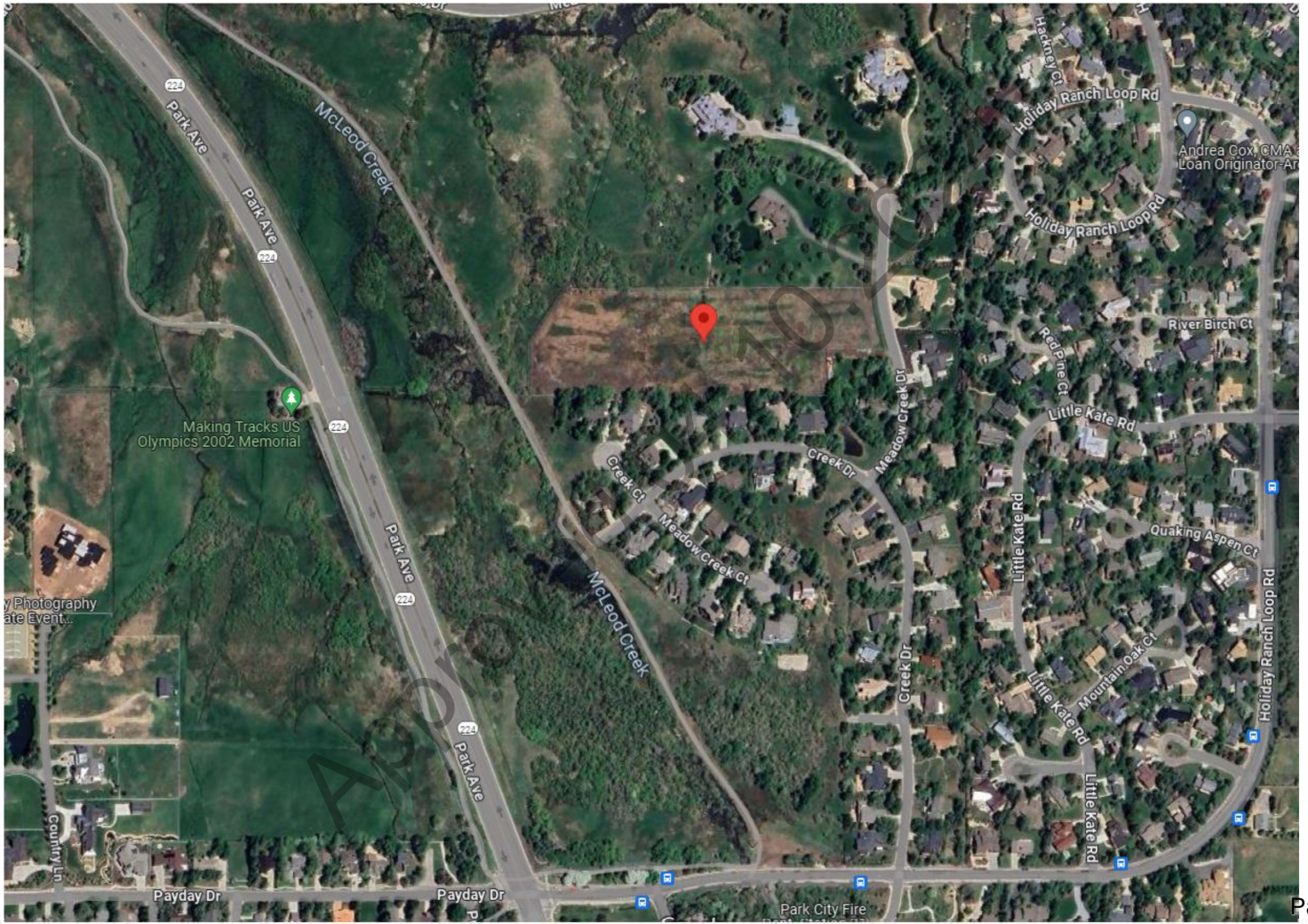
2685 MEADOW CREEK DRIVE

PLAT AMENDMENT

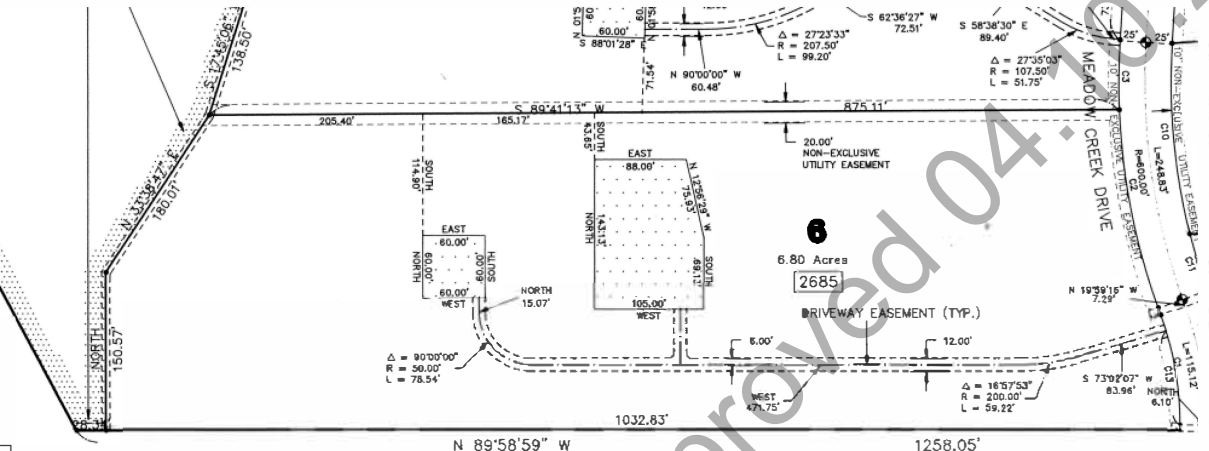
Approved 04.10.2024

PL-24-06033
March 13, 2024
Planning Commission

PARK CITY
1884



Agenda 10-10-19



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.

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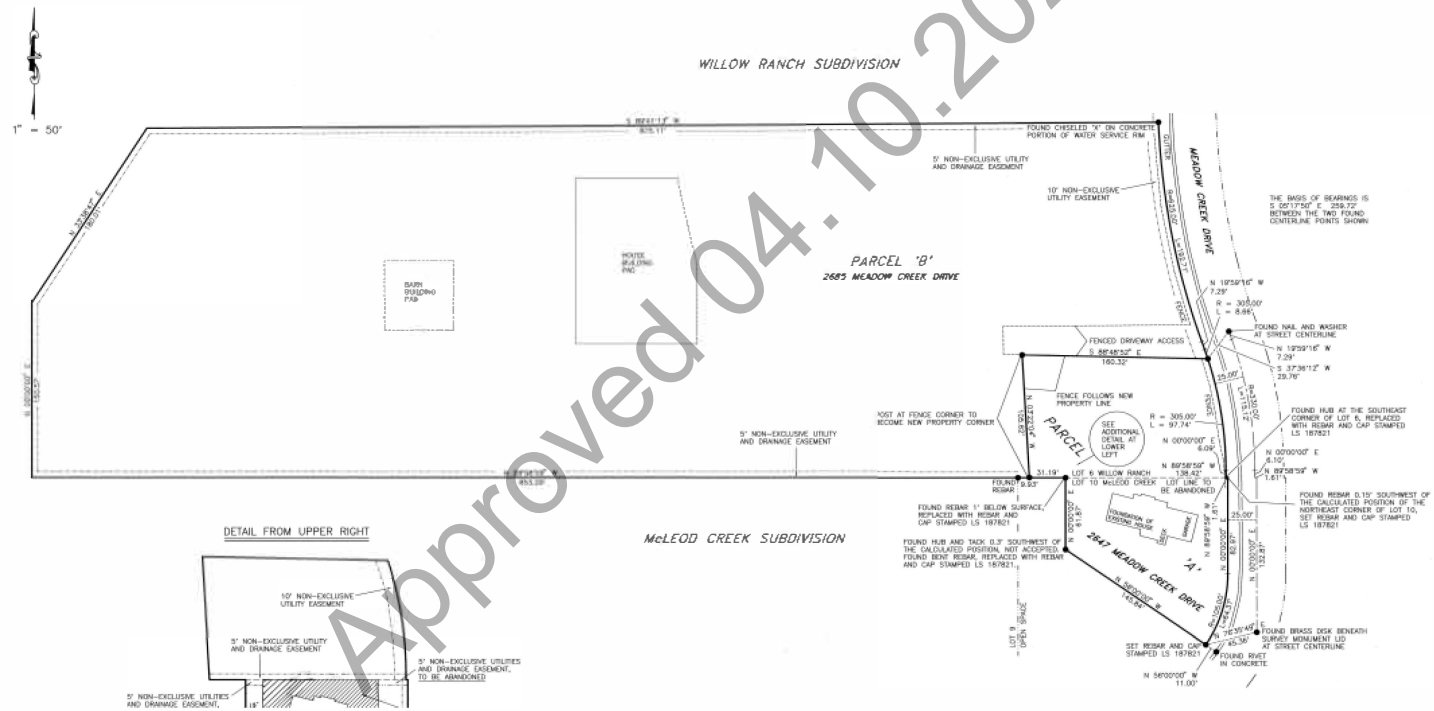

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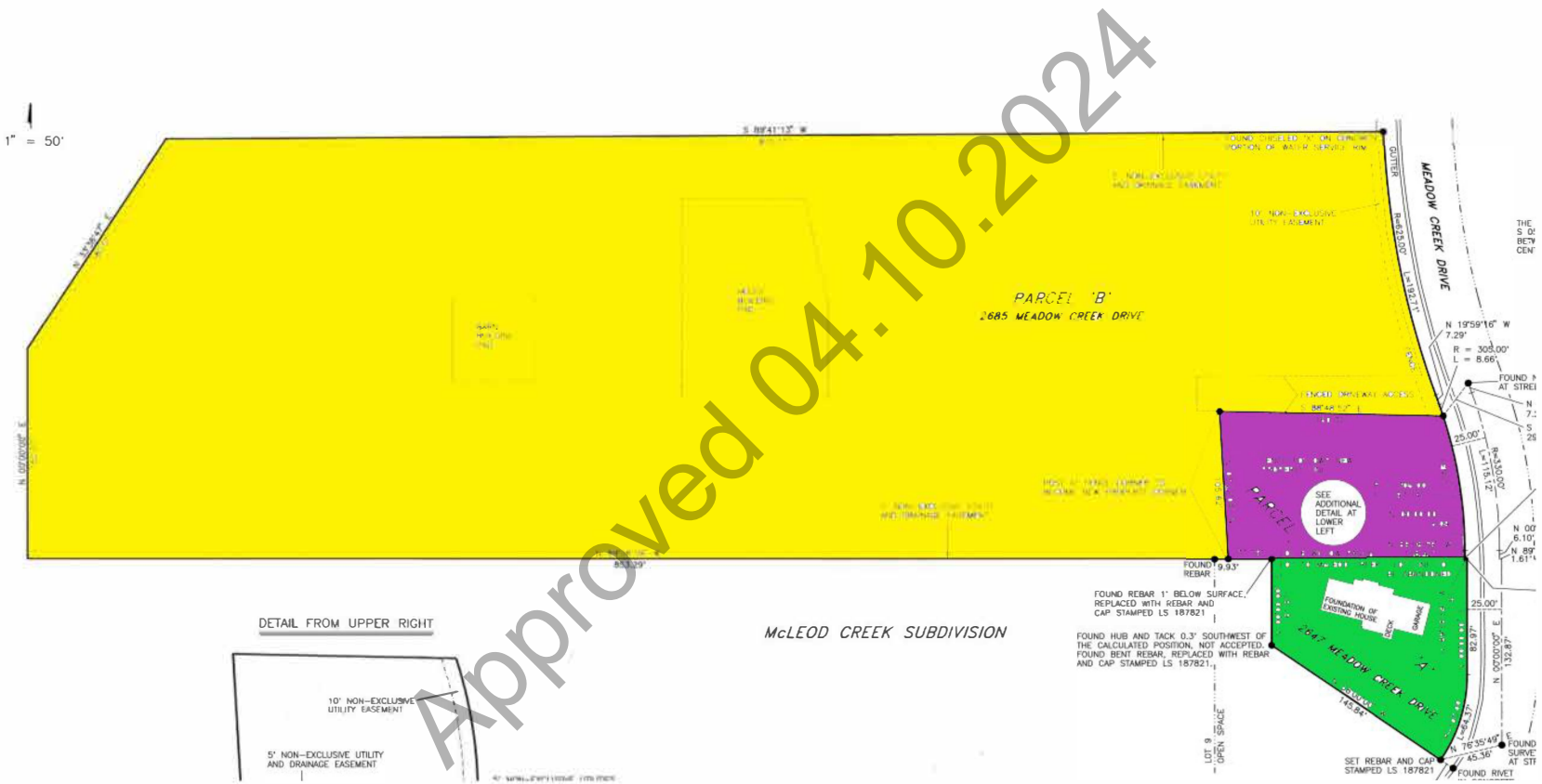

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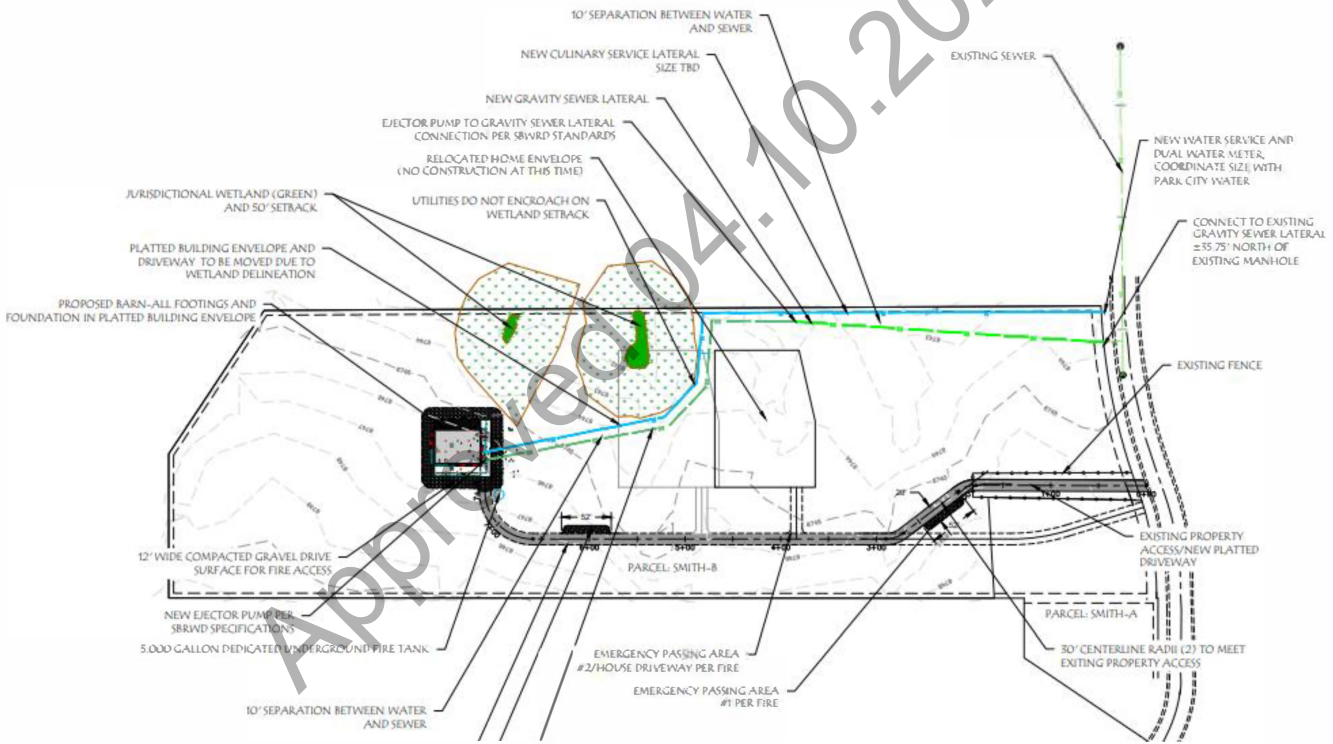

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BACKGROUND

2685 MEADOW CREEK

Approved 04.10.2024

- 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

Approved 04.10.2024

SENESITIVE 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

Approved 04.10.2024

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.

Approved 04.10.2024

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.

Approved 04.10.2024

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.

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COAs

2685 MEADOW CREEK

Approved 04.10.2024

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.

Approved 04.10.2024

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

Approved 04-10-2024

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

Approved 04.10.2024

PARK CITY
1884

RECEIVED
FEB 3

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.

Approved 04.10.2024

Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, UT 84060-1480
Community Development (801) 645-5020 • Engineering 645-5020 • Building 645-5040
Planning 645-5021 • FAX (801) 645-5078

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

SM McIntyre 2/2/93

Suzanne McIntyre, AICP
Senior Planner

Date

ACKNOWLEDGEMENT

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

Richard [illegible]

Pres. Wellington Development Inc

Date 2/4/93

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.

Approved 04.10.2024

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

BOOK 711 PAGE 513

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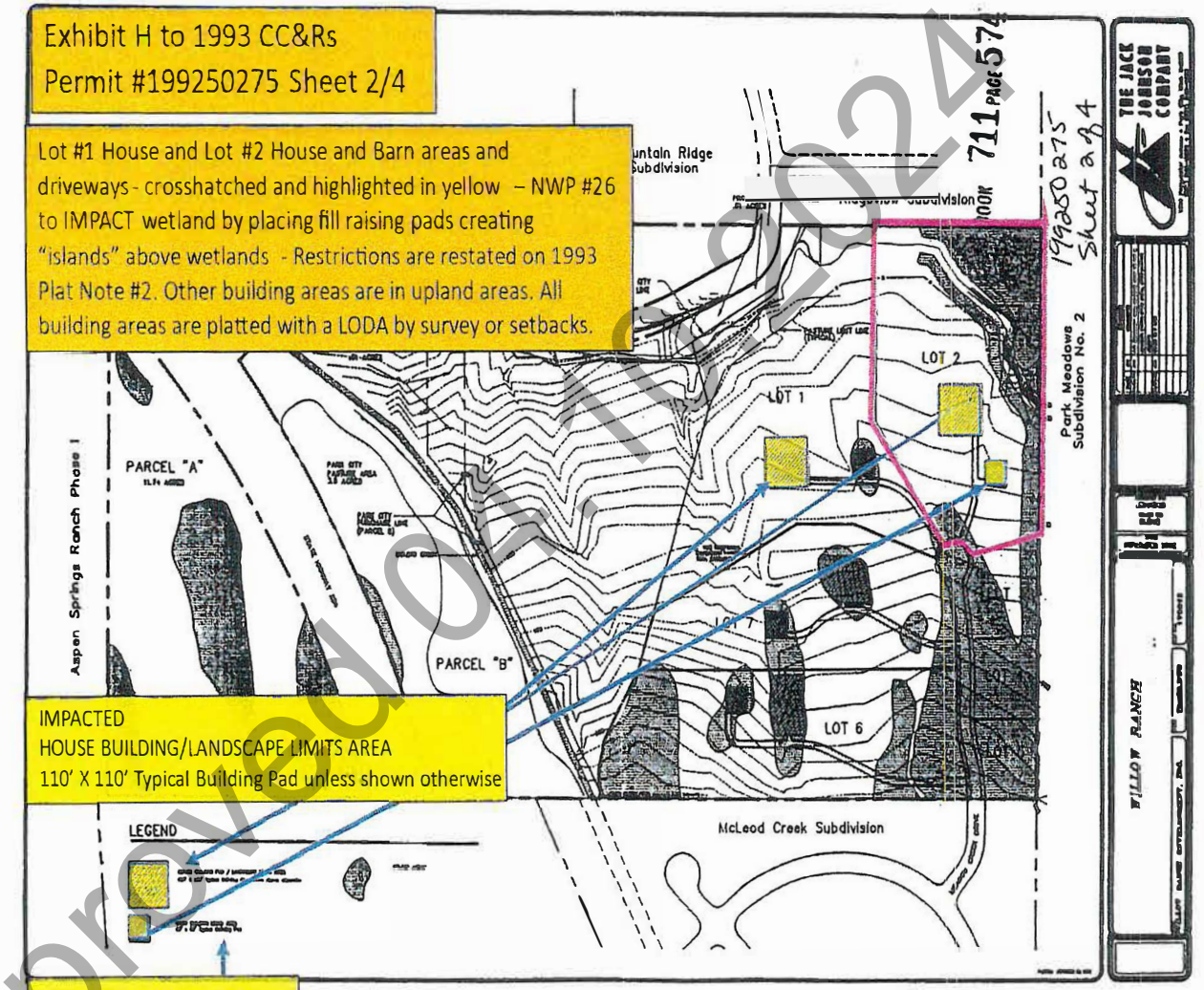
3

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.

Approved 04.10.2024

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

Approved Oct 11 2024

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 Alaine 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

Approved 04.10.2024

Ordinance No. 2016-26

AN ORDINANCE APPROVING THE 844 EMPIRE AVENUE PLAT AMENDMENT LOCATED AT 844 EMPIRE AVENUE, PARK CITY, UTAH.

WHEREAS, the owner of the property located at 844 Empire Avenue has petitioned the City Council for approval of the Plat Amendment to combine Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, of the Snyder's Addition to the Park City Survey ; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held public hearings on March 23, April 13, and May 11, 2016, to receive input on Plat Amendment; and

WHEREAS, the Planning Commission, on May 11, 2016, forwarded a positive recommendation to the City Council; and,

WHEREAS, on June 2, 2016, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, there is good cause and it is in the best interest of Park City, Utah to approve the 844 Empire Avenue Plat Amendment.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. 844 Empire Avenue Plat Amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 844 Empire Avenue.
2. The property is in the Historic Residential-1 (HR-1) District.
3. The subject property consists of all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyder's Addition to the Park City Survey.
4. The site is listed on Park City's Historic Building Inventory as a significant site.
5. The proposed Plat Amendment creates one (1) lot of record from the existing three (3) parcels, one (1) full lot and two (2) partial lots consisting of a total of 4,174 square feet.
6. A portion of the property is encumbered by the Crescent Tram Road which has been used since the late 1800s and was paved in the early 1970s.

7. The City requests that the property owner formalize the dedication to the City that portion of the Crescent Tram prescriptive easement area that is on subject property. This area consists of 932 square feet.
8. The proposed lot would be 3,242 square feet.
9. A single-family dwelling is an allowed use in the District.
10. The minimum lot area for a single-family dwelling is 1,875 square feet.
11. The proposed lot meets the minimum lot area for a single-family dwelling.
12. The minimum lot width allowed in the District is twenty-five feet (25').
13. The proposed lot is approximately thirty one feet (31') wide.
14. The proposed lot meets the minimum lot width requirement.
15. Per LMC § 15-4-17 the Planning Director has determined the following setbacks:
    a. From 9th Street, platted un-built ROW, front yard, ten feet (10') minimum. This is the historic front of the structure.
    b. From Empire Avenue, front yard, ten feet (10') minimum.
    c. From Crescent Tram, front yard, ten feet (10') minimum.
    d. From the south neighbor, rear yard, ten feet (10') minimum. This side is opposite of the historic front of the house.
    e. From the east neighboring property, side yard, five feet (5') minimum.
16. The existing historic structure does not meet the minimum setbacks along the north side, platted un-built 9th Street ROW, as the structure was built on the property line.
17. The existing historic structure does not meet the minimum setbacks along the shared property line with the neighboring site on the south as it is approximately eight and a half feet (8.5').
18. The existing historic structure does not meet minimum setbacks along the Crescent Tram ROW dedication as it is approximately five feet (5') from the new property line after the dedication.
19. LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures; however, additions must comply with building setbacks.
20. The concrete retaining wall encroaches across the north property line over the 9th Street ROW.
21. The proposed lot area consisting of 3,242 square feet yields a maximum Building Footprint of 3,151.0 square feet.
22. LMC § 15-7.3-4(I)(2) Widening and Realigning of Existing Roads indicates that where a subdivision borders an existing narrow road for realignment or widening, the Applicant shall be required to improve and dedicate at his expense such Areas for widening or realignment of such roads.
23. LMC § 15-7.3-4(I)(2) indicates that land reserved for any road purposes may not be counted in satisfying yard or Area requirements contained in the Land Management Code.
24. Utah Code, Transportation Code, Right-Of-Way Act § 72-5-104 declares that a highway (street or road, not including an area principally used as a parking lot) is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of ten (10) years.
25. Crescent Tram has continuously been used as a public thoroughfare for much

longer that the required ten (10) years.

26. LMC § 15-2.2-3(D) indicates that the maximum Building Footprint is calculated according the following formula for Building Footprint: MAXIMUM FP = (A/2) x $0.9^{A/1875}$, where FP = maximum Building Footprint and A= Lot Area.
27. The proposed lot area shown on the attached requested Plat Amendment displays that the proposed lot is to contain 3,242 square feet, which would yield a maximum Building Footprint of 1,351.0 square feet.
28. In order to provide a future vehicular access to 844 Empire Avenue, the City Engineer has indicated that the existing intersection at Empire Avenue and Crescent Tram needs to be re-designed and improved.
29. The current site does not have vehicular access.
30. The future vehicle access is for the sole benefit of 844 Empire Avenue.
31. All of the costs associated of the re-design and improvements are the burden of the property owner.
32. The intersection currently works as-built, without vehicular access to 844 Empire Avenue.
33. The City Engineer has indicated that a vehicular access can only be accommodated off Empire Avenue or through platted un-built 9th Street.
34. The City Engineer is not willing to support vehicular access directly off Crescent Tram.
35. The City's Historic Site Inventory designated the site in the significant category.
36. Historic Structures that do not comply with Off-Street parking and driveway location standards are valid Complying Structures.
37. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment.
38. There is good cause for this Plat Amendment as the lot line going through a historic structure will be removed, 932 square feet will be dedicated to the City for the Crescent Tram road for public use, the requested Plat Amendment will not cause undo harm to adjacent property owners, and all requirements of the Land Management Code can be met.
39. The proposed lot area of 3,242 square feet is a compatible lot combination as the entire Historic Residential-1 District has abundant sites with these approximate dimensions in this neighborhood.
40. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law:

1. There is Good Cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
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 stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten foot (10') wide public snow storage easement will be required along the Empire Avenue front of the property.
4. Fire sprinklers shall be required for all new construction or substantial renovations, as determined by the Park City Building Department during building permit review.
5. Drive access to the site shall be from Empire Avenue or through platted un-built 9th Street in a location approved by the City Engineer.
6. The concrete retaining wall built over the north property line shall be resolved prior plat recordation. The applicant bears the burden of proper approvals for the retaining wall, which may include an encroachment agreement with the City through the City Engineer's office, or relocation/removal of the retaining wall, subject to compliance with applicable Design Guidelines for Historic Sites through a Historic District Design Review application.
7. The plat shall formalize the dedication of the Crescent Tram which has been used as right of way for more than 10 years.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 2nd day of June, 2016.

PARK CITY MUNICIPAL CORPORATION

PARK CITY SUMMIT COUNTY UTAH CORPORATE Seal MARCH 1, 1884

Jack Thomas, MAYOR

ATTEST:

Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment 1 – Proposed Plat Amendment

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 35°59'00" W	12.00
L2	N 54°01'00" E	2.34

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	130.00	15.94	07°01'29"
C2	110.00	10.62	05°38'10"
C3	77.50	17.47	12°55'07"

REGISTERED LAND SURVEYOR No. 4938739 MARTIN A. MORRISON State of Utah

SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, I have prepared this Record of Survey map of 844 EMPIRE AVENUE PLAT AMENDMENT and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTION

Lot 12, Block 14, Snyder's Addition to Park City.

Also, a part of Lots 13 and 14, in Block 14, Snyder's Addition to Park City described as follows: Beginning at the Southwest corner of Lot 11, Block 14; and running thence South 54°01' West 75 feet; thence South 35°59' East 8.6 feet; thence South 78°32' East 56.2 feet; thence North 54°01' East 37 feet; thence North 35°59' West 50 feet to the point of beginning.

Less and excepting the following land conveyed to Robert G. Ward and Margery W. Ward, his wife, grantee, as show in that certain Quit-Claim Deed recorded December 28, 1983, as Entry No. 214633, in Book 283, at page 299, of Official Records, more particularly described as follows:

Beginning at the Northeast corner of Lot 14, Block 14, Snyder's Addition to Park City, Utah; and running thence South 35°59' East along the Easterly boundary of said Lot 14, 25 feet; thence South 54°01' West along the Southerly boundary of said Lot 14, 21.01 feet to a point on the Northerly side of the Crescent right-of-way; thence along said Northerly side of the Crescent right-of-way, being a 130 foot radius curve to the left (radius point bears South 22°14'19" West), 15.94 feet; thence North 54°01' East 2.34 feet; thence North 35°59' West 12 feet to a point on the Northerly boundary of said Lot 14; thence North 54°01' East along said Northerly boundary of Lot 14, 27.87 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that Todd M. Gilbert, the undersigned owner of the herein described tract of land, to be known hereafter as 844 EMPIRE AVENUE PLAT AMENDMENT, does hereby certify that he has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

ALSO, the owner hereby irrevocably offers for dedication to the City of Park City all the streets, land for local government uses, easements and required utilities shown on this plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
: ss.
County of _____)

On this _____ day of _____, 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-____.

A PARCEL COMBINATION PLAT

A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

844 EMPIRE AVENUE PLAT AMENDMENT

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

10' 0 10' 20'

SHEET 1 OF 1

JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467 Alliance Engineering — CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT — REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	PLANNING COMMISSION — APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2016 BY _____ CHAIR	ENGINEER'S CERTIFICATE — I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM — APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE — APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	CERTIFICATE OF ATTEST — I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	RECORDED — STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ FEE _____ RECORDER

SNYDER'S ADDITION TO PARK CITY SURVEY, BLOCK 14,
LOT 12 AND PORTIONS OF LOTS 13 & 14,

(844 EMPIRE AVENUE)

PROJECT INTENT

Lot 12 and portions of Lots 13 & 14, Block 14, Snyder's Addition to Park City Survey, (also known as 844 Empire Avenue) are owned by the same entity. The original lot lines from Snyder's Addition to Park City Survey still exist between Lots 12 & 13 and between Lots 13 & 14. The owner desires to unify the property into one lot of record by extinguishing the existing lot line, with the ultimate goal of renovating the existing residence.

RECEIVED
DEC 11 2015
PARK CITY
PLANNING DEPT.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 35°59'00" W	12.00
L2	N 54°01'00" E	2.34

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In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
: ss.
County of _____)

On this _____ day of _____ 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-_____.

10' 0 10' 20'

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A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

844 EMPIRE AVENUE PLAT AMENDMENT

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SHEET 1 OF 1

12/1/15 JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467 CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	COUNCIL APPROVAL AND ACCEPTANCE	CERTIFICATE OF ATTEST	RECORDED
	REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2016 BY _____ CHAIR	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ FEE _____ RECORDER

23 September 2016

Marshall King
PO Box 2664
Park City, UT 84060

Re: Notice of Approval for the 844 Empire Avenue Plat Amendment

Marshall:

On June 02, 2016 the City Council of Park City approved your request for a Plat Amendment on the property located at 844 Empire Avenue, application no. PL-15-03034, subject to the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. The property is located at 844 Empire Avenue.
2. The property is in the Historic Residential-1 (HR-1) District.
3. The subject property consists of all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyder's Addition to the Park City Survey.
4. The site is listed on Park City's Historic Building Inventory as a significant site.
5. The proposed Plat Amendment creates one (1) lot of record from the existing three (3) parcels, one (1) full lot and two (2) partial lots consisting of a total of 4,174 square feet.
6. A portion of the property is encumbered by the Crescent Tram Road which has been used since the late 1800s and was paved in the early 1970s.
7. The City requests that the property owner formalize the dedication to the City that portion of the Crescent Tram prescriptive easement area that is on subject property. This area consists of 932 square feet.
8. The proposed lot would be 3,242 square feet.
9. A single-family dwelling is an allowed use in the District.
10. The minimum lot area for a single-family dwelling is 1,875 square feet.
11. The proposed lot meets the minimum lot area for a single-family dwelling.
12. The minimum lot width allowed in the District is twenty-five feet (25').
13. The proposed lot is approximately thirty one feet (31') wide.
14. The proposed lot meets the minimum lot width requirement.
15. Per LMC § 15-4-17 the Planning Director has determined the following setbacks:

a. From 9th Street, platted un-built ROW, front yard, ten feet (10') minimum. This is the historic front of the structure.
b. From Empire Avenue, front yard, ten feet (10') minimum.
c. From Crescent Tram, front yard, ten feet (10') minimum.
d. From the south neighbor, rear yard, ten feet (10') minimum. This side is opposite of the historic front of the house.
e. From the east neighboring property, side yard, five feet (5') minimum.

16. The existing historic structure does not meet the minimum setbacks along the north side, platted un-built 9th Street ROW, as the structure was built on the property line.
17. The existing historic structure does not meet the minimum setbacks along the shared property line with the neighboring site on the south as it is approximately eight and a half feet (8.5').
18. The existing historic structure does not meet minimum setbacks along the Crescent Tram ROW dedication as it is approximately five feet (5') from the new property line after the dedication.
19. LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures; however, additions must comply with building setbacks.
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21. The proposed lot area consisting of 3,242 square feet yields a maximum Building Footprint of 3,151.0 square feet.
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27. The proposed lot area shown on the attached requested Plat Amendment displays that the proposed lot is to contain 3,242 square feet, which would yield a maximum Building Footprint of 1,351.0 square feet.
28. In order to provide a future vehicular access to 844 Empire Avenue, the City Engineer has indicated that the existing intersection at Empire Avenue and Crescent Tram needs to be re-designed and improved.
29. The current site does not have vehicular access.

30. The future vehicle access is for the sole benefit of 844 Empire Avenue.
31. All of the costs associated of the re-design and improvements are the burden of the property owner.
32. The intersection currently works as-built, without vehicular access to 844 Empire Avenue.
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39. The proposed lot area of 3,242 square feet is a compatible lot combination as the entire Historic Residential-1 District has abundant sites with these approximate dimensions in this neighborhood.
40. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law

1. There is Good Cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
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 stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

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1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
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renovations, as determined by the Park City Building Department during building permit review.

5. Drive access to the site shall be from Empire Avenue or through platted un-built 9th Street in a location approved by the City Engineer.
6. The concrete retaining wall built over the north property line shall be resolved prior plat recordation. The applicant bears the burden of proper approvals for the retaining wall, which may include an encroachment agreement with the City through the City Engineer's office, or relocation/removal of the retaining wall, subject to compliance with applicable Design Guidelines for Historic Sites through a Historic District Design Review application.
7. The plat shall formalize the dedication of the Crescent Tram which has been used as right of way for more than 10 years.

Please be aware that the approval of a Plat Amendment by Park City in no way exempts the property from complying with other requirements that may be in effect on the property, and building permit regulations, as applicable. It is the responsibility of the property owner to ensure compliance with these regulations.

As the applicant, this letter is intended as a courtesy to document the status of your request. The official minutes from the Planning Commission meeting are available in the Planning Department office. The official minutes from the City Council meeting are available in the office of the City Recorder.

We will contact you shortly when the redlined paper print of the plat is ready to be picked up by your surveyor. We will continue to work with you closely on the project until it is recorded. If you have questions regarding your application or the action taken please don't hesitate to contact me at 435-615-5064 or fastorga@parkcity.org.

Sincerely,

J. Astorga

Francisco J Astorga, AICP
Senior Planner

City Council Staff Report

PARK CITY 1884
PLANNING DEPARTMENT

Subject: 844 Empire Avenue Plat Amendment
Author: Francisco Astorga, AICP, Senior Planner
Project Number: PL-15-03034
Date: 02 June 2016
Type of Item: Legislative – Plat Amendment

Summary Recommendations

Staff recommends the City Council hold a public hearing for the 844 Empire Avenue Plat Amendment located at 844 Empire Avenue and consider approving it based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Description

Applicant:	Todd Gilbert represented by Sara Goff and Tom Goff Marshall King, Alliance Engineering, Inc.
Location:	844 Empire Avenue
Zoning:	Historic Residential-1 (HR-1)
Adjacent Land Uses:	Residential
Reason for Review:	Plat Amendments require Planning Commission review and City Council review and action

Proposal/Executive Summary

The property owner requests to unite three (3) parcels consisting of one (1) full lot (all of Lot 12) and two (2) partial lots (most of Lot 13, and a portion of Lot 14), into one (1) lot of record by removing the internal lot lines which separates the lot and partial lots. The proposed Plat Amendment also includes the dedication of Crescent Tram roadway to the City. The subject lots are located in Block 14 of the Snyder's Addition to the Park City Survey.

Acronyms in this Staff Report

HR-1	Historic Residential-1	FY	Front Yard
ROW	Right-of-Way	RY	Rear Yard
LMC	Land Management Code	SY	Side Yard
FP	Footprint		

Background

On December 30, 2015, the City received a completed Plat Amendment application for the 844 Empire Avenue Plat Amendment. The property is located at 844 Empire Avenue. The property is in the HR-1 District. The subject property consists of all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyder's Addition to the Park City Survey. The entire subject area is recognized by Summit County as Parcel no. SA-143 (Tax ID).

Currently, the site contains a single-family dwelling. The single-family dwelling was built circa 1904. The site is listed on Park City's Historic Sites Inventory as a significant site. The site is ineligible to be listed on the National Register of Historic Places because of significant modifications. The historic front of the house was located towards the north along platted un-built 9th Street Right-of-Way (ROW). The front of the structure has been changed to the porch opposite of 9th Street along the Crescent Tram prescriptive easement. According to Summit County records the structure contains a total living area of 1,010 square feet, with a basement area of 972 square feet. The property contains a portion of the Crescent Tram Road which is a prescriptive easement along the southwest area.

The Planning Commission reviewed this Plat Amendment during their March 23, 2016 Planning Commission meeting. Click on the following link to view the prepared staff report. Clink on the following link to view the adopted meeting minutes. The Commission held a public hearing and continued the item to the April 13, 2016 meeting. The item was continued at the applicant's request to allow additional time for the applicant to review the Crescent Tram roadway dedication and how that affects the maximum building footprint.

The Planning Commission held a public hearing during their April 13, 2016 Planning Commission meeting and did not review the item. Click on the following links to view the continuation staff report and meeting minutes. The item was continued to the May 11, 2016 meeting per the same reason listed above. In order to prepare for the May 11, 2016 Planning Commission public meeting, and subsequent June 2, 2016 City Council meeting, staff re-noticed the item as indicated in the notice section of this staff report.

The Planning Commission held a public hearing during their May 7, 2016 Planning Commission meeting and reviewed the item. Planning Staff provided and overview of the request and focused on the road dedication, building footprint, and intersection redesign/improvements section of this staff report. The City Engineer attended this meeting and his expertise was shared during the meeting where he confirmed the intersection redesign/improvements section written in the staff report. Click on the following link to view the prepared staff report and meeting minutes.

The May 7, 2016 Planning Commission discussion included entertaining a recommendation where the Applicant and the City would share the expenses of the intersection redesign/improvements. Staff, the Planning Department and the City Engineer would not be able to support a recommendation to the City Council that would include shared expenses of the intersection redesign/improvements. The Planning Commission forwarded a positive recommendation to the City Council. The Planning Commission motion had five (5) votes in favor and one (1) vote against. The adopted recommendation did not include sharing the expenses for the intersection redesign/improvements with the City.

Purpose

The purpose of the HR-1 District is to:

A. preserve present land Uses and character of the Historic residential Areas of Park City,
B. encourage the preservation of Historic Structures,
C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
D. encourage single family Development on combinations of 25' x 75' Historic Lots,
E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Analysis

The proposed Plat Amendment creates one (1) lot of record from the existing three (3) parcels, one (1) full lot and two (2) partial lots consisting of a total of 4,174 square feet. The area of the property which is under the prescriptive easement of the Crescent Tram Road is considered dedicated under State Law. Therefore, that dedication should be memorialized as part of this Plat Amendment. The portion of Crescent Tram Road over the subject property is 932 square feet. The proposed lot would be 3,242 square feet in area without the Crescent Tram Road section.

A single-family dwelling is an allowed use in the HR-1 District. The minimum required lot area for a single-family dwelling is 1,875 square feet. The proposed lot meets the minimum lot area for a single-family dwelling. A duplex dwelling is a conditional use in the HR-1 District. The minimum lot area for a duplex dwelling is 3,750 square feet. The proposed lot does not meet the minimum lot area for a duplex dwelling. The minimum lot width allowed in the HR-1 District is twenty-five feet (25'). The proposed lot is approximately thirty one feet (31') wide. The proposed lot meets the minimum lot width requirement. Table 1 shows applicable development parameters in the HR-1 District:

Table 1:

LMC Regulation	Requirements
Building Footprint	1,351.0 square feet, maximum based on lot size.
Front/Rear Yard Setbacks	10 feet minimum, 20 feet total.
Side Yard Setbacks	5 feet minimum, 10 feet total.
Building (Zone) Height	No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade.
Final Grade	Final Grade must be within four vertical feet (4') of Existing Grade around the periphery […].
Lowest Finish Floor Plane to Highest Wall Top Plate	A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate […].
Vertical Articulation	A ten foot (10') minimum horizontal step in the downhill façade is required […].

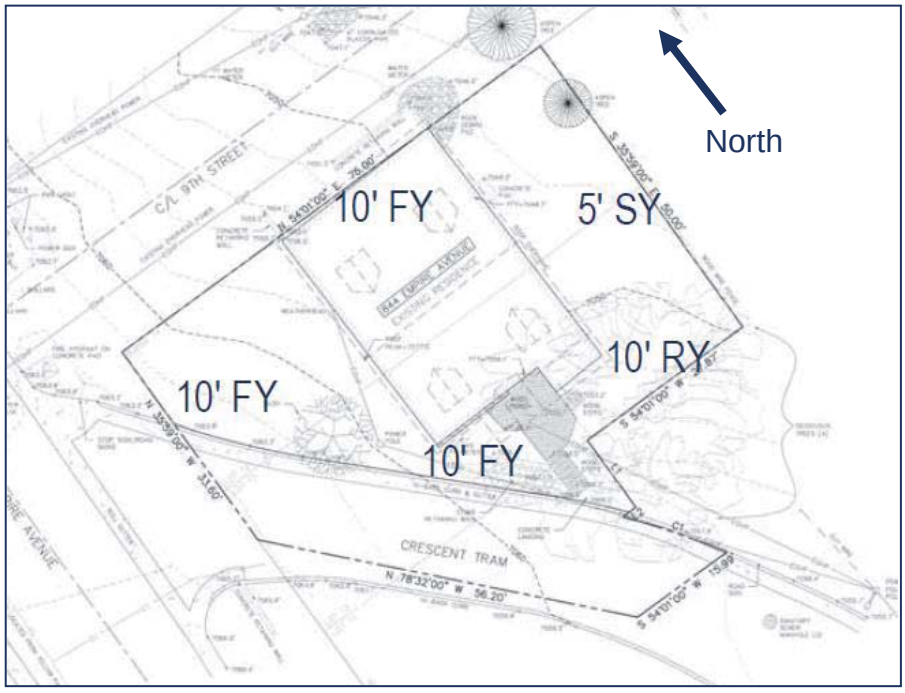
Roof Pitch	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.

Setbacks

Land Management Code (LMC) § 15-4-17 *Setback Requirements for Unusual Lot Configurations* lists different scenarios and their corresponding setback determinations for lots that don't follow the standard front, two (2) sides, and rear yard areas, traditionally known as a *block lot*. Furthermore, it indicates that any lots, which are not specified in this LMC section, are to have setbacks determined by the Planning Director. The Planning Director has determined the following setbacks:

- From 9th Street, platted un-built ROW, front yard (FY), ten feet (10') minimum. This is the historic front of the structure.
- From Empire Avenue, front yard (FY), ten feet (10') minimum.
- From Crescent Tram, front yard (FY), ten feet (10') minimum.
- From the south neighbor, rear yard (RY), ten feet (10') minimum. This side is opposite of the historic front of the house.
- From the east neighboring property, side yard (SY), five feet (5') minimum.

The diagram below graphically displays the Planning Director's setback determination:



The existing historic structure does not meet the minimum setbacks along the north side, platted un-built 9th Street ROW. The existing structure was built along this property line and the roof overhang is over the property line encroaching approximately eighteen inches (18"). Also, along this same property line, there is a concrete retaining wall built on the ROW. The existing historic structure also does not meet minimum

setbacks along the Crescent Tram as it is approximately five feet (5') from the new property line after the dedication. The existing historic structure also does not meet minimum setbacks from the shared property line with the neighboring site towards the south as it is approximately eight and a half feet (8.5').

LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures; however, additions must comply with building setbacks.

Staff recommends adding a condition of approval that indicates that the concrete retaining wall encroachment across the north property line over the 9th Street ROW shall be resolved prior to plat recordation. The applicant bears the burden of proper approvals for the retaining wall, which may include an encroachment agreement with the City through the City Engineer's office, or relocation/removal of the retaining wall, subject to compliance with applicable Design Guidelines for Historic Sites through a Historic District Design Review application with the Planning Department.

Road Dedication

Utah Code, Transportation Code, Right-Of-Way Act § 72-5-104 declares that a highway (street or road, not including an area principally used as a parking lot) is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of ten (10) years. Staff finds that Crescent Tram Road has continuously been used as a public thoroughfare for much longer that the required ten (10) years.

Furthermore, LMC § 15-7.3-4(I)(2) *Widening and Realigning of Existing Roads* indicates the following "*Land reserved for any road purposes may not be counted in satisfying yard or Area requirements contained in the Land Management Code."*

Because Utah Code § 72-5-104 dictates that statutorily the road is dedicated after ten (10) years, the requirement to dedicate the road as part of the Plat Amendment formalizes that dedication.

Building Footprint

LMC § 15-2.2-3(D) indicates that the maximum Building Footprint is calculated according the following formula for Building Footprint:

> *MAXIMUM FP = (A/2) x $0.9^{A/1875}$*
> *where FP = maximum Building Footprint and A= Lot Area.*

The LMC indicates that the maximum Building Footprint is a simple function of the lot area. The proposed lot area shown on the attached requested Plat Amendment displays that the proposed lot is to contain 3,242 square feet, which would yield a maximum Building Footprint of 1,351.0 square feet.

The applicant disagrees with this finding, See Exhibit I – Applicant's Letter received 22

March 2016, as they have indicated that they need a total of 1,476 square feet of maximum building footprint, which is 125 square feet over what the LMC allows based on the Maximum Building Footprint Formula. After careful review of applicable City Codes staff finds that the City is not able to provide the '*maximum building footprint prior road dedication'* but can only approve the *'maximum building footprint after road dedication'* which constitutes the lot size. Furthermore, the last sentence of LMC § 15-7.3-4(I)(2) found in the Road Dedication section above indicates that this area, reserved for any road, may **not** be counted in satisfying area requirements contained in the LMC.

Intersection Re-Design/Improvements

In order to provide a future vehicular access to 844 Empire Avenue, the City Engineer has indicated that the existing intersection at Empire Avenue and Crescent Tram needs to be re-designed and improved. The current site does not have vehicular access. Because the future vehicle access is for the sole benefit of 844 Empire Avenue, all of the costs associated of the re-design and improvements are the burden of the property owner. The intersection currently works as-built, without vehicular access to 844 Empire Avenue. At this stage the City Engineer has indicated that a vehicular access can only be accommodated off Empire Avenue or 9th Street. The City Engineer would not support vehicular access directly off Crescent Tram. Thus, any cost to applicant for improvements are only those directly related to allowing vehicular access to the site.

The City's Historic Sites Inventory designated the site in the significant category. LMC § 15-2.2-4 Existing Historic Structures indicates the following:

> *Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height. All Conditional Uses shall comply with parking requirements of Chapter 15-3.*

The applicant disagrees with these findings regarding intersection re-design/improvements costs, See Exhibit J – Applicant's Letter received 19 May 2016.

Good Cause

Planning Staff finds that there is Good Cause for this Plat Amendment as the lot line going through a historic structure will be removed, 932 square feet will be memorialized as dedicated to the City for the Crescent Tram road for public use, the requested Plat Amendment will not cause undo harm to adjacent property owners, and all requirements of the Land Management Code can be met. The proposed lot area of 3,242 square feet is a compatible lot combination as the entire HR-1 District has abundant sites with approximate dimensions.

The LMC defines Good Cause as the following below:

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.

Process
The approval of this Plat Amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC § 15-1-18.

Department Review
This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice
The property was posted and notice was mailed to property owners within 300 feet on March 9, 2016. Legal notice was published in the Park Record on March 9, 2016 according to requirements of the Land Management Code.

The property was again posted and notice was mailed to property owners within 300 feet on April 27, 2016. Legal notice was again published in the Park Record on April 27, 2016 according to requirements of the Land Management Code.

Public Input
No public input has been received by the time of this report.

Alternatives
- The City Council may approve 844 Empire Avenue Plat Amendment; or
- The City Council may deny 844 Empire Avenue Plat Amendment and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on 844 Empire Avenue Plat Amendment; or
- The City Council may remand the item back to the Planning Commission for specific discussion on topics and/or findings.

Significant Impacts
There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Planning Department's Recommendation
The site would remain as is. The site would consist of one (1) Old Town lot and two (2) partial lots. The historic structure would contain a lot line going through it. Additions to the historic structure would have to respects all setbacks of all internal lot lines. The Crescent Tram ROW dedication would not take place. The existing single-family dwelling would remain as is. The portion of Crescent Tram would remain in the form of

a prescriptive easement instead of City ROW.

Summary Recommendation

Staff recommends the City Council hold a public hearing for the 844 Empire Avenue Plat Amendment located at 844 Empire Avenue and consider approving it based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Plat Amendment
Exhibit B – Applicant's Project Description
Exhibit C – Original Submittal
Exhibit D – Existing Conditions & Topographic Map (Survey)
Exhibit E – Aerial Photograph
Exhibit F – Vicinity Map
Exhibit G – County Tax Map
Exhibit H – Site Photographs
Exhibit I – Applicant's Letter received 22 March 2016
Exhibit J – Applicant's Letter received 19 May 2016

Links

03.23.2016 Planning Commission staff report:
- http://www.parkcity.org/Home/ShowDocument?id=24365#page=51

03.23.2016 Planning Commission meeting minutes:
- http://www.parkcity.org/Home/ShowDocument?id=25475#page=7

04.13.2016 Planning Commission continuation staff report:
- http://www.parkcity.org/Home/ShowDocument?id=24493#page=33

04.13.2016 Planning Commission meeting minutes:
- http://www.parkcity.org/Home/ShowDocument?id=25557#page=9

Utah Code, Transportation Code, Right-Of-Way Act § 72-5-104:
- http://le.utah.gov/xcode/Title72/Chapter5/72-5-S104.html?v=C72-5-S104_2014040320140513

05.11.2016 Planning Commission staff report:
- http://www.parkcity.org/Home/ShowDocument?id=26637#page=41

05.11.2016 Planning Commission meeting minutes:
- http://www.parkcity.org/Home/ShowDocument?id=28195#page=3

Exhibit A – Draft Ordinance with Proposed Plat Amendment

Ordinance No. 2016-26

AN ORDINANCE APPROVING THE 844 EMPIRE AVENUE PLAT AMENDMENT LOCATED AT 844 EMPIRE AVENUE, PARK CITY, UTAH.

WHEREAS, the owner of the property located at 844 Empire Avenue has petitioned the City Council for approval of the Plat Amendment to combine Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, of the Snyder's Addition to the Park City Survey ; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held public hearings on March 23, April 13, and May 11, 2016, to receive input on Plat Amendment; and

WHEREAS, the Planning Commission, on May 11, 2016, forwarded a positive recommendation to the City Council; and,

WHEREAS, on June 2, 2016, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, there is good cause and it is in the best interest of Park City, Utah to approve the 844 Empire Avenue Plat Amendment.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. 844 Empire Avenue Plat Amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 844 Empire Avenue.
2. The property is in the Historic Residential-1 (HR-1) District.
3. The subject property consists of all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyder's Addition to the Park City Survey.
4. The site is listed on Park City's Historic Building Inventory as a significant site.
5. The proposed Plat Amendment creates one (1) lot of record from the existing three (3) parcels, one (1) full lot and two (2) partial lots consisting of a total of 4,174 square feet.

6. A portion of the property is encumbered by the Crescent Tram Road which has been used since the late 1800s and was paved in the early 1970s.
7. The City requests that the property owner formalize the dedication to the City that portion of the Crescent Tram prescriptive easement area that is on subject property. This area consists of 932 square feet.
8. The proposed lot would be 3,242 square feet.
9. A single-family dwelling is an allowed use in the District.
10. The minimum lot area for a single-family dwelling is 1,875 square feet.
11. The proposed lot meets the minimum lot area for a single-family dwelling.
12. The minimum lot width allowed in the District is twenty-five feet (25').
13. The proposed lot is approximately thirty one feet (31') wide.
14. The proposed lot meets the minimum lot width requirement.
15. Per LMC § 15-4-17 the Planning Director has determined the following setbacks:
    a. From 9th Street, platted un-built ROW, front yard, ten feet (10') minimum. This is the historic front of the structure.
    b. From Empire Avenue, front yard, ten feet (10') minimum.
    c. From Crescent Tram, front yard, ten feet (10') minimum.
    d. From the south neighbor, rear yard, ten feet (10') minimum. This side is opposite of the historic front of the house.
    e. From the east neighboring property, side yard, five feet (5') minimum.
16. The existing historic structure does not meet the minimum setbacks along the north side, platted un-built 9th Street ROW, as the structure was built on the property line.
17. The existing historic structure does not meet the minimum setbacks along the shared property line with the neighboring site on the south as it is approximately eight and a half feet (8.5').
18. The existing historic structure does not meet minimum setbacks along the Crescent Tram ROW dedication as it is approximately five feet (5') from the new property line after the dedication.
19. LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures; however, additions must comply with building setbacks.
20. The concrete retaining wall encroaches across the north property line over the 9th Street ROW.
21. The proposed lot area consisting of 3,242 square feet yields a maximum Building Footprint of 3,151.0 square feet.
22. LMC § 15-7.3-4(I)(2) Widening and Realigning of Existing Roads indicates that where a subdivision borders an existing narrow road for realignment or widening, the Applicant shall be required to improve and dedicate at his expense such Areas for widening or realignment of such roads.
23. LMC § 15-7.3-4(I)(2) indicates that land reserved for any road purposes may not be counted in satisfying yard or Area requirements contained in the Land Management Code.
24. Utah Code, Transportation Code, Right-Of-Way Act § 72-5-104 declares that a highway (street or road, not including an area principally used as a parking lot) is dedicated and abandoned to the use of the public when it has been continuously

used as a public thoroughfare for a period of ten (10) years.

25. Crescent Tram has continuously been used as a public thoroughfare for much longer that the required ten (10) years.
26. LMC § 15-2.2-3(D) indicates that the maximum Building Footprint is calculated according the following formula for Building Footprint: MAXIMUM FP = (A/2) x $0.9^{A/1875}$, where FP = maximum Building Footprint and A= Lot Area.
27. The proposed lot area shown on the attached requested Plat Amendment displays that the proposed lot is to contain 3,242 square feet, which would yield a maximum Building Footprint of 1,351.0 square feet.
28. In order to provide a future vehicular access to 844 Empire Avenue, the City Engineer has indicated that the existing intersection at Empire Avenue and Crescent Tram needs to be re-designed and improved.
29. The current site does not have vehicular access.
30. The future vehicle access is for the sole benefit of 844 Empire Avenue.
31. All of the costs associated of the re-design and improvements are the burden of the property owner.
32. The intersection currently works as-built, without vehicular access to 844 Empire Avenue.
33. The City Engineer has indicated that a vehicular access can only be accommodated off Empire Avenue or through platted un-built 9th Street.
34. The City Engineer is not willing to support vehicular access directly off Crescent Tram.
35. The City's Historic Site Inventory designated the site in the significant category.
36. Historic Structures that do not comply with Off-Street parking and driveway location standards are valid Complying Structures.
37. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment.
38. There is good cause for this Plat Amendment as the lot line going through a historic structure will be removed, 932 square feet will be dedicated to the City for the Crescent Tram road for public use, the requested Plat Amendment will not cause undo harm to adjacent property owners, and all requirements of the Land Management Code can be met.
39. The proposed lot area of 3,242 square feet is a compatible lot combination as the entire Historic Residential-1 District has abundant sites with these approximate dimensions in this neighborhood.
40. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law:

1. There is Good Cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
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 stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten foot (10') wide public snow storage easement will be required along the Empire Avenue front of the property.
4. Fire sprinklers shall be required for all new construction or substantial renovations, as determined by the Park City Building Department during building permit review.
5. Drive access to the site shall be from Empire Avenue or through platted un-built 9th Street in a location approved by the City Engineer.
6. The concrete retaining wall built over the north property line shall be resolved prior plat recordation. The applicant bears the burden of proper approvals for the retaining wall, which may include an encroachment agreement with the City through the City Engineer's office, or relocation/removal of the retaining wall, subject to compliance with applicable Design Guidelines for Historic Sites through a Historic District Design Review application.
7. The plat shall formalize the dedication of the Crescent Tram which has been used as right of way for more than 10 years.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 2nd day of June, 2016.

PARK CITY MUNICIPAL CORPORATION

_____
Jack Thomas, MAYOR

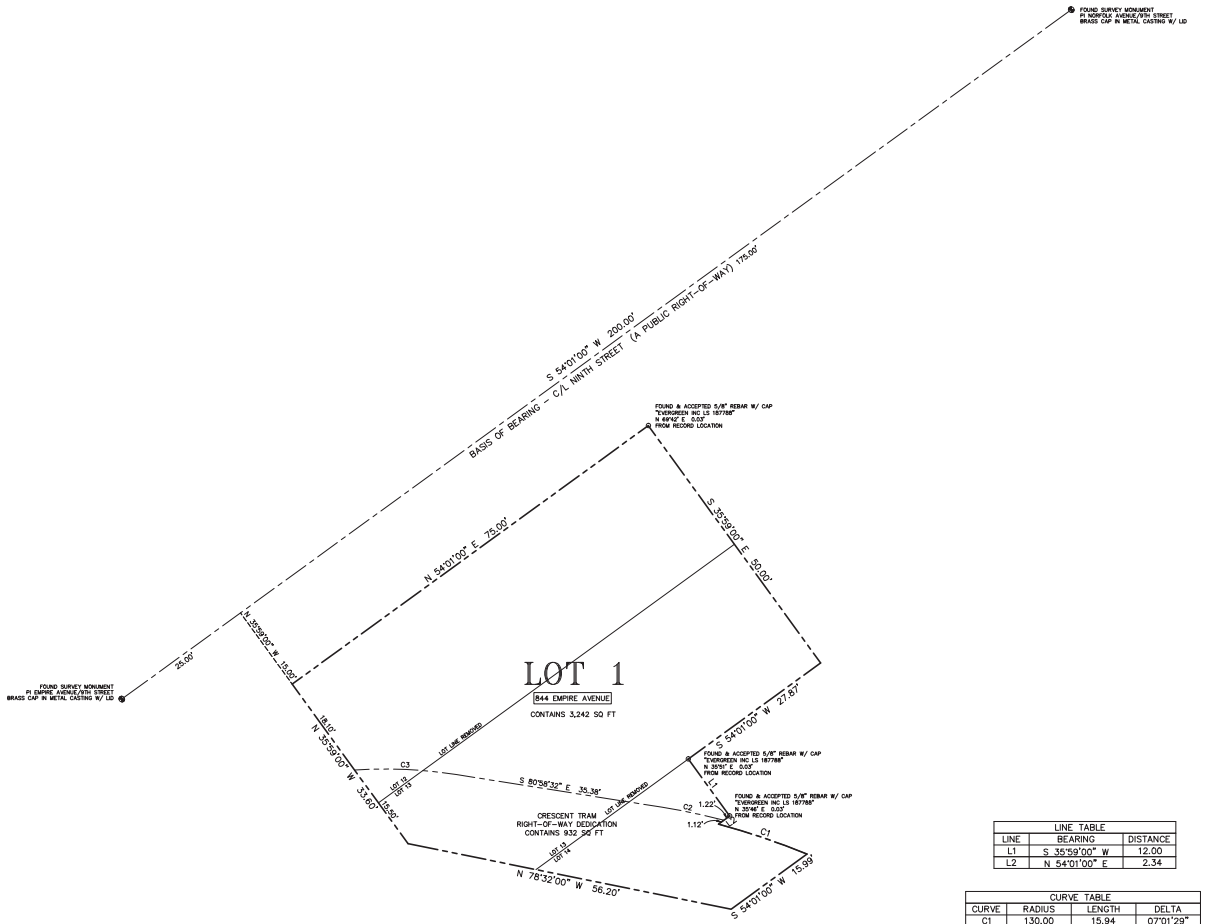
ATTEST:

_____
Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

_____
Mark Harrington, City Attorney

Attachment 1 – Proposed Plat Amendment



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 35°59'00" W	12.00
L2	N 54°01'00" E	2.34

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	130.00	15.94	07°01'29"
C2	110.00	10.82	05°38'10"
C3	77.50	17.47	12°55'07"

REGISTERED LAND SURVEYOR
No.4938739
MARTIN A. MORRISON
State of Utah

SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, I have prepared this Record of Survey map of 844 EMPIRE AVENUE PLAT AMENDMENT and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTION

Lot 12, Block 14, Snyder's Addition to Park City.

Also, a part of Lots 13 and 14, in Block 14, Snyder's Addition to Park City described as follows: Beginning at the Southwest corner of Lot 11, Block 14; and running thence South 54°01' West 75 feet; thence South 35°59' East 8.6 feet; thence South 78°32' East 56.2 feet; thence North 54°01' East 37 feet; thence North 35°59' West 50 feet to the point of beginning.

Less and excepting the following land conveyed to Robert G. Ward and Margery W. Ward, his wife, grantee, as show in that certain Quit-Claim Deed recorded December 28, 1983, as Entry No. 214633, in Book 283, at page 299, of Official Records, more particularly described as follows:

Beginning at the Northeast corner of Lot 14, Block 14, Snyder's Addition to Park City, Utah; and running thence South 35°59' East along the Easterly boundary of said Lot 14, 25 feet; thence South 54°01' West along the Southerly boundary of said Lot 14, 21.01 feet to a point on the Northerly side of the Crescent right-of-way; thence along said Northerly side of the Crescent right-of-way, being a 130 foot radius curve to the left (radius point bears South 22°14'19" West), 15.94 feet; thence North 54°01' East 2.34 feet; thence North 35°59' West 12 feet to a point on the Northerly boundary of said Lot 14; thence North 54°01' East along said Northerly boundary of Lot 14, 27.87 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that Todd M. Gilbert, the undersigned owner of the herein described tract of land, to be known hereafter as 844 EMPIRE AVENUE PLAT AMENDMENT, does hereby certify that he has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

ALSO, the owner hereby irrevocably offers for dedication to the City of Park City all the streets, land for local government uses, easements and required utilities shown on this plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
: ss.
County of _____)

On this _____ day of _____, 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-____.

A PARCEL COMBINATION PLAT

A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

844 EMPIRE AVENUE PLAT AMENDMENT

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

10' 0 10' 20'

SHEET 1 OF 1

3/8/16 JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467 Alliance Engineering Inc. CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2016 BY _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ _____ _____ FEE RECORDER

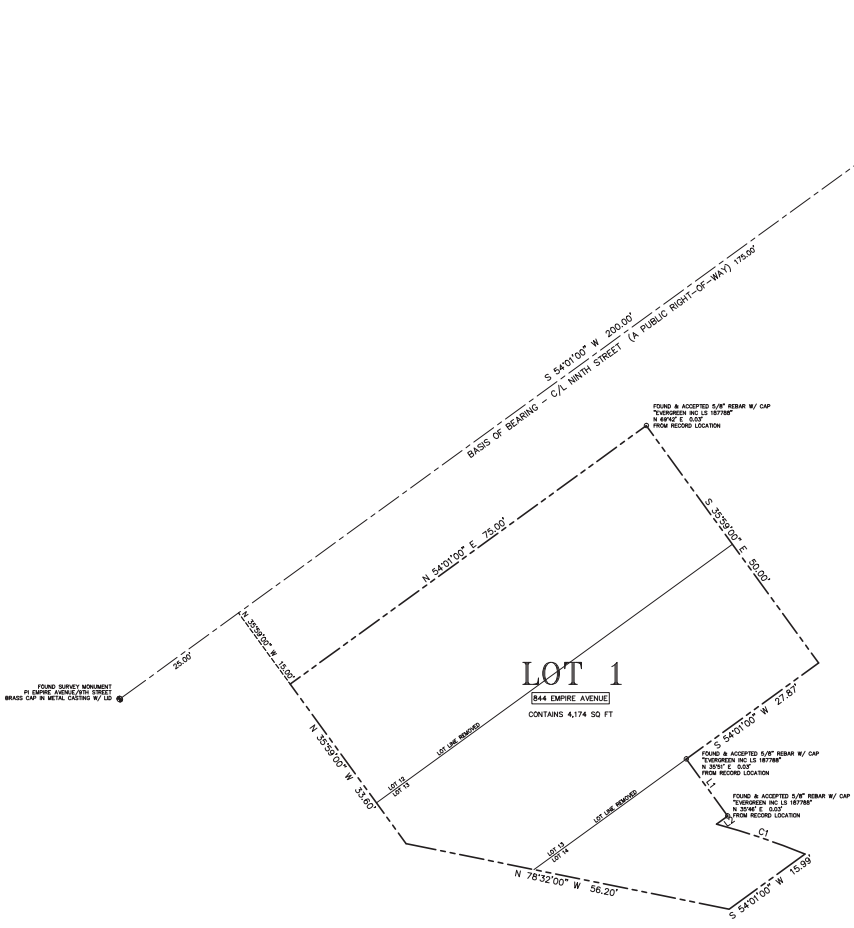
SNYDER'S ADDITION TO PARK CITY SURVEY, BLOCK 14,
LOT 12 AND PORTIONS OF LOTS 13 & 14,

(844 EMPIRE AVENUE)

PROJECT INTENT

Lot 12 and portions of Lots 13 & 14, Block 14, Snyder's Addition to Park City Survey, (also known as 844 Empire Avenue) are owned by the same entity. The original lot lines from Snyder's Addition to Park City Survey still exist between Lots 12 & 13 and between Lots 13 & 14. The owner desires to unify the property into one lot of record by extinguishing the existing lot line, with the ultimate goal of renovating the existing residence.

RECEIVED
DEC 11 2015
PARK CITY
PLANNING DEPT.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 35°59'00" W	12.00
L2	N 54°01'00" E	2.34

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	130.00	15.94	07°01'29"

REGISTERED LAND SURVEYOR
No.4938739
MARTIN A. MORRISON
State of Utah

SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, I have prepared this Record of Survey map of 844 EMPIRE AVENUE PLAT AMENDMENT and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTION

Lot 12, Block 14, Snyder's Addition to Park City.

Also, a part of Lots 13 and 14, in Block 14, Snyder's Addition to Park City described as follows: Beginning at the Southwest corner of Lot 11, Block 14; and running thence South 54°01' West 75 feet; thence South 35°59' East 8.6 feet; thence South 78°32' East 56.2 feet; thence North 54°01' East 37 feet; thence North 35°59' West 50 feet to the point of beginning.

Less and excepting the following land conveyed to Robert G. Ward and Margery W. Ward, his wife, grantee, as show in that certain Quit-Claim Deed recorded December 28, 1983, as Entry No. 214633, in Book 283, at page 299, of Official Records, more particularly described as follows:

Beginning at the Northeast corner of Lot 14, Block 14, Snyder's Addition to Park City, Utah; and running thence South 35°59' East along the Easterly boundary of said Lot 14, 25 feet; thence South 54°01' West along the Southerly boundary of said Lot 14, 21.01 feet to a point on the Northerly side of the Crescent right-of-way; thence along said Northerly side of the Crescent right-of-way, being a 130 foot radius curve to the left (radius point bears South 22°14'19" West), 15.94 feet; thence North 54°01' East 2.34 feet; thence North 35°59' West 12 feet to a point on the Northerly boundary of said Lot 14; thence North 54°01' East along said Northerly boundary of Lot 14, 27.87 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that Todd M. Gilbert, the undersigned owner of the herein described tract of land, to be known hereafter as 844 EMPIRE AVENUE PLAT AMENDMENT, does hereby certify that he has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
:ss.
County of _____)

On this _____ day of _____, 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-____.

10' 0 10' 20'

A PARCEL COMBINATION PLAT

A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

844 EMPIRE AVENUE PLAT AMENDMENT

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SHEET 1 OF 1

12/11/15 JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467 Alliance Engineering Inc CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2016 BY _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ _____ _____ FEE RECORDER

Exhibit D – Existing Conditions & Topographic Map (Survey)

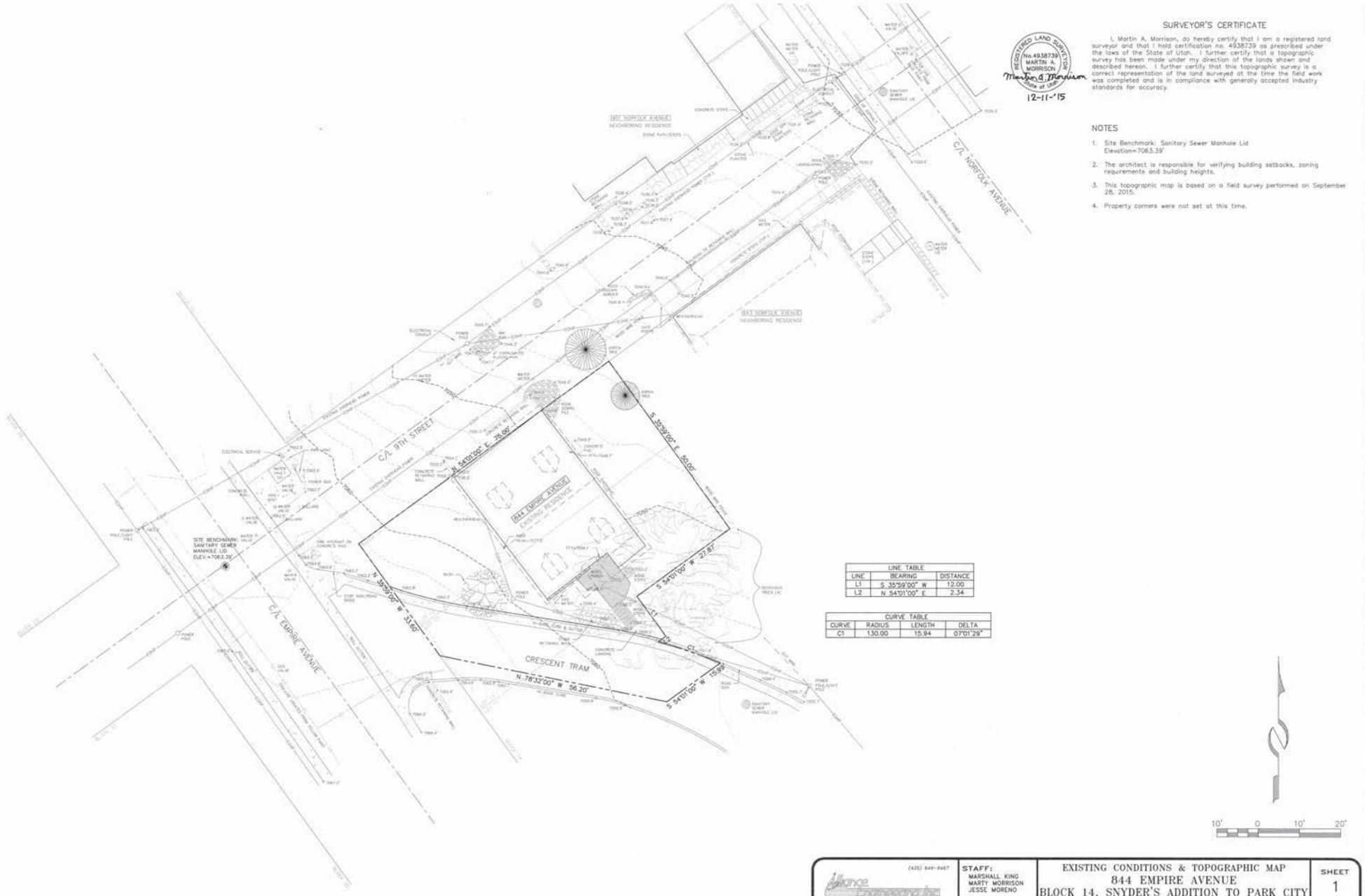
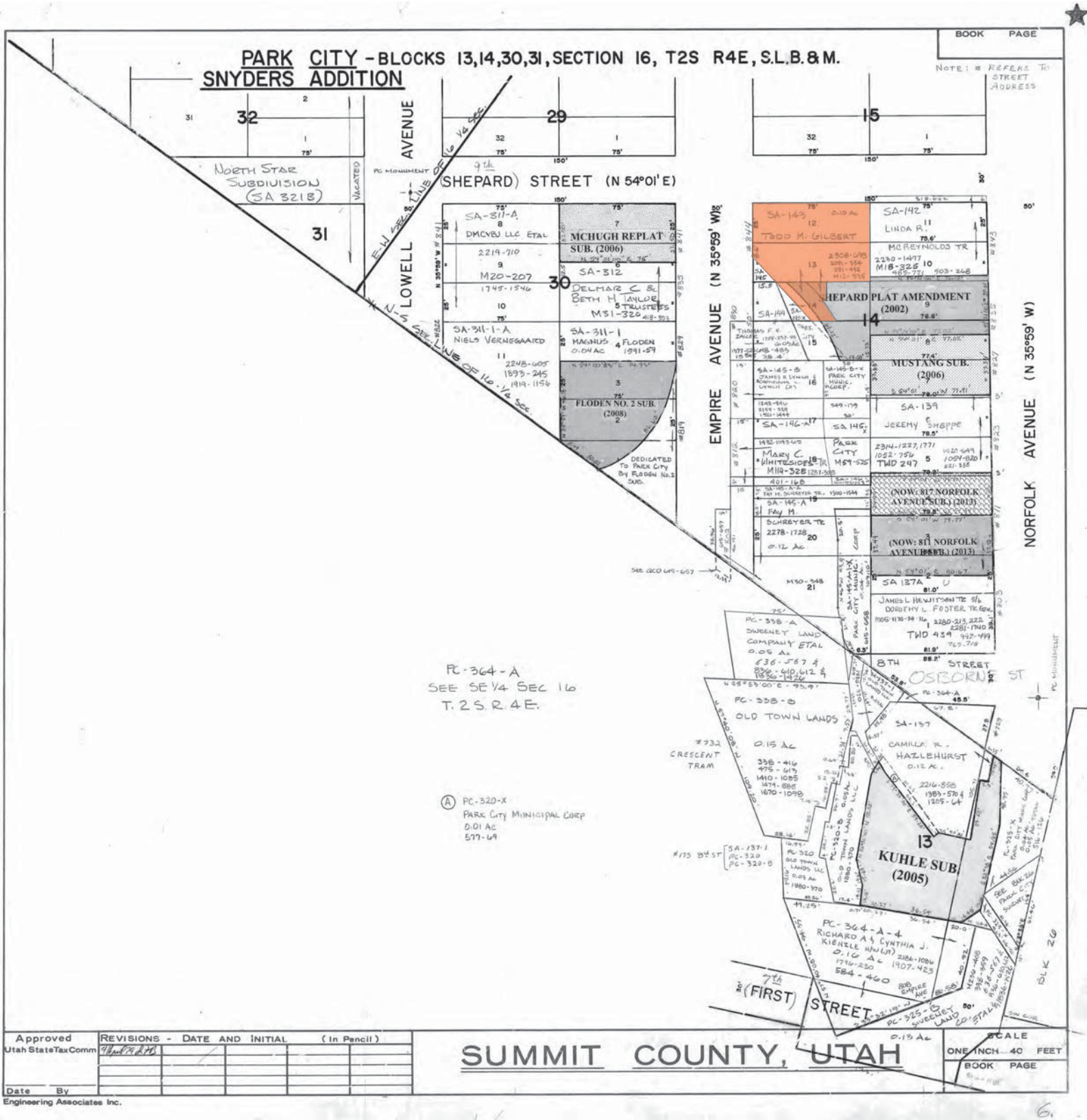


Exhibit E – Aerial Photograph

Legend
Address
Parcels
Streets
HSI Significant Site
HSI Landmark Site
Exhibit F - Vicinity Map
844 Empire Avenue
Empire Ave
Norfolk Ave
Crescent Rd
Lowell Ave
844
843
901
902
907
908
911
912
915
916
917
920
921
923
930
827
830
834
835
850
860
901
906
811
812
817
820
823
824
829
841
802
803
819
822
15 30 60 90 120
Feet
PCMC


PARK CITY - BLOCKS 13,14,30,31, SECTION 16, T2S R4E, S.L.B.& M.
SNYDERS ADDITION
BOOK PAGE
NOTE: # REFERS TO STREET ADDRESS
NORTH STAR SUBDIVISION (SA 3218)
VACATED
LOWELL AVENUE
9th (SHEPARD) STREET (N 54°01' E)
E-W 1/64 LINE OF 16 1/4 SEC
N-S 64 LINE OF 16 1/4 SEC
EMPIRE AVENUE (N 35°59' W)
NORFOLK AVENUE (N 35°59' W)
MCHUGH REPLAT SUB. (2006)
FLODEN NO. 2 SUB. (2008)
DEDICATED TO PARK CITY BY FLODEN NO. 2 SUB.
HEPARD PLAT AMENDMENT (2002)
MUSTANG SUB. (2006)
(NOW: 817 NORFOLK AVENUE SUB.) (2013)
(NOW: 811 NORFOLK AVENUE SUB.) (2013)
KUHLE SUB (2005)
PC-364-A
SEE SE 1/4 SEC 16
T. 2 S. R. 4 E.
PC-320-X
PARK CITY MUNICIPAL CORP
0.01 Ac
577-69
PC-338-A
SWEENEY LAND COMPANY ETAL
0.06 Ac
PC-338-B
OLD TOWN LANDS
0.15 Ac
PC-364-A-4
RICHARD A. & CYNTHIA J. KIENZLE HWLDT
0.16 Ac
PC-325-B
SWEENEY LAND CO. ETAL
0.13 Ac
8TH STREET
OSBORNE ST
7th (FIRST) STREET
#732 CRESCENT TRAM
#175 BY ST
Approved
Utah StateTaxComm
Date By
REVISIONS - DATE AND INITIAL (In Pencil)
SUMMIT COUNTY, UTAH
SCALE
ONE INCH 40 FEET
BOOK PAGE
Engineering Associates Inc.

844 Empire Avenue looking northerly

Exhibit H – Site Photographs

844 Empire Avenue looking southeasterly

844 Empire Avenue looking northwesterly

844 Empire Avenue looking southerly

March 21, 2016

Park City Municipal Corporation
443 Marsac Avenue
Park City, Utah 84060

Attn: Francisco Astorga, Planning Department

Re: Plat Amendment
844 Empire Avenue

Dear Francisco,
After review of your email of March 18, 2016 we are disappointed that the entire property is not being included in the footprint area calculation as we thought it would be. Transfer of our ownership of the property occupied by Crescent Tram to the city should hold some value. Based on your email it does not. The full lot area of 4184 sq. ft. would yield a footprint of 1654 sq. ft. We understand that the maximum footprint created by the entire lot is probable not usable based on the other constraints placed on the property such as; lot shape, setbacks and designing around the historic home. We also feel that giving no credit for the Crescent Tram property is inherently unfair.
Your email stipulates that the footprint will be calculated on a lot area of 3242 sq. ft. providing a footprint of 1351 sq. ft. we feel this number is restrictive. After review of a number of design options we feel a footprint of 1476 sq. ft. would allow us to utilize a reasonable portion of the property and gain a modest 125 additional square feet of footprint over your proposed number.
We would very much like to proceed with our plat before the planning commission but feel that it is important to resolve this issue prior to that hearing. We would like to meet and discuss this issue with you at the earliest possible time.
Please let us know when you would be available to meet.

Sincerely,

RECEIVED
MAR 22 2016
PARK CITY
PLANNING DEPT

May 19, 2016

To whom it may concern:

In regards to the pending Plat Amendment for 844 Empire, we feel strongly that the 932 sq ft. Crescent Tram dedication is conditional upon the City paying for the hydrant relocation and intersection changes on Crescent Tram and Empire.

We are very disappointed that we are required to dedicate more than 25% of our lot to the city and are given no consideration in return. It is unfair to ask us to dedicate our property and expect us to pay for hydrant relocation and intersection improvements after we no longer own the 932 sq ft. section of Crescent Tram that we are being required to dedicate.

Furthermore, the City Engineer should have placed the hydrant adjacent to the other water utility improvements in the 9th street right of way and not 15 feet away. While there are 3 driveway access points, he is requiring our driveway access to only be on Empire Avenue. To make matters worse, he placed a fire hydrant in the middle of where our driveway would need to be. This hydrant should have been placed on the common lot line within the 9th street right of way. It is common or standard practice to place utility improvements on common lot lines.

Importantly, it should be noted that at the May 11th, 2016 Planning Commission meeting that Tom Goff attended on our behalf, three Park City members expressed views in agreement with us that the city should pay for the relocation work.

Please forward and ensure this email is reviewed by the common council members prior to June 2nd. Again, 844 Empire's dedication of Crescent Tram is conditional upon the City paying for the hydrant relocation and intersection changes on Crescent Tram and Empire.

Thanks,

Todd Gilbert (owner); Sara Goff and Tom Goff (owner's representatives)

RESULT: MOTION APPROVED
AYES: Council Members Beerman, Gerber, Henney, Matsumoto and Worel

8. Consideration to Approve Ordinance 2016-25, an Ordinance Amending Title 11, Chapter 12, Section 2, Building Permit Fees, of the Municipal Code of Park City, Utah:

Michelle Downard and Chad Root, Building, presented this item. Downard reviewed the discussion at the April 28th meeting on how the building and inspection fees were determined. This code change would eliminate the International Code Council (ICC) valuation. Root stated the fees would now be aligned with the actual valuation from this area. Downard stated that to be consistent in the fee schedule, the changes would be made in both the code and the fee schedule.

Mayor Thomas opened the public hearing for comments from the audience.

Mike Sweeney stated he supported these fees based on local valuation.

Mayor Thomas closed the public hearing portion of the meeting.

Council Member Worel moved to approve Ordinance 2016-25, an ordinance amending Title 11, Chapter 12, Section 2, Building Permit Fees, of the Municipal Code of Park City, Utah. Council Member Henney seconded the motion.

RESULT: MOTION APPROVED
AYES: Council Members Beerman, Gerber, Henney, Matsumoto and Worel

9. Consideration of Ordinance No. 2016-26, an Ordinance Approving the 844 Empire Avenue Plat Amendment, Located at 844 Empire Avenue, Park City, Utah, Pursuant to Findings of Fact, Conclusions of Law, and Conditions of Approval in a Form Approved by the City Attorney:

Francisco Astorga, Planning, stated this amendment would remove the lot lines and consolidate the entire area into one lot. The City would require the owner to dedicate the public right-of-way easement to the City. He noted the Planning Commission approved this by a 5-1 vote. He indicated that if the applicant remodeled the site and requested vehicular access, the site would not work and the intersection would need to be redesigned, and the Planning Department would recommend the redesign would be at the owner's expense. Astorga recommended approval of the plat amendment.

Mayor Thomas opened the public hearing for comments from the audience. No comments were given. Mayor Thomas closed the public hearing portion of the meeting.

APPROVED 06-16-2016

Council Member Henney asked about the denial for the additional building footprint. Astorga stated the owner felt giving the right-of-way to the City would justify that request, but after review, that additional footprint request could not be allowed.

Council Member Matsumoto moved to approve Ordinance No. 2016-26, an ordinance approving the 844 Empire Avenue Plat Amendment, located at 844 Empire Avenue, Park City, Utah, pursuant to findings of fact, conclusions of law, and conditions of approval in a form approved by the City Attorney. Council Member Gerber seconded the motion.

RESULT: MOTION APPROVED
AYES: Council Members Beerman, Gerber, Henney, Matsumoto and Worel

Council Member Beerman moved to close the meeting to discuss property and litigation at 7:35 p.m. Council Member Worel seconded the motion. Voting Aye: Council Members Beerman, Gerber, Henney, Matsumoto and Worel.

CLOSED SESSION

Council Member Beerman moved to adjourn from Closed Meeting. Council Member Gerber seconded the motion. Voting Aye: Council Members Beerman, Gerber, Henney, Matsumoto and Worel.

VII. Adjournment
With no further business, the meeting was adjourned.

_____
Michelle Kellogg, Park City Recorder

APPROVED 06-16-2016

Planning Commission
Staff Report

PARK CITY 1884
PLANNING DEPARTMENT

Subject: 844 Empire Avenue Plat Amendment
Author: Francisco Astorga, AICP, Senior Planner
Project Number: PL-15-03034
Date: 23 March 2016
Type of Item: Legislative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the 844 Empire Avenue Plat Amendment located at 844 Empire Avenue and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Description

Applicant:	Todd Gilbert represented by Marshall King, Alliance Engineering, Inc.
Location:	844 Empire Avenue
Zoning:	Historic Residential-1
Adjacent Land Uses:	Residential
Reason for Review:	Plat Amendments require Planning Commission review and City Council review and action

Proposal

The property owner requests to unite three (3) parcels consisting of one (1) full lot (all of Lot 12) and two (2) partial lots (most of Lot 13, and a portion of Lot 14), into one (1) lot of record by removing the internal lot lines which separates the lots. The proposed plat amendment also includes the dedication of Crescent Tram roadway to the City. The subject lots are located in Block 14 of the Snyder's Addition to the Park City Survey.

Background

On December 30, 2015, the City received a completed Plat Amendment application for the 844 Empire Avenue Plat Amendment. The property is located at 844 Empire Avenue. The property is in the Historic Residential-1 District. The subject property consists of all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyder's Addition to the Park City Survey. The entire subject area is recognized by Summit County as Parcel no. SA-143 (Tax ID).

Currently, the site contains a single-family dwelling. The single-family dwelling was built circa 1904. The site is listed on Park City's Historic Building Inventory as a significant site. The site is ineligible to be listed on the National Register of Historic Places

because of significant modifications. The historic front of the house was located towards the north along platted un-built 9th Street Right-of-Way (ROW). The front of the structure has been changed to the porch opposite of 9th Street along the Crescent Tram prescriptive easement. According to Summit County records the structure contains a total living area of 1,010 square feet, with a basement area of 972 square feet. The site is unique in terms that Crescent Tram, prescriptive easement, goes through private property along the southwest part of the site.

Purpose

The purpose of the Historic Residential-1 District is to:

A. preserve present land Uses and character of the Historic residential Areas of Park City,
B. encourage the preservation of Historic Structures,
C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
D. encourage single family Development on combinations of 25' x 75' Historic Lots,
E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Analysis

The proposed Plat Amendment creates one (1) lot of record from the existing three (3) parcels, one (1) full lot and two (2) partial lots consisting of a total of 4,174 square feet. The City requests that the property owner dedicate Crescent Tram area as part of their Plat Amendment. The portion of Crescent Tram over their property is 932 square feet. The proposed lot would be 3,242 square feet.

A single-family dwelling is an allowed use in the Historic Residential-1 (HR-1) District. The minimum lot area for a single-family dwelling is 1,875 square feet. The proposed lot meets the minimum lot area for a single-family dwelling. A duplex dwelling is a conditional use in the Historic Residential-1 District. The minimum lot area for a duplex dwelling is 3,750 square feet. The proposed lot does not meet the minimum lot area for a duplex dwelling. The minimum lot width allowed in the Historic Residential-1 District is twenty-five feet (25'). The proposed lot is approximately thirty one feet (31') wide. The proposed lot meets the minimum lot width requirement. Table 1 shows applicable development parameters in the Historic Residential-1 District:

Table 1:

LMC Regulation	Requirements
Building Footprint	1,351.0 square feet, maximum based on lot size
Front/Rear Yard Setbacks	10 feet minimum, 20 feet total.
Side Yard Setbacks	5 feet minimum, 10 feet total.

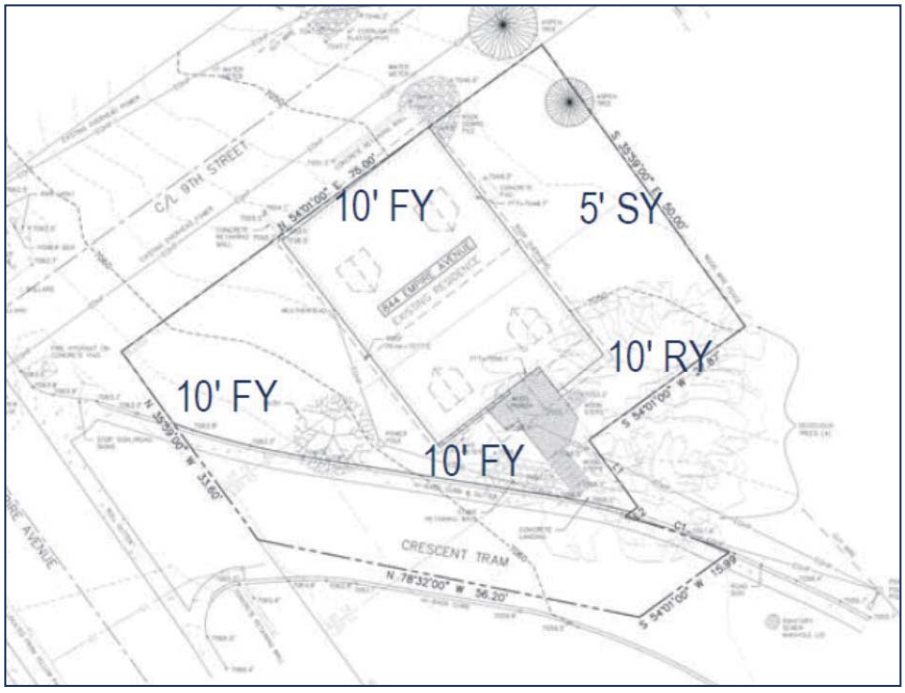
Building (Zone) Height	No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade.
Final Grade	Final Grade must be within four vertical feet (4') of Existing Grade around the periphery […].
Lowest Finish Floor Plane to Highest Wall Top Plate	A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate […].
Vertical Articulation	A ten foot (10') minimum horizontal step in the downhill façade is required […].
Roof Pitch	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.

Setbacks

LMC § 15-4-17 *Setback Requirements for Unusual Lot Configurations* lists different scenarios and their corresponding setback determinations for lots that don't follow the standard of a front, two sides, and a rear yard areas, traditionally known as a block lot. Furthermore, it indicates that any lots, which are not specified in this section, shall have setbacks determined by the Planning Director. The Planning Director has determined the following setbacks:

- From 9th Street, platted un-built ROW, front yard, ten feet (10') minimum. This is the historic front of the structure.
- From Empire Avenue, front yard, ten feet (10') minimum.
- From Crescent Tram, front yard, ten feet (10') minimum.
- From the south neighbor, rear yard, ten feet (10') minimum. This side is opposite of the historic front of the house.
- From the east neighboring property, side yard, five feet (5') minimum.

The diagram below graphically shows the Planning Director's setback determination:



The existing historic structure does not meet the minimum setbacks along the north side, platted un-built 9th Street ROW. The existing structure was built along this property line and the roof overhang is over the property line encroaching approximately eighteen inches (18"). Also, along this same property line, there is a concrete retaining wall built on the ROW. The existing historic structure also does not meet minimum setbacks along the Crescent Tram ROW dedication as it is approximately five feet (5') from the new property line after the dedication. The existing historic structure also does not meet minimum setbacks from the shared property line with the neighboring site on the south as it is approximately eight and a half feet (8.5').

LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures; however, additions must comply with building setbacks.

Staff recommends adding a condition of approval that indicates that the concrete retaining wall encroachments across the north property line over the 9th Street ROW shall be resolved prior to plat recordation. The applicant bears the burden of proper approvals for the retaining wall, which may include an encroachment agreement with the City through the City Engineer's office, or relocation/removal of the retaining wall, subject to compliance with applicable Design Guidelines for Historic Sites through a Historic District Design Review application.

Good Cause

Planning Staff finds that there is good cause for this Plat Amendment as the lot line going through a historic structure will be removed, 932 square feet will be dedicated to the City for the Crescent Tram road for public use, the requested Plat Amendment will not cause undo harm to adjacent property owners, and all requirements of the Land Management Code can be met. The proposed lot area of 3,242 square feet is a compatible lot combination as the entire Historic Residential-1 District has abundant sites with approximate dimensions in this neighborhood.

Process

The approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in Land Management Code § 1-18.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet on March 9, 2016. Legal notice was published in the Park Record on March 9, 2016 according to requirements of the Land Management Code.

Public Input

No public input has been received by the time of this report.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the 844 Empire Avenue Plat Amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the 844 Empire Avenue Plat Amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on 844 Empire Avenue Plat Amendment.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Planning Department's Recommendation

The site would remain as is. The site would consist of one (1) Old Town lot and two (2) partial lots. The historic structure would contain a lot line going through it. Additions to the historic structure would have to respects all setbacks of all internal lot lines. The Crescent Tram ROW dedication would not take place. The existing single-family dwelling would remain as is. The portion of Crescent Tram would remain in the form of a prescriptive easement instead of City ROW.

Summary Recommendation

Staff recommends the Planning Commission hold a public hearing for the 844 Empire Avenue Plat Amendment located at 844 Empire Avenue and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Plat Amendment
Exhibit B – Applicant's Project Description
Exhibit C – Original Submittal
Exhibit D – Existing Conditions & Topographic Map (Survey)
Exhibit E – Aerial Photograph
Exhibit F – Vicinity Map
Exhibit G – County Tax Map
Exhibit H – Site Photographs

Exhibit A: Draft Ordinance

Ordinance No. 15-XX

AN ORDINANCE APPROVING THE 844 EMPIRE AVENUE PLAT AMENDMENT LOCATED AT 844 EMPIRE AVENUE, PARK CITY, UTAH.

WHEREAS, the owner of the property located at 844 Empire Avenue has petitioned the City Council for approval of the Plat Amendment to combine Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, of the Snyder's Addition to the Park City Survey ; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on March 23, 2016, to receive input on Plat Amendment; and

WHEREAS, the Planning Commission, on March 23, 2016, forwarded a recommendation to the City Council; and,

WHEREAS, on April 14, 2016, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, there is good cause and it is in the best interest of Park City, Utah to approve the 844 Empire Avenue Plat Amendment.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. 844 Empire Avenue Plat Amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 844 Empire Avenue.
2. The property is in the Historic Residential-1 (HR-1) District.
3. The subject property consists of all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyder's Addition to the Park City Survey.
4. The site is listed on Park City's Historic Building Inventory as a significant site.
5. The proposed Plat Amendment creates one (1) lot of record from the existing three (3) parcels, one (1) full lot and two (2) partial lots consisting of a total of 4,174 square feet.

6. The City requests that the property owner dedicate Crescent Tram area consisting of 932 square feet as part of their Plat Amendment.
7. The proposed lot would be 3,242 square feet.
8. A single-family dwelling is an allowed use in the District.
9. The minimum lot area for a single-family dwelling is 1,875 square feet.
10. The proposed lot meets the minimum lot area for a single-family dwelling.
11. The minimum lot width allowed in the District is twenty-five feet (25').
12. The proposed lot is approximately thirty one feet (31') wide.
13. The proposed lot meets the minimum lot width requirement.
14. Per LMC § 15-4-17 the Planning Director has determined the following setbacks:
    a. From 9th Street, platted un-built ROW, front yard, ten feet (10') minimum. This is the historic front of the structure.
    b. From Empire Avenue, front yard, ten feet (10') minimum.
    c. From Crescent Tram, front yard, ten feet (10') minimum.
    d. From the south neighbor, rear yard, ten feet (10') minimum. This side is opposite of the historic front of the house.
    e. From the east neighboring property, side yard, five feet (5') minimum.
15. The existing historic structure does not meet the minimum setbacks along the north side, platted un-built 9th Street ROW, as the structure was built on the property line.
16. The existing historic structure does not meet the minimum setbacks along the shared property line with the neighboring site on the south as it is approximately eight and a half feet (8.5').
17. The existing historic structure does not meet minimum setbacks along the Crescent Tram ROW dedication as it is approximately five feet (5') from the new property line after the dedication.
18. LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures; however, additions must comply with building setbacks.
19. The concrete retaining wall encroaches across the north property line over the 9th Street ROW.
20. The proposed lot area consisting of 3,242 square feet yields a maximum Building Footprint of 3151.0 square feet.
21. There is good cause for this Plat Amendment as the lot line going through a historic structure will be removed, 932 square feet will be dedicated to the City for the Crescent Tram road for public use, the requested Plat Amendment will not cause undo harm to adjacent property owners, and all requirements of the Land Management Code can be met.
22. The proposed lot area of 3,242 square feet is a compatible lot combination as the entire Historic Residential-1 District has abundant sites with approximate dimensions in this neighborhood.
23. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law:

1. There is Good Cause for this Plat Amendment.

2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
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 stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten foot (10') wide public snow storage easement will be required along the Empire Avenue front of the property.
4. Fire sprinklers shall be required for all new construction or substantial renovations, as determined by the Park City Building Department during building permit review.
5. Drive access to the site shall be from Empire Avenue in a location approved by the City Engineer.
6. The concrete retaining wall built over the north property line shall be resolved prior plat recordation. The applicant bears the burden of proper approvals for the retaining wall, which may include an encroachment agreement with the City through the City Engineer's office, or relocation/removal of the retaining wall, subject to compliance with applicable Design Guidelines for Historic Sites through a Historic District Design Review application.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 14th day of April, 2016.

PARK CITY MUNICIPAL CORPORATION

_____
Jack Thomas, MAYOR

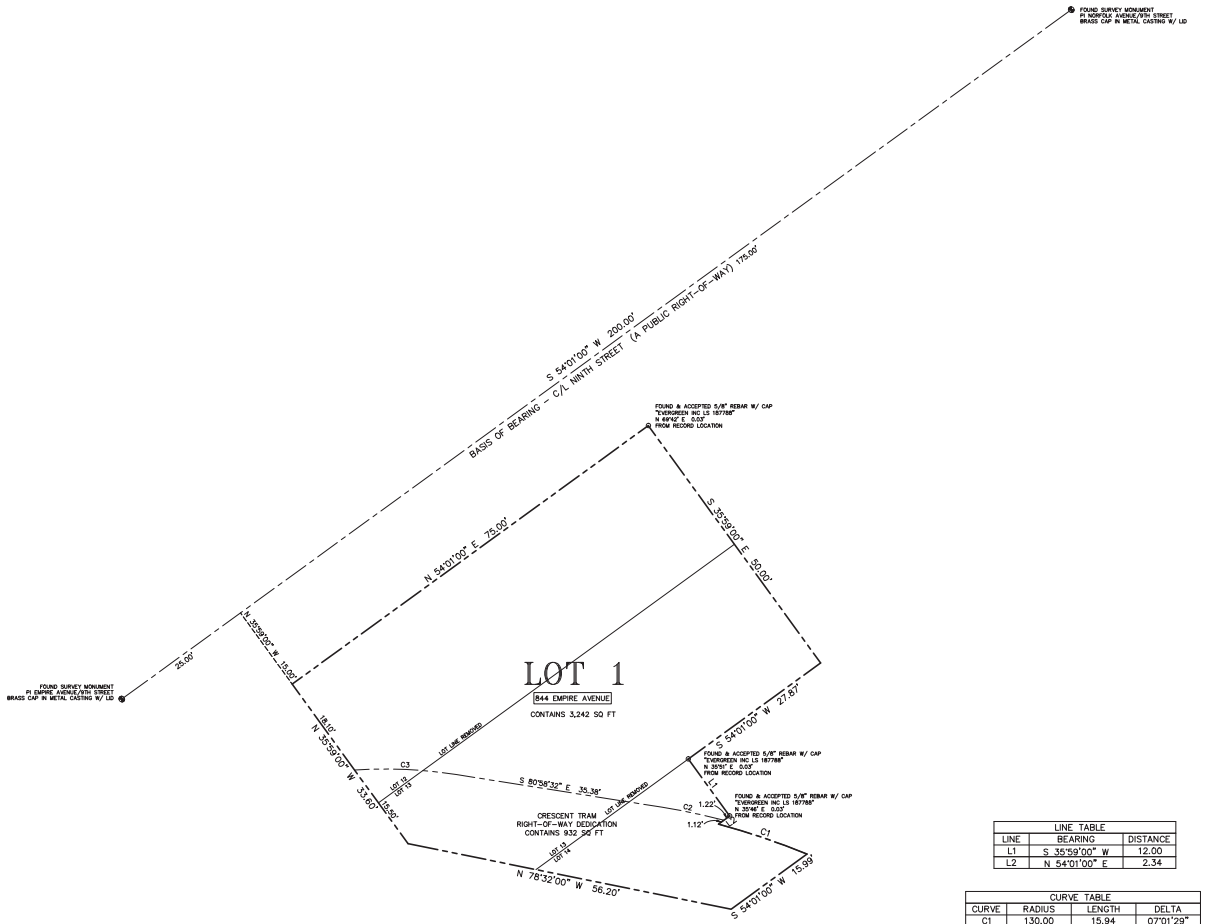
ATTEST:

_____
Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

_____
Mark Harrington, City Attorney

Attachment 1 – Proposed Plat Amendment



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 35°59'00" W	12.00
L2	N 54°01'00" E	2.34

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	130.00	15.94	07°01'29"
C2	110.00	10.82	05°38'10"
C3	77.50	17.47	12°55'07"

REGISTERED LAND SURVEYOR
No.4938739
MARTIN A. MORRISON
State of Utah

SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, I have prepared this Record of Survey map of 844 EMPIRE AVENUE PLAT AMENDMENT and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTION

Lot 12, Block 14, Snyder's Addition to Park City.

Also, a part of Lots 13 and 14, in Block 14, Snyder's Addition to Park City described as follows: Beginning at the Southwest corner of Lot 11, Block 14; and running thence South 54°01' West 75 feet; thence South 35°59' East 8.6 feet; thence South 78°32' East 56.2 feet; thence North 54°01' East 37 feet; thence North 35°59' West 50 feet to the point of beginning.

Less and excepting the following land conveyed to Robert G. Ward and Margery W. Ward, his wife, grantee, as show in that certain Quit-Claim Deed recorded December 28, 1983, as Entry No. 214633, in Book 283, at page 299, of Official Records, more particularly described as follows:

Beginning at the Northeast corner of Lot 14, Block 14, Snyder's Addition to Park City, Utah; and running thence South 35°59' East along the Easterly boundary of said Lot 14, 25 feet; thence South 54°01' West along the Southerly boundary of said Lot 14, 21.01 feet to a point on the Northerly side of the Crescent right-of-way; thence along said Northerly side of the Crescent right-of-way, being a 130 foot radius curve to the left (radius point bears South 22°14'19" West), 15.94 feet; thence North 54°01' East 2.34 feet; thence North 35°59' West 12 feet to a point on the Northerly boundary of said Lot 14; thence North 54°01' East along said Northerly boundary of Lot 14, 27.87 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that Todd M. Gilbert, the undersigned owner of the herein described tract of land, to be known hereafter as 844 EMPIRE AVENUE PLAT AMENDMENT, does hereby certify that he has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

ALSO, the owner hereby irrevocably offers for dedication to the City of Park City all the streets, land for local government uses, easements and required utilities shown on this plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
: ss.
County of _____)

On this _____ day of _____, 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-____.

A PARCEL COMBINATION PLAT

A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

844 EMPIRE AVENUE PLAT AMENDMENT

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

10' 0 10' 20'

SHEET 1 OF 1

3/8/16 JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467 Alliance Engineering Inc. CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2016 BY _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ _____ _____ FEE RECORDER

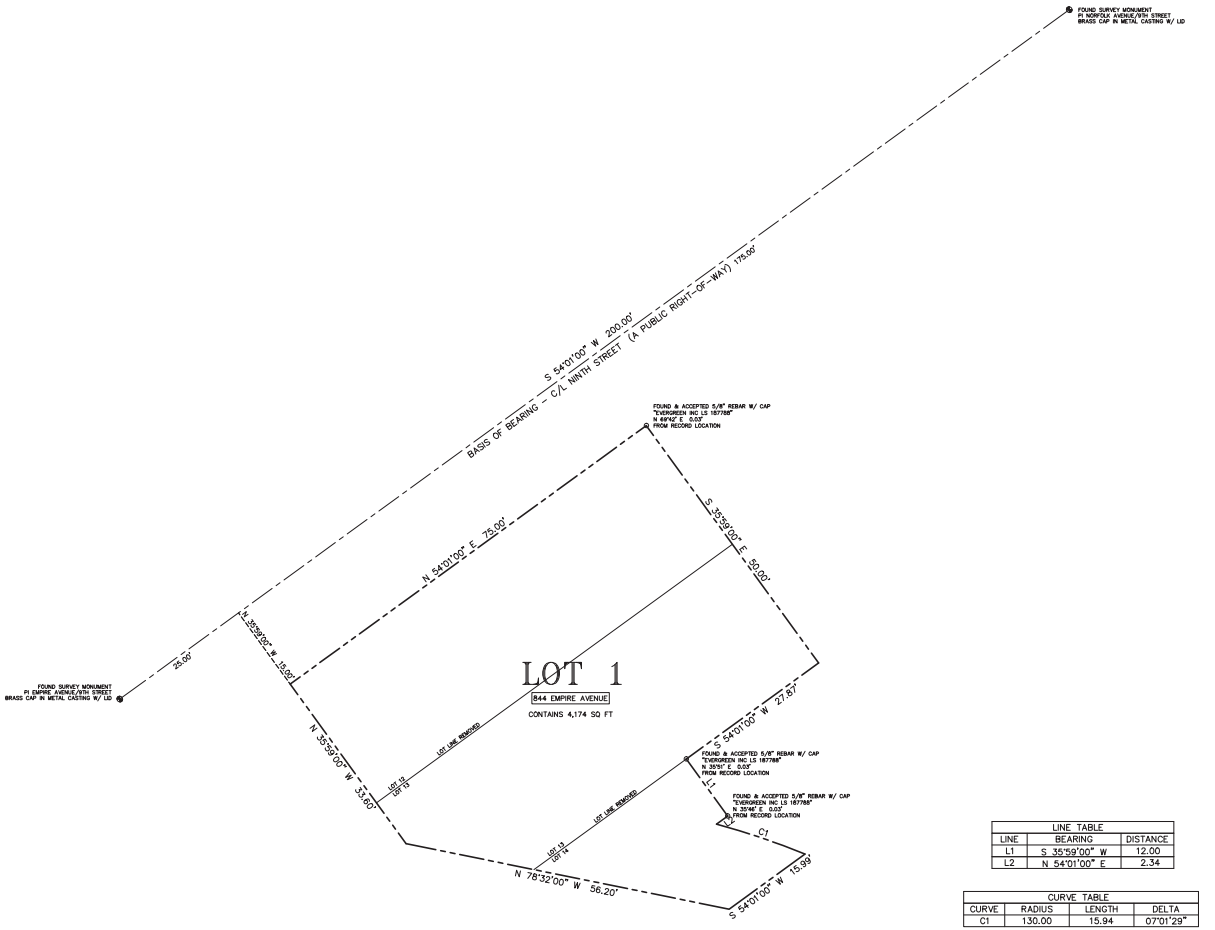
SNYDER'S ADDITION TO PARK CITY SURVEY, BLOCK 14,
LOT 12 AND PORTIONS OF LOTS 13 & 14,

(844 EMPIRE AVENUE)

PROJECT INTENT

Lot 12 and portions of Lots 13 & 14, Block 14, Snyder's Addition to Park City Survey, (also known as 844 Empire Avenue) are owned by the same entity. The original lot lines from Snyder's Addition to Park City Survey still exist between Lots 12 & 13 and between Lots 13 & 14. The owner desires to unify the property into one lot of record by extinguishing the existing lot line, with the ultimate goal of renovating the existing residence.

RECEIVED
DEC 11 2015
PARK CITY
PLANNING DEPT.



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No.4938739
MARTIN A. MORRISON
State of Utah

SURVEYOR'S CERTIFICATE

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In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
:ss.
County of _____)

On this _____ day of _____, 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-____.

10' 0 10' 20'

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A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

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LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SHEET 1 OF 1

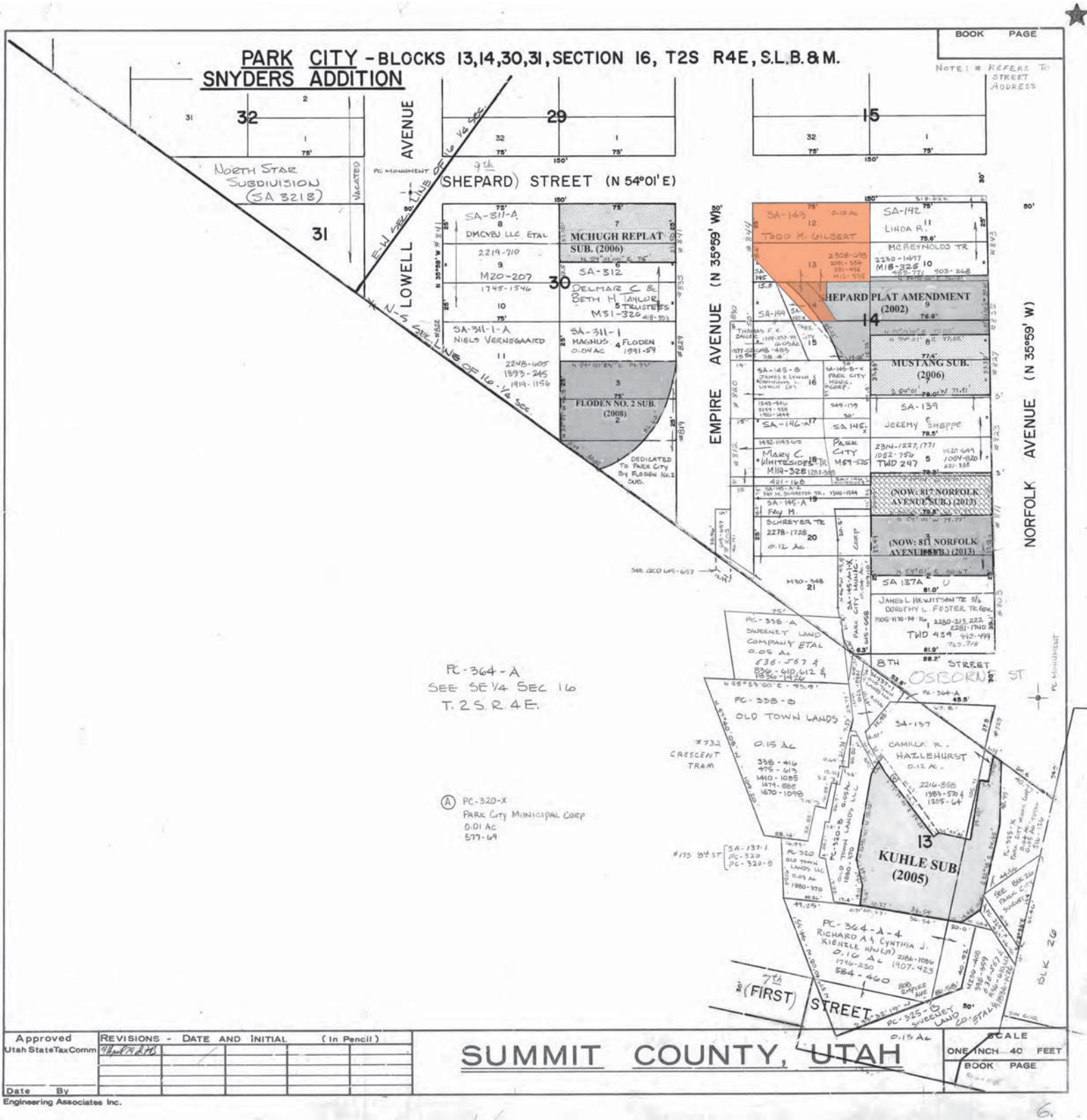
12/11/15 JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467 Alliance Engineering Inc CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2016 BY _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ _____ _____ FEE RECORDER

Exhibit D – Existing Conditions & Topographic Map (Survey)

Exhibit E – Aerial Photograph

Legend
Address
Parcels
Streets
HSI Significant Site
HSI Landmark Site
Exhibit F - Vicinity Map
844 Empire Avenue
Empire Ave
Norfolk Ave
Crescent Rd
Lowell Ave
844
843
835
827
823
830
820
812
817
811
803
802
841
835
829
819
822
911
901
906
917
923
902
907
915
921
908
912
916
920
930
860
850
834
830
824
812
0 15 30 60 90 120
Feet
PCMC


PARK CITY - BLOCKS 13,14,30,31, SECTION 16, T2S R4E, S.L.B.& M.
SNYDERS ADDITION
BOOK PAGE
NOTE: # REFERS TO STREET ADDRESS
NORTH STAR SUBDIVISION (SA 3218)
VACATED
LOWELL AVENUE
9th (SHEPARD) STREET (N 54°01' E)
E-W 1/64 LINE OF 16 1/4 SEC
N-S 64 LINE OF 16 1/4 SEC
EMPIRE AVENUE (N 35°59' W)
NORFOLK AVENUE (N 35°59' W)
MCHUGH REPLAT SUB. (2006)
FLODEN NO. 2 SUB. (2008)
DEDICATED TO PARK CITY BY FLODEN NO. 2 SUB.
HEPARD PLAT AMENDMENT (2002)
MUSTANG SUB. (2006)
(NOW: 817 NORFOLK AVENUE SUB.) (2013)
(NOW: 811 NORFOLK AVENUE SUB.) (2013)
KUHLE SUB (2005)
PC-364-A
SEE SE 1/4 SEC 16
T. 2 S. R. 4 E.
PC-320-X
PARK CITY MUNICIPAL CORP
0.01 Ac
577-69
PC-364-A-4
RICHARD A. & CYNTHIA J. KIENZLE HWLY
0.16 Ac
OSBORNE ST
8TH STREET
7th (FIRST) STREET
CRESCENT TRAM
#732
#175
Approved
Utah StateTaxComm
Date By
REVISIONS - DATE AND INITIAL (In Pencil)
SUMMIT COUNTY, UTAH
SCALE
ONE INCH 40 FEET
BOOK PAGE
Engineering Associates Inc.

844 Empire Avenue looking northerly

Exhibit H – Site Photographs

844 Empire Avenue looking southeasterly

844 Empire Avenue looking northwesterly

844 Empire Avenue looking southerly

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 23, 2016

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Laura Suesser, Doug Thimm

EX OFFICIO:

Planning Director, Bruce Erickson; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Anya Grahn, Planner; Hannah Turpen, Planner; Makena Hawley, Planning Tech, Luis Rodriguez, Polly Samuels McLean, Assistant City Attorney

==========

REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:35 p.m. and noted that all Commissioners were present.

Chair Strachan welcomed Laura Suesser, the new Planning Commissioner, and thanked her for service.

ADOPTION OF MINUTES

February 24, 2016

MOTION: Commissioner Band moved to APPROVE the minutes of February 24, 2016 as written. Commissioner Campbell seconded the motion.

VOTE: The motion passed. Board Members Thimm and Suesser abstained.

PUBLIC INPUT

Clay Stuard referred to the memorandum that was handed out regarding the Annual Work Plan. He noted that one of the items for discussion were the LMC changes, and the bullet item - Code clarification and definitions. Mr. Stuard asked the Commissioners to discuss clarification on how density is calculated under the MPD ordinance. Mr. Stuard noted that a lot of Park City, particularly the Bonanza Park area, is under the GC zone and those properties will most likely be developed using the MPD ordinance. He challenged the Planning Commission to look at the LMC from the standpoint of a developer and try to figure out how to calculate the density under the Code. As currently written he did not

believe the Code offered a definitive answer. Mr. Stuard thought the lack of clarity has led to bogus calculations on applications that have come before the Planning Commission. It creates the illusion that the applicant is asking for less density than what is allowed by Code and it sets up the argument for additional height or other variances that have occurred in the past. Mr. Stuard urged the Planning Commission to add a review of the MPD ordinance and any associated sections in calculating density.

Chair Strachan announced that the item would be moved to the end of the agenda and he encouraged Mr. Stuard to stay for the discussion.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Erickson noted that at the last Planning Commission meeting the Commissioners asked for an explanation of how height and bulk regulations were applied in the HR1 zone. His team did some research and some of the buildings in question were existing non-conforming uses and were allowed to continue as long as those non-conforming uses did not expand the non-conformity of the use. Director Erickson referred to one specific building and stated that the original application came in with a five-story building which was higher than the non-conforming use. The Staff required the applicant to remove the upper floor; however, allowing a flat roof allowed the bulk to be retained inside the height limit. Director Erickson explained that the original project was four condominium units that were reduced to three units. In addition, there were long negotiations between the applicant and the Planning Staff regarding the window size and placement and the architectural materials. Those were generally in compliance and the Staff found that they met Code.

Director Erickson noted that there is one additional building directly south in the HR1 zone and that building would go through the same process unless the City elects to change the Code. Director Erickson believes the flat roof influences a number of the heights in the HR1, the HRL and the HR2 zones. The Staff intends to look closely at those issues moving forward.

Chair Strachan agreed that it raises the issues of flat roofs, which has been an issue for most of the ten years he has been on the Planning Commission. Some Commissioners have liked flat roofs and others have not. Chair Strachan noted that the current Code allows for flat roofs but past Codes have prohibited them.

Director Erickson remarked that the flat roof came in as part of the 2007-2009 overhaul of the Code, and they were expected to be green roofs. The exception for elevators and mechanical space above the height limit also causes the dilemma, especially in the Historic District. He noted that the Planning Commission would have the opportunity to discuss

these items and come to some consensus before the Staff starts crafting the LMC amendments.

Director Erickson stated that the entire Planning Staff would be present to hear the discussion regarding the Annual Work Plan. He recognized all eight of his Staff and noted that most have advanced professional degrees.

Commissioner Band disclosed that Sandra Morrison from the Park City Historic Society approached her yesterday to talk about the upcoming agenda. She stopped Ms. Morrison from further conversation and asked her repeat her comments in an email to all of the Commissioners. Commissioner Band did not believe Ms. Morrison had sent the email and she was not in the audience this evening.

Commissioner Phillips recalled the issue he had raised last year about property signs. As he went past three sites in Old Town today, each sign was lying on the ground half covered with snow and they were not visible at all. Commissioner Phillips believed it was a failure to notify the neighbors. Fortunately, all three properties were plat amendments which rarely draws public comments. Commissioner Phillips understood that the Planning Department purchased new sign posts; however, two of the houses still had the wood posts with paper stapled on it. He intended to pursue this because it is paramount that the neighbors properly have that notification.

Director Erickson thanked Commissioner Phillips for drawing it to their attention. They will make an effort to make sure the fallen signs are uprighted and that future signs stay up.

Chair Strachan disclosed that he would recuse himself from the work session discussion regarding the Park City Mountain Resort Development Agreement because his law firm represents Vail and personal injury matters.

WORK SESSION

Vice-Chair Joyce assumed the Chair. Commissioner Strachan left the room.

Planner Astorga reported that this was a work session discussion regarding the amendments to the Park City Mountain Resort MPD Development Agreement Upgrade Plan which the City approved on March 25, 2015. The amendments allowed the owner to move forward with the interconnect, as well as major renovations and remodeling of the Snow Hut, currently known as the Miners Camp. Representatives from Vail and PCMR were in attendance.

Planner Astorga stated that the only condition of approval that required an annual review was tied to the MPD and it was a condition that specifically relates to historic preservation.

Planner Astorga had provided links to past Staff reports and Minutes instead of printing those documents. In response to an earlier comment by Commissioner Band, Planner Astorga reported that the Planning Department had not received an email from Sandra Morrison or the Park City Historic Society. The Historic Society was given a copy of the Staff report when it was published last Friday, but they had not responded.

Planner Astorga noted that the condition of approval was written on page 18 of the Staff report. The Staff found that Vail was progressing on all counts and money has been spent regarding historic preservation. The Staff was working with Vail on the funding plan. The Planning Department had received technical information from the Alta survey, which takes more time than a traditional survey. Planner Astorga noted that this is the largest parcel in Park City and it will take a long time to complete the survey. This item was scheduled as a work session to conduct the annual review.

Planner Astorga stated that the applicant would have to come back to the Planning Commission for final action. The specific condition of approval indicated that the applicant had one year to comply; however, the Staff felt it is reasonable for the City to add another 120 days to allow time to complete the work.

Bill Rock, representing the applicant, summarized the progress that has taken place. Vail had paid $50,000 in escrow to do the work. Some work was done before the end of summer and they have a Scope of Work that will start immediately in the Spring. Mr. Rock stated that since the last meeting with the Planning Commission they drafted a tentative MOU between Vail, the City and the Historical Preservation Society to find a way to deploy funds to preserve the mining structures within the Resort boundaries in the future. Mr. Rock noted that another condition was to put together a five year funding plan with the Historical Society to help raise money to preserve these structures. That five year plan had been submitted.

Commissioner Band asked if Vail gave $50,000 to the City and the City has the responsibility to disburse it. Director Erickson explained that the MOU between Vail, the City and the Historical Society set the priority sites. The City is required to approve the work before any of the $50,000 can be disbursed. Director Erickson stated that $2700 was spent last year doing internal stabilization on California Comstock, which helped it survive the winter. The work was being done by a mining contractor who is familiar with working with wood structures and mining preservation. The Planning Department will be rigorous in making sure the other sites move forward. The prioritized list was included in the Staff report.

Commissioner Band asked Planner Grahn for her opinion. Planner Grahn replied that she was felt comfortable that through the MOU they could move forward with the structural stabilization work. They were doing their best last year until it snowed earlier than expected and affected the amount of work that was done on California Comstock. Planner Grahn remarked that it was a good working relationship and she hoped it would continue.

Commissioner Band understood that there was a one-year deadline but as long as progress was being made and the mine structures were stabilized she was comfortable extending the time frame.

Commissioner Thimm stated that he thought from the beginning that the schedule was aggressive. Since Park City has seasons, he was not opposed to granting the request for an additional 120 days.

Director Erickson stated that the Staff would come back with a recommendation for the 120 extension at the next meeting. He emphasized that Vail had reached out to the Historical Society and made them a party to the operating agreement for Historic Preservation. It was not a requirement of the conditions of approval and they chose to take that extra step.

Commissioner Joyce stated that when they met last year in March there was a set of items that needed to be shielded somewhat before they experienced another winter and risked structures falling down. However, he was disappointed when he realized that almost nothing was done with the exception of $2700 worth of work, which is minimal. Commissioner Joyce stated that an inventory and a survey are good to have, but the important aspect is the actual work to shore up the structures.

Director Erickson stated that when this comes back they would be asking for additional timing commitments from VR CPC on renovations this coming summer.

Commissioner Thimm asked if when Vail comes back to the Planning Commission for approval of the 120 extension, whether it would be appropriate to ask them to provide a list of sites at that time. Director Erickson stated that if they come back at the next meeting they would be close to those requirements. He thought it would be unfair to request a list before the extension; however, the Commissioners could add a condition of approval stating that within 45 days after this action the application will provide a draft list. Director Erickson believed they needed to give the opportunity to react, and because the Museum is a participating party, they need to make sure the Museum, as well as Planners Grahn and Turpen, are in agreement as well.

Commissioner Band noted that the Planning Commission considering extending the time specified in the condition of approval, but the interconnect is there and the restaurant is open for business. Director Erickson stated that the City would not accept an application for anything else on the Mountain or for the parking lot until these requirements are fulfilled. They have had this discussion and Vail is fully aware of it. Director Erickson was comfortable making the recommendation knowing the urgency of the situation and what the Museum has suggested in this situation.

Commissioner Phillips assumed that Vail was confident that they could complete the work within the additional 120 days. Mr. Rock replied that the extension was actually for the survey to be finalized, and he was confident that it would be completed within 120 days. Mr. Rock also noted that in addition to the $50,000 that has already been committed, the next step is to create a five year plan and to raise money for the rest of the work based on prioritization and inventory.

The Planning Commissioner was comfortable having this come back as a formal request for a 120 day extension. Planner Astorga remarked that how long it takes to send out notices would determine whether this comes back at the next meeting or a later meeting. Director Erickson stated that the Staff would do their best to expedite the process.

Mr. Rock thanked Director Erickson and the Staff for helping them work through these complicated issues.

Vice-Chair Joyce closed the work session and returned to the Regular Meeting.

Chair Strachan resumed the Chair.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 803 Norfolk Avenue, Plat Amendment – Combining Lot 1 and the south half of Lot 2, Block 14 of Snyder's Addition to the Park City Survey (Application PL-15-03049)

Planner Grahn reported that this item would be continued at the request of the applicant. The applicant had concerns regarding the dedication of Crescent Tramway and access to the property off of it. They will continue working with the Staff and the City Engineer to work out the issues. Planner Grahn requested that the Planning Commission continue this item to April 13th.

MOTION: Commissioner Band moved to CONTINUE the 803 Norfolk Avenue plat amendment to combine Lot 1 and the south half of Lot 2, Block 14 of the Snyder's Addition to the Park City Survey to April 13, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

2. 844 Empire Avenue – Plat Amendment creating one (1) lot of record from the lot and portions of lots at 844 Empire Avenue (Application PL-15-03034)

Planner Francisco Astorga reviewed the application for a plat amendment at 844 Empire Avenue. He noted that the site is complicated due to the existing historic structure currently listed as a Significant Site on the Historic Site Inventory. The main entry of the dwelling faces north over platted 9th Avenue and there are some non-compliances in that the historic structure did have setbacks when it was built, as well as other items that do not comply with current Code.

Planner Astorga asked if the Commissioners had received the letter he had sent from the property owner. The letter indicates that the applicant disagrees with the Staff recommendation of the maximum building footprint due to the road dedication, as requested by the City Engineer. Planner Astorga explained that the portion of land owned by the property owner consisting of 932 square feet was shown on page 60 of the Staff report, and that piece would be dedicated to the City. He stated that in several conversation with City Engineer Matt Cassel, he is trying to acquire all of the right-of-way of Crescent Tram. Planner Astorga noted that in some parts of town the City Engineer may feel comfortable with an easement over private property, but when it comes to Crescent the City Engineer is very clear that through a plat amendment process he is tries to acquire property for public use.

Planner Astorga clarified that the maximum building footprint was the source of disagreement that the applicant was having with the Staff recommendation. He stated that the maximum building footprint comes from the lot area. Therefore, if the lot becomes smaller due to the road dedication it results in a smaller building footprint.

Planner Astorga stated that the difference in the building footprint before the road dedication is approximately 300 feet. The applicant was not informed of the reduced building footprint until Friday, which is why they submitted the letter indicating that they do not want to use the full 300 square feet, but they would like to use 125 of what would be allowed over the maximum building footprint. However, the LMC does not provide language that would allow it. Therefore, it would be limited to 1351 square feet instead of 1476 square feet as indicated on the submitted letter.

Planner Astorga suggested that the applicant may request a continuance and he did not believe it was an unreasonable request. It would allow the applicant time to work with their architect to see if future plans to remodel the historic site would be affected.

Chair Strachan asked if the applicant intended to request a continuance. Tom Goff, representing the applicant, replied that they would like to request a continuance.

Commissioner Thimm asked if the City would pay for the dedication of land or if it would occur as a land swap. He was unclear of the process in this particular circumstance. Assistant City Attorney McLean stated that generally dedication language on the plat indicates that when the plat is recorded the land gets dedicated. She clarified that in this case, the land at issue is a prescriptive right-of-way that the public has been using for a long time, dating back to the 1800s. Ms. McLean stated that the dedication is an easier way for the City to have control over that land as opposed to a titled action or some other means. The City would purchase it because it is already an existing roadway.

Commissioner Campbell asked how the square footage calculation affects this type of situation, because normally the square footage calculation for the footprint would include the size of the lot. Planner Astorga replied that they run the building footprint formula outlined in the LMC. The issue is that the LMC only says take X, which is the lot size, and plug it into the formula to get Y. It makes no mention of road dedications or anything else. Planner Astorga referred to the comparison between pages 60 and 62 of the Staff report. He noted that page 62 was the actual application that was originally submitted, and there is no road dedication. He explained that the road dedication only came about after review by the internal review committee, which included the City Engineer. It was later in the process where they further studied the footprint formula and the maximum building footprint that they found it was based on that area. Planner Astorga clarified that if the road is dedicated the applicant would not be able to include that road area. He was unsure what the City Engineer would do if the applicant returned to the original application that was submitted without the road dedication. The prescriptive access is already there, but Mr. Cassel indicated in a discussion earlier today that for Crescent Tram he would want to acquire every piece of property and not have it through an easement.

Commissioner Campbell understood that if it was an easement the applicant would be able to count the easement into the square footage. He felt this was a good example of bureaucratic taking. Planner Astorga noted that Mr. Cassel was the signing entity on the plat amendment and he thought it was better to continue this item until Mr. Cassel could be present to explain his reasoning.

Assistant City Attorney McLean pointed out that nothing could be calculated without a plat amendment because currently the lot line runs through the lot. She apologized to the

applicant that this came up so late in the process and that they were forced to address it just before the meeting. It was an issue that came up internally and they realized the need for a clear policy to correctly address it because it is a prescriptive easement. Ms. McLean remarked that another way to look at it, is that there is a roadway through the lot that is not buildable property, and that also affects the building footprint.

Commissioner Campbell emphasized the need to get this right because consistency is important and this same issue may come up again. He thought it was a Catch-22 and the applicant was caught in the middle.

Commissioner Joyce agreed that the City Attorney needed to provide an explanation because it was not only a later issue for the applicant, but the Planning Commission did not have enough information to understand the situation.

Assistant City Attorney McLean suggested that the Planning Commission continue this item to allow time for the Staff to meet with the applicant and to hear input from Mr. Cassel.

Sara Goff, representing the applicant, stated that as part of their commitment to the process, they spent $5,000 doing research on 100 years of history and dedication, and nowhere in history has this property ever dedicated this piece of land to the City. Chair Strachan believed that was obvious because if it had been dedicated the City would already have it and would not need the dedication moving forward.

Commissioner Campbell asked if it was reasonable for the Planning Commission to say that philosophically they would be in favor of the applicant having a larger footprint because of the other negatives that are about to happen.

Commissioner Phillips believed another piece of this issue is for the Planning Commission to understand completely the purpose of the maximum building footprint. He assumed it was to prevent building completely to the setbacks. Commissioner Phillips stated that in doing this, if the applicant is allowed to build to their setback lines on all four sides, he would absolutely not be in favor. He requested that the Staff provide information and background on the exact reasoning for the building footprint.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE the 844 Empire Avenue plat amendment to April 13, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

3. 921 Norfolk Avenue – Plat Amendment combining two lots in order to remove the lot line that runs through an existing home (Application PL-16-03091)

Planning Tech, Makena Hawley, reviewed the plat amendment application to combine two lots into one by removing a lot line that runs through the existing home.

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

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Joyce read Condition of Approval #3, "The property owner shall address/remove the encroachment of the concrete retaining walls, concrete steps and garage, over the front (east) property line into the City Right-of-Way (ROW)". When he looked at the picture on page 84 of the Staff report he realized that the garage, the steps and the retaining wall were quite large and integrated. Commissioner Joyce asked whether the City would allow an easement or whether those had to be removed.

Ms. Hawley stated that the she, Matt Cassel, and the applicant had met to address it earlier today. She noted that it is up to the owner to decide which route to take. Some type of encroachment agreement would be required. Ms. Hawley noted that because there is only one parking space on-site, the owner would be required to park one car in the garage and only one off-site parking would be allowed. She stated that the encroachment agreement has not been finalized, but there is a condition stating that an encroachment agreement must be recorded prior to recording the plat.

MOTION: Commissioner Band moved to forward a POSITIVE recommendation to the City Council the plat amendment to combine two lots at 921 Norfolk Avenue. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 921 Norfolk Avenue

1. The property is located at 921 Norfolk Avenue.

2. The property is in the Historic Residential (HR-1) District.

3. The subject property consists of all of Lot 6 and the north half of Lot 5, Block 15 of Snyders Addition to Park City Survey. The proposed plat amendment creates one (1) lot of record.

4. This site was previously listed on Park City's Historic Sites Inventory (HSI) and was designated as Significant until 2009 when it was removed from the Historic Sites Inventory.

5. The Plat Amendment removes one (1) lot line going through the existing structure.

6. The proposed Plat Amendment combines the property into one (1) lot measuring 2,812.5 square feet.

7. A single-family dwelling is an allowed use in the District.

8. The minimum lot area for a single-family dwelling is 1,875 square feet. The proposed lots meet the minimum lot area for single-family dwellings.

9. The minimum lot width required is twenty-five feet (25'). The proposed lot meets the minimum lot width requirement at 37.5 feet along Norfolk Avenue.

10.The maximum building footprint allowed based on proposed lot size is 1,200.49 square feet. The existing Building Footprint equates to approximately 1,200 square feet.

11.The existing house is valid non-complying structure.

12.LMC § 15-9-3 (B) indicates that non-complying structures that were lawfully constructed with a permit prior to a contrary change in this Code, may be used and maintained, subject to the standards and limitations of LMC 15-9.

13.The front/rear yard setbacks are ten feet (10') minimum. The combined front/rear yard setbacks are twenty feet (20') minimum.

14.The side yard setbacks are three feet (3') minimum. The total side yard setbacks

are six feet (6') minimum.

15.All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 921 Norfolk Avenue

1. There is good cause for this Plat Amendment.

2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.

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 stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 9221 Norfolk Avenue

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. The property owner shall address/remove the encroachment of the concrete retaining walls, concrete steps and garage, over the front (east) property line into the City Right-of-Way (ROW).

4. The existing stone pavers and concrete steps encroaching over the north property line into the neighboring property at 927 Norfolk shall either be removed or the applicant shall enter into an encroachment agreement with their neighbor for these improvements.

5. The existing railroad tie retaining wall encroaching over the south side property line into the neighboring property at 915 Norfolk shall either be removed or the applicant

shall enter into an encroachment agreement with their neighbor for these improvements.

4. <u>2392 Holiday Ranch Loop Road – Conditional Use Permit for a new well filtration building.</u> (Application PL-15-03079)

Planning Tech Hawley handed out public comment she had received and she apologized for not sending it to the Commissioners prior to the meeting.

Planning Tech Hawley reviewed the application for a conditional use permit for a new well filtration building that would replace the old well filtration buildings at the Creekside park and the recreation open space. This will be considered an Essential Municipal Public Utility use, facility, service and structure greater than 600 square feet, which is a conditional use in the zone.

The Staff recommended that the Planning Commission review the conditional use permit application for 2392 Holiday Ranch Loop Road, conduct a public hearing and approve the CUP for an Essential Municipal Public Utility use Facility, service and structure greater than 600 square feet. The Staff had prepared Findings of Fact, Conclusion of Law and Condition of Approval for consideration.

Roger McClain, the Public Utilities Engineer, stated that Alison Butz was the liaison from the Public Utilities Department working with the Planning Department. He noted that the architect and engineer team were present to answer questions and address any comments. Mr. McClain stated that the project started on August 6, 2014 when the Division of Drinking Water issued a letter notifying the Water Department that the well designation was changed to ground water under the direct influence. The Park City Water Department entered into a bi-lateral compliance agreement with the State which required adding a filtration treatment to the current well. Mr. McClain explained that they looked at the options and realized that it would take longer than an 18 month period to implement the requirement. Therefore, Park City requested and was granted a four year compliance period for implementation of the filtration system.

Mr. McClain outlined the milestones that were established in that agreement. Final construction plans are to be submitted to the State by September 26, 2106. The well filtration will be active by August 30th, 2018.

Alison Butz, representing Park City Municipal, reviewed an overhead view of the site. Two yellow rectangles represented the two exiting well house buildings. They originally considered expanding those buildings to accommodate the filtration equipment, but the

buildings are non-conforming because they sit within the setback of the ROS zone. Per Code a non-conforming use cannot be expanded. Ms. Butz oriented the Commissioners to the site and indicated the well heads, the wetlands, an existing water line, a power line, and the required setback for the power line. The area where they could place a new structure was limited, but the proposed location is away from Holiday Ranch Loop Road and is accessed off of Creek Drive. Ms. Butz noted that the new location is place further south on the site and away from the residents. The building is being located in the area identified as wetlands; however, it would impact less than 1/10th of an acre of wetlands. They still needed to obtain a permit from the Army Corp of Engineers.

Ms. Butz stated that they were directed to keep the building as small as possible within a minimum footprint as well as the lowest height. The building is proposed to be 2700 square feet and the proposed height is 19-1/2 feet off of grade. The exterior elevations being proposed are a stacked dry stone with hardy board and corrugated metal. They were proposing a 30 kilowatt solar system for generating power. There will be a power generator within the building as a back-up generator for this operation. It will be fueled with natural gas which will eliminate the need for fuel deliveries to the site. They will also be generating on-site chlorine and that will also eliminate deliveries. Ms. Butz noted that no one would be officed or housed in this building but it will be monitored and visited by the Water Department Staff. No additional security is needed and motion sensor lights will be installed on the exterior. There should not be additional noise, fences, or any other impacts to the neighborhood with this new location.

Ms. Butz noted that the two existing structures along Holiday Ranch Loop Road would be demolished once the new structure is constructed. Building on a new site allows the two wells to remain in operation during construction.

Commissioner Thimm commented on the height and asked if the low point was the minimum height for the equipment it was housing. Mr. McCLain noted that the building is two-stepped. The equipment housed in the higher roof are the canisters. He explained the process for the filter system within the structure and the need for a slightly higher height requirement in that area. The height was minimized in other areas even though the generator and other equipment is housed in those areas as well. Commissioner Thimm clarified that the extra height at the high slope of the roof is actually needed for access to the equipment. Mr. McClain answered yes.

Commissioner Joyce noted that page 95 of the Staff report mentions that this is in the Sensitive Lands Overlay. The language states that no development is to take place within 50 feet of identifying wetlands. He asked how they could build on top of the SLO.

Planning Tech Hawley stated that in the SLO, Chapter 15-2.21-6, there is an Intent and Jurisdiction. The Jurisdiction portion talks about "all significant wetlands and stream corridors are regulated as provided below". Per the definition, significant wetlands are defined as, "All wetlands that occupy a surface area greater than 1/10th of an acre or are associated with permanent surface water that are adjacent to or contiguous with a stream corridor." Ms. Hawley stated that because the wetlands being affected would be under 1/10th of an acre at 2,875 square feet, it falls under that Jurisdiction.

Commissioner Joyce thought they were stretching the definition. In his opinion, the 1/10th of an acre that would be affected is different than the total significant wetlands. He thought it was a measure of the wetlands and not what they were about to replace. He asked if the 1/10th of an acre included the total wetland and stream and everything on the property. He noted that there was a significant amount of wetlands along there independent of where they would place the concrete platform. Ms. Hawley clarified that she was talking about the actual wetlands and not just the building area. Commissioner Joyce asked if the entire wetlands was less than 1/10th of an acre. Ms. Hawley answered yes.

Director Erickson pointed to page 96 of the Staff report which identified the total acreage of the wetlands. He noted that a condition of approval requires an Army Corp of Engineers permit before this project could move forward. Director Erickson explained that the Staff was asking the Planning Commission to make a land use choice on the location of the filtration plan, and let the Army Corp of Engineers address the wetlands. Commissioner Joyce did not expect the Corp would enforce Park City's SLO zoning. Director Erickson remarked that the Planning Commission was being asked to consider the effect of the 50' setback from a "significant" versus the Corp of Engineers required mitigation of impacts to any wetland. Commissioner Joyce understood the Corp piece for mitigation, but he did not understand how it applied to the LMC for Sensitive Land.

Commissioner Suesser asked someone to address the concerns raised in the letter that was handed out this evening. Ms. Butz stated that when they gave their initial presentation were showing a larger building and they were asked to reduce the footprint of the building, which they did. Ms. Butz explained how the building was designed as a two-story structure as a way to add visual interest; however, they were asked to keep it as low as possible. Therefore, the design was modified to reduce the height. Ms. Butz felt that the changes made to the building met the concerns addressed in the letter. She noted that there are two driveways off Holiday Ranch Loop Road as stated in the letter, and they were willing to remove both driveways. They were also willing to add a back sidewalk into the park, recognizing that the location might change because of the wetlands. To address the last issue in the letter, Ms. Butz explained that the height is measured off of the street level because the site is at a different height. Ms. McClain explained that the entire berm adjacent to the wetlands is an isolated area that goes out from the wetlands. The building

is set off of the existing Creek Road; therefore, the berm would be removed and the elevation would be at grade off of Creek Road.

Commissioner Suesser asked if there would only be one driveway. Mr. McClain replied that it would be the one driveway adjacent to the building. The only remaining access would be off of Creek Road.

Chair Strachan asked if they had ever considered using the property across the street to the north and adjacent to the fire station. Mr. McClain replied that it was part of the Fire Station property. That location would require a more complicated piping system and it would interfere with Fire Station activities.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan stated that these types of buildings are typically aesthetically unpleasant. He suggested that adding windows would be a good idea, and that kids using the park would enjoy looking into the building to see how the filtration system works. He thought windows would make the building look more inviting.

Commissioner Phillips concurred with Chair Strachan that adding windows would make the building look nicer architecturally. Mr. McClain thought that windows could present security concerns, but he would speak with the architect to investigate their options.

Commissioner Joyce referred to page 107 of the Staff report and noted that it was the view everyone would see. Ms. Butz stated that there is landscape plan and the building would not look as bare as what was showing. Mr. McClain outlined the plans for landscaping, which included berming. Chair Strachan cautioned against using berming as a “cure-all”. For example, the movie studio was promised to be concealed with berming, but that was not the case. He remarked that berming is a tool but not something they should solely rely on.

Assistant City Attorney McLean asked Director Erickson to explain the Army Corp of Engineers’ definition and criteria for wetlands. Director Erickson stated the Army Corp of Engineers 1987 Wetlands Delineation Manual lists three criteria for wetlands; 1) if the ground is wet more than seven days; 2) it has to have growing hybrid vegetation; 3) it has to have the correct soils. Director Erickson remarked that the way the Corp of Engineers gives jurisdiction over a piece of land that is wet and has soils and vegetation is that it

needs to be connected hydraulically to a water of the United States. The connection to water of the United States is what is being debated in the application, which states that the well is not connected hydraulically to the stream; and therefore is not jurisdictional under the Corp of Engineers 1988 Manual.

Commissioner Joyce noted that the land is in the Sensitive Lands Overlay and it is marked on the map as a wetland. Based on all the facts provided to the Planning Commission he thought it was fair to say that it is a wetland. Director Erickson explained that the difference is that through the LMC the Planning Commission can define wetland. The LMC also has a definition for wetland significant as well, including the LMC requirement for the Army Corp of Engineers 1987 Delineation. Director Erickson stated that Commissioner Joyce was correct. This application was being presented in order to enable the Water Department to determine whether or not they can move forward with this site, knowing the criteria and the issues moving forward.

Commissioner Band wanted to know what would happen if the Planning Commission approved this application and the Army Corp of Engineers denies the permit. Director Erickson replied that it could not move forward without approval by the Corp of Engineers. The applicant would have to find a different location that is still fairly close to the well heads.

Assistant City Attorney McLean asked if the Corp defines the size of the wetlands. Ms. Butz replied that the Corp of Engineers require certain mitigation efforts for above 1/10th of an acres versus below 1/10th of an acre. Commissioner Joyce clarified that it was not the definition of a wetland. It is the definition of the mitigation required for more than 1/10th. Commissioner Joyce pointed out that it does not affect whether or not it is a wetland.

Planning Tech Hawley reviewed the research which led her to the understanding that it was out of the restrictions and regulations of wetlands. She noted that the definition was from the LMC and what directed her to the LMC definition was reading the Significant Wetlands words within the SLO.

Commissioner Thimm was accustomed to seeing pump houses with four walls and a roof and made out of cinder block. The proposed building is articulated with multiple materials and from a massing standpoint is it broken down into multiple pieces. Commissioner Thimm thought the building was architecturally designed to fit in with other structure in the children's park. He thought the location was superior in terms of access because it takes the driveway off of Holiday Ranch Road and puts it on a much less used street. Commissioner Thimm believed the building works well and adds some level of character. He asked if he was correct in understanding that a new delineation would be done on the wetlands as part of this application. Mr. McClain stated that delineation of wetlands was

done as part of the submittal to the Army Corp. of Engineer. They defined the wetlands boundaries. Commissioner Thimm asked if the new delineation gets the same square footage of .09. Mr. McClain answered yes and explained that the number were taken from that delineation.

Commissioner Phillips agreed with Commissioner Thimm.

Commissioner Joyce thought it was a little sketchy but technically borderline. He had concerns with the City working a technicality for why it is acceptable to build in the Sensitive Land Overlay, which is the strongest level of protection, on top of an area that is currently marked as a wetland. However, from a technicality aspect it appeared to be allowed by the LMC. He personally was interested in hearing the response from the Army Corp. of Engineers. Commissioner Joyce reiterated his previous concern that the Army Corp of Engineers does not enforce the Park City SLO because the City is responsible for that enforcement. He questioned whether they would be as lenient if the applicant was someone other than the City.

Assistant City Attorney McLean advise the Planning Commission that the City should not be treated differently than any other applicant; not harsher or lesser.

Commissioner Band noted that the rules in the LMC are different for a public facility such as this one versus building a private home in the SLO.

Commissioner Thimm referred to an earlier suggestion for adding windows. He would supports adding windows to break up the facade if the building could be kept secure. Noise was another consideration and questioned whether glass windows would generate more noise. Commissioner Thimm thought acoustics and type of glass windows should be part of the final design.

Commissioner Campbell concurred with Commissioner Joyce that this was stretching the SLO. He stated that if the City is to be treated the same as every applicant, the next time a private applicant comes in with a similar request they should remember how they treated this application for consistency moving forward.

Chair Strachan recalled that they faced this same issue when they approved the Water Treatment Facility on the Rail Trail because that was also in the wetlands. He remembered having the same uneasiness about this technicality; however, the Planning Commission at that time resolved the issue by determining that there was nowhere else to put these types of facilities because they have to be located next to the waterways due to the inherent nature of what they are.

Commissioner Campbell clarified that he was trying to protect the Legal Department from the position of having to defend this against an individual in the future who might read the minutes of this meeting and submit an application with the same request for a private residence. He suggested that they consider amending the LMC to add language stating that the SLO is trumped by civic duties. Director Erickson recommended that a better approach would be to clarify the definition of wetlands to add some precision.

Commissioner Joyce stated that the only reason he would consider voting in favor of this was based on explicit language in the Jurisdiction. They are looking at a Significant Wetland, which is defined as that which is a tenth of an acre or more. This is less than a tenth of an acre. Commission Joyce clarified that if it was one square foot over a tenth of an acre he would vote against it.

Commissioner Campbell asked who had done the square foot calculation. Mr. McClain replied that it was defined by a certified wetlands specialist who does wetlands delineation as a profession. It is then submitted to the Army Corp of Engineers.

Commissioner Phillips believed this application fits within the Code. Chair Strachan noted that sometimes the law draws lines. If this has been reliably calculated to be under a tenth of an acre, it meets the law. He agreed that it was close, but there are a lot of close calls under the Land Management Code. He thought a close reading of the LMC is what should be followed. Chair Strachan was not overly concerned about the Code reading issues. He was more concerned about the aesthetic issues, but wondered if it was too late into the process to add a condition related to beautification.

Mr. McClain stated that the architect assured him that there are secure windows that could not be broken or forcibly entered. They would entertain the idea of incorporating windows into the design and were not opposed to adding that as a condition of approval.

Director Erickson stated that the Staff would take responsibility for reviewing the windows including the glazing and security. The Staff shares the concerns regarding noise, as well as other issues such as trespassing and lights shining in the neighbors' windows. Chair Strachan suggested that they only install windows facing the BMX Park so it would not interfere with the homeowners on the other side.

Chair Strachan preferred to trust the Staff and ultimately the City Council to make sure the windows are added rather than adding it as a condition of approval. However, he was not opposed to adding it as a condition of approval if that was the preference of the other Commissioners.

Commissioner Suesser asked for the total square footage of the two existing buildings. Planning Tech Hawley believed it was 573 square feet. The Divide Well house is 340 square feet and the Park Meadows well house is 233 square feet. Commissioner Suesser noted that the new building would be 2700 square feet. Ms. McClain explained the need for the larger space, including to house the generator inside the building. Commissioner Suesser asked if there was a possibility that the building size could be reduced. Mr. McClain replied that they already made that effort at the request of a property owner and all of the non-essential space was eliminated. The building as currently proposed is as small as it can be and still be operational.

Commissioner Joyce referred to Finding of Fact #5 and corrected the word acres in the second line to correctly read **across**.

MOTION: Commissioner Thimm moved to APPROVE the CUP Application for 2392 Holiday Ranch Loop Road for the Essential Municipal Public Utility Use Building based on the Findings of Fact, as amended, the Conclusions of Law, and Conditions of Approval found in the Staff report. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 2392 Holiday Ranch Loop Road

1. Applicant requests the use of an Essential Municipal Public Utility Use greater than 600 square feet to be used for the operations and storage of the Park Meadows and the Divide wells.

2. The property is located at 2392 Holiday Ranch Loop Drive but relocated would become 2392 Creek Drive.

3. The property is located within the Recreation and Open Space (ROS) District and the proposed use requires a Conditional Use Permit.

4. The lot is described as Parcel #CRKSD-2-X, of the Creekside Subdivision approved in March 2007 in the Park Meadows neighborhood.

5. The 6.71 acre parcel holds the Park Meadows well and the Divide well, along with recreational areas and is across the private street from the Park City Fire Department.

6. The size of the proposed structure is 2,700 square feet.

7. The existing landscape is comprised of low shrub vegetation growth and a flat topography. The building site will impact 0.1 acres of wetlands. This will require permitting through the Army Corps of Engineers; however, the site area is less than the threshold limit requiring extensive mitigation efforts.

8. Access to the new well house will be from the private drive, Creek Drive accessed off Holiday Ranch Loop Road, which is the current access road for the well houses.

9. The neighborhood is characterized by a mix of public parks, the Park City Fire Department, and single-family dwellings.

10.The project will be reviewed by the Park City Fire District and require approval during the building permit process.

11.The proposed structure complies with all setbacks. The minimum setbacks from all boundary lines of the lot are twenty five feet (25'). The proposed well house is 25 feet away from the closest lot line. According to the Building Department there are no requirements for setbacks between structures.

12.The proposed structure complies with the twenty-eight feet (28') maximum building height requirement measured from existing grade. The proposed structure will be a maximum of nineteen point five feet (19.5') in height.

13.Staff finds that the proposed well filtration building is compatible with the surrounding structures. The well house uses the same materials as the surrounding structures and is generally similar in size to most of the adjacent buildings.

14.The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. There is no existing significant vegetation on the lot.

15.Lighting is proposed in one exterior area. The lighting on the entry door with a motion sensor which will be down lit and shielded.

16.The findings in the Analysis section of this report are incorporated herein.

17.The entire wetland being affected in the area is not associated with a steam corridor in any way. Additionally the wetland is approximately 4000 square feet (.09 acres) which is less than the amount specified in the definition of Significant Wetland. Due to the size of the wetland, it is not considered to be Significant; therefore, the regulations under the 15-2.21-6 portion of the LMC do not apply.

18.The applicant will be required to submit a Permit Application and Mitigation Plan for Wetland Impacts prior to a building permit issuance, to comply with US Army Corps of Engineers Nationwide Permit requirements. The applicant has proposed a new area for preserved and enhanced wetland that will cover 2,866 square feet (please see Exhibit G) to be reviewed by the Corps.

19.The applicant stipulates to the conditions of approval.

Conclusions of Law – 2392 Holiday Ranch Loop Road

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.7-2(C)(14).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approvals – 2392 Holiday Ranch Loop Road

1. All Standard Project Conditions shall apply.

2. Construction waste should be diverted from the landfill and recycled when possible.

3. Prior to building permit issuance, wetland delineation is required by a certified delineator and approved by the Army Corps of Engineers. If approval determines the wetlands to be non-jurisdictional, the building permit can be issued. If approval determines the wetlands to be jurisdictional, setbacks protection and remediation of impacts, as approved by the Corps shall be required.

4. Less than a tenth of an acre of wetlands may be impacted with this Conditional Use Permit. The wetland area to be impacted shall be identified on the building plans and verified by the Planning and Engineering Departments prior to issuance of a building permit.

The Planning Commissioner reconvened the Work Session to discuss the potential Annual Work Plan, Commission Roles and Responsibilities and Priorities.

WORK SESSION

Discussion on the potential Annual Work Plan, Commission Roles and Responsibilities and Priorities.

Director Erickson stated that one goal he would like to accomplish this evening if to have consensus on how long the Planning Commission meetings should be. He noted that the Planning Department was realigning the Staff to better manage the Planning Commission agenda looking ahead three or four months in advance. They would also like to schedule time for more work sessions items. Director Erickson remarked that some of the changes were based on his 16 years on the Planning Commission in Park City, plus nearly 35 years of experience doing Planning Commission presentations in almost all of the western states.

Director Erickson noted that the Planning Department team consists of eight people, and most have advanced professional degrees. The office manager will have his MBA in October. They are reorganizing the team and focusing more on applying the LMC, the General Plan, how to do good preservation, and protection of the Historic District and the neighborhoods. There are different pieces regarding planning and there is a difference between the design role and the planning role. The Planning Department believes their obligation is to deliver on the trust that the public has placed in them for making good planning decisions. They also need to be better at determining what it is that the Planning Commission and the City Council are telling them.

Director Erickson stated that the Planning Commission is the first point of contact for the public as directed by the City Council. It is where the public actually sees what is being proposed for the first time. Director Erickson remarked that the Planning Commission has a role to perform. They change from being a regular citizen to becoming a Commissioner, which means they listen to the Staff and the public. Each Commissioner contributes the individual experience for which they were selected to be on the Planning Commission. The Planning Commission has two roles. One is the advisory role on global issues and the second is interpretation to help the Staff interpret the regulations. Director Erickson explained the difference between the two roles and provided examples. He stated that a third role is the traditional role of the Planning Commission, which includes making determinations on land use decisions. Sometimes that role is shared with the Board of Adjustment and the Historic Preservation Board.

Director Erickson outlined specific roles for the Staff in the Planning Department. Hannah Turpen is responsible for managing the Planning Commission agendas. She will meet with Director Erickson once a week to make sure the agendas are balanced. Anya Grahn will manage the HPB agendas. Senior Planners Francisco Astorga and Kirsten Whetstone have the responsibility of reviewing all Staff reports. Francisco will also be responsible for

issues related to affordable housing. Kirsten will focus on transportation and interface with Alfred Knotts, the Transportation Manager. Director Erickson noted that Kirsten Whetstone also has a civil engineering degree in addition to a master's degree in Planning.

Director Erickson emphasized that the Planning Department was changing direction in terms of their role and how they approach things.

Director Erickson reported that the City Council recently completed a Visioning Session. They generated a Park City 2030 Plan, which are the main strategic goals established by the City Council. They actually do their budgeting for outcomes underneath the 2030 Plan. The outcomes relate to the General Plan. The Planning Department's responsibility to the City Council is to manage the General Plan inside the guidance of the Park City 2030 Plan. Director Erickson explained the budgeting process.

Director Erickson noted that the City Council developed Critical Priorities of Transportation, Housing and Energy. These Priorities have an influence on the General Plan and Land Management Code. The Planning Department has been tasked with getting those into the LMC this year, and to revise the General Plan as needed. He noted that Kirsten Whetstone will be managing the LMC to move those items forward. Francisco Astorga is tasked with making sure the General Plan remains current.

Director Erickson stated that within the 2030 Plan and in the General Plan and the Critical Priorities, the City Council outlined the abstract concepts, such as historic preservation, open space, transportation management, affordable housing. He pointed out that they were actually abstract terms and the Planning Commission is tasked with defining their meaning. Director Erickson noted that other Boards were helping to clarify the meanings. For example, the HPB is trying to define historic preservation and how it applies inside the LMC. COSAC does the same with open space. The intent is allow these Boards to manage their abstraction with precision and care, without stepping outside of the Planning Commission's role of balancing the abstractions and addressing the land use equation. Director Erickson stated that one example is that the HPB looks at material deconstruction on historic homes, but they cannot look at what the future land use would be because that is the role of the Planning Commission.

Director Erickson stated that as they move forward the goal is to define those abstractions and look to the Planning Commission to help balance those in their advisory role on legislative matters.

Director Erickson stated that an Annual Work Plan would allow the Planning Commission to establish priorities and goals for carrying out Planning Commission

responsibilities beyond administrative and quasi-judicial acts such as subdivisions and Conditional Use Permits. He asked for their comments on their roles and how much additional work they were willing to take on. Director Erickson noted that the City Council has liaisons to different boards and commissions. He thought it would be appropriate for the Planning Commission to have liaisons to various board and commissioners as well.

Director Erickson turned the time back to the Planning Commission for input on how to conduct meetings, the format for presentations and work session.

Commissioner Joyce thought another piece was how the Planning Commission could work at a higher level. His frustration has been with doing nothing more than applying the LMC to CUP and plat amendments. When the General Plan was finished many things in the Genera Plan said that they should consider applying the Code specifically to individual neighborhoods, revising the LMC to address some of the issues, etc. He pointed out that a lot of effort went into the General Plan to identify what needed to be done, but nothing has been done. Commissioner Joyce thought the LMC amendments that have been done so far were not driven in that direction. He thought it was important to go back and review the General Plan.

Commissioner Joyce also felt there were things that were not part of the General Plan, but could be considered in shaping the way things go forward. For example, he liked what the County was doing with wood burning fireplaces and he had suggested that they at least look at whether or not something similar would be applicable in Park City. Commissioner Joyce clarified that he was looking for ways to change the way that the Planning Commission functions so it is less about administrative applications and more about taking an active role in driving what the community becomes. He suggested that it could be either ideas that the Commissioners bring to the table or the things that support what the City Council has already established as priorities. Commissioner Joyce pointed out that for the past year the City Council gave their top priorities; however, the Planning Commission has done nothing to codify anything that would support those.

Commissioner Joyce stated that before they get into too many details of the LMC, he thought it was important to first have a discussion about how the Planning Commission can be more effective to accomplish what they are supposed to be doing.

Chair Strachan did not believe it was controversial to say that the Planning Commission would like to have more discussions about broader planning issues. It has been the desire of every Planning Commission. Chair Strachan thought the question was which issues to tackle and the mechanics of how to go about doing it.

Commissioner Band understood that plat amendments and CUPs are part of their job and need to be done. However, she believed they were all interested in being on the Planning Commission based on the legislative side because they want to effect the way the City moves forward and how it is shaped. Commissioner Band pointed out that the Planning Commission frequently raises an issue in a meeting that the Staff offers to further research, but it never comes back.

Director Erickson stated that he spent the weekend reading all of the Planning Commission Minutes from 2013 going forward to make sure they had picked up all the issues. However, he did had not looked at it from the standpoint of the General Plan. Director Erickson asked the Commissioners to take off their individual hats and try to build consensus with the rest of the Planning Commission in terms of what they want to do moving forward. He noted that the City Council does this on a regular basis. When one Commissioner has an idea, the other Commissioners have the obligation is discuss whether or not it will work and provide direction to the Staff accordingly. Director Erickson believed the breakdown in the process is that one Commissioner gives a suggestion, but the Staff is unclear whether there was consensus from the other Commissioners to follow up on that suggestion. Sometimes the Staff would like to hear the discussion to determine whether or not what was suggested could be regulated, whether it is within their purview, or whether it involves or creates other issues.

Commissioner Band thought there was a problem with clarity between the Staff and the Planning Commission because they have discussed things they can all agree on. She noted that the Planning Department has a list that could very well be the same as what the Commissioners would like to discuss, but there is no coordination to know that. She suggested that they sit down and prioritize what they all think are the issues. Director Erickson noted that the Staff has received a list from some of the Commissioners, and Planner Whetstone is careful to pick out as much as she could to add to the list. They tried to avoid starting the discussion this evening with a presentation of the Planning Department's list.

Commissioner Joyce thought it would be good to have a healthy work session because there are dozens of items. Some are small issues, but others such as energy and traffic and review of the General Plan are major issues.

Commissioner Campbell thought the problem is that the mechanism was broken. They take care of the administrative items and once the meeting is over everyone leaves. He suggested that they set aside 15 minutes at the end of each meeting to talk about these issues.

Commissioner Thimm noted that the City Council has a retreat each year where they interactive with each other and work collaboratively. He asked if it was possible for the Planning Commission to have the same type of retreat to accomplish things that cannot be accomplished sitting on the dais working through an agenda. Commissioner Thimm thought it would be helpful to have a mechanism where they could address the bigger issues and share collaborative views.

Director Erickson stated that the intent is to formalize the collective theme of the Planning Commission in bringing ideas forward. Commissioner Campbell asked if the City Council wanted the Planning Commission to do that. Director Erickson replied that the Council does because they have given the Planning Department tasks to fix. The City Council also wants to re-establish the trust that is necessary to make sure the Planning Commission is trusted as the representatives of the public.

Director Erickson stated that they could schedule 30 minutes at every meeting to gather at the back of the room to discuss a work session topic. He noted that Commissioner Joyce has suggested establishing subcommittees for housing, transportation, and other major issues. He clarified that the Staff was not opposed to any of those suggestions, but they needed to know what the Planning Commission wanted to do as a group.

Chair Strachan thought it was beneficial to set aside time after each meeting to discuss which big issues they wanted to tackle. They have had shorter meetings recently, but they need to decide if they want to commit to having a work session after the meeting if the regular meeting goes longer. Commissioner Campbell thought they needed a Plan B such as only scheduling the work session on weeks that the agenda is shorter, or possibly every other meeting.

Commissioner Joyce outlined the topics he thought were important. He recognized that his ideas were broader issues and was interested in hearing whether the other Commissioners concurred.

Commissioner Phillips thought they needed to keep a running list and they should continually refer to that list. The Planning Commission and the Staff should work together on a list so everybody is looking at the same things. Commissioner Phillips stated that even the list of items that the Planning Commission has asked for have disappeared. Some of the items probably no longer matter, but others still need to be addressed.

Director Erickson stated that the application of good ideas needs to focus on the problems they are trying to solve. They should not be random good ideas. Commissioner Phillips explained that it was his reason for suggesting a list of priorities

starting with affordable housing, which they are supposed to be assisting the City Council. He noted that a separate committee was formed to address Affordable Housing and he was unsure whether the Planning Commission would see that report before it goes to the City Council. Commissioner Phillips suggested meeting with the City Council to hear from them directly on what they expect from the Planning Commission. He thought direction from the City Council would be helpful in making these decisions on how to proceed.

The Commissioners discussed the possibility of having members attend task force meetings where some of the bigger issues are addressed and report back to the Planning Commission.

Commissioner Joyce commented on coordinating the lists and all the factors that come into play. He thought it made more sense to create a priority list.

Commissioner Erickson stated that the Staff would start a list and work with the Planning Commissioners to make sure everyone's priorities were included. He would like to structure future meetings such that from 5:30-7:30 they would deal with administrative applications, and from 7:30-8:30 or possibly 9:00 they could address the listed priorities in a systematic manner. The majority of Commissioners agreed with that approach.

Chair Strachan thought the Staff should come forward with a list for the next meeting so they can prioritize the topics together. He believed there would be a lot of overlap between the Staff's list and the Commissioners' list. Chair Strachan stated that from his experience with the General Plan, progress was made when they discussed specific LMC language and text that could be implemented or changed. When the comments related to ideas and philosophy the discussions were bogged down and inconclusive.

Commissioner Joyce thought there was a need for both. If two Commissioners come in with different LMC changes, it could result in a two hour discussion to make sure they address all the issues. Commissioner Joyce believed some component of ideas and philosophy are necessary to make sure the changes are inclusive and not micro. Chair Strachan stated that they would never agree on the big issues. More headway is made by coming to the meeting with a concrete suggestion that can be discussed. You might win or you might lose, but the discussion occurs within the context of the proposed LMC language. Chair Strachan agreed that the first step is to collaboratively create a priority list of topics to begin the discussions.

Commissioner Erickson suggested that they consider the possibility of having a two-hour discussion and from that establish a couple of working groups to bring forward some recommendations for Land Management Code changes for the next meeting. They would

have a global discussion for an hour and stop that discussion and put forward the LMC changes. After the master list is made they could map out a schedule for discussion.

Commissioner Joyce used TDRs as an example of a topic that would need significant discussion. It would take more thought than just writing a simple phrase because it involves TDR banks and many other components. It would be foolish to try to write Code without that extensive discussion. Chair Strachan agreed that the discussion needed to take place; however, his suggestion was for each of the Commissioners to come to the meeting with Codes changes that they think would be influential for that particular LMC section. The discussion is then aired out when those LMC changes are suggested and they have something specific to talk about.

Director Erickson reiterated that it was important to get a list compiled so they could see the global picture.

Chair Strachan believed there was consensus to meet after the regular administrative meeting. He also believed they had parallel tracks on their lists and how they accomplish those items could be debated another time.

Commissioner Joyce understood that they were restricted by the Utah Open Meetings Act but he felt that hindered the Planning Commission in terms of making progress on anything between meetings. He suggested that if someone finds an article or information on a particular subject, he thought it would be helpful if that person could send it to everyone so they could all come to the meeting with the benefit of having read the same information.

Assistant City Attorney McLean stated that sending out an article to everyone is not a problem. However, they need to make sure that the Planning Department receives a copy so it can be memorialized as material that was provided. Ms. McLean explained that the danger is in having conversations about the material that was sent via email or personally. She had no objection to the Commissioners sending out material prior to a meeting, trusting that they would not communicate beyond that. Ms. McLean clarified that the Commissioners would be able to talk one on one as long as they did not have a quorum. The same would apply to sharing their lists. The lists could be sent out to everyone to prioritize, but they should refrain from having a discussion outside of a meeting.

Assistant City Attorney McLean stated that having a work session after the regular meeting was also permitted. She noted that they have more latitude with noticing for a work session and that it only needs to be noticed 24 hours in advance. However, they need to be careful not to make laws or policy decisions at the work session and then rubber stamp it during a regular meeting because the public would not have had the opportunity to participate.

Commissioner Joyce stated that he is a proponent of allowing the public to speak and they may choose to ask for that during a work session; but he believed there could be times when the Planning Commission would want to have a working meeting without inviting the public to speak.

Chair Strachan stated that if everyone wanted to send him their lists he would bring them to the next meeting. The suggestion was made to have everyone send their list to Planner Whetstone so she could compile them into one list instead of having everyone read through seven different lists. Chair Strachan stated that the Commissioners should send their lists to him and to Planner Whetstone. In the event that Planner Whetstone does not have time to compile them into one list before the next meeting, then he would be able to do it. The Commissioner agreed.

The Park City Planning Commission Meeting adjourned at 8:45 p.m.

Approved by Planning Commission: _____

Planning Commission
Staff Report

PARK CITY 1884
PLANNING DEPARTMENT

Subject: 844 Empire Avenue Plat Amendment
Author: Francisco Astorga, AICP, Senior Planner
Project Number: PL-15-03034
Date: 13 April 2016
Type of Item: Legislative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the 844 Empire Avenue Plat Amendment located at 844 Empire Avenue and continue the item to the May 11, 2016 Planning Commission meeting to allow the applicant additional time to resolve issues related to street dedication.

Description

Applicant:	Todd Gilbert represented by Sara Goff Marshall King, Alliance Engineering, Inc.
Location:	844 Empire Avenue
Zoning:	Historic Residential-1
Adjacent Land Uses:	Residential
Reason for Review:	Plat Amendments require Planning Commission review and City Council review and action

Proposal

The property owner requests to unite three (3) parcels consisting of one (1) full lot (all of Lot 12) and two (2) partial lots (most of Lot 13, and a portion of Lot 14), into one (1) lot of record by removing the internal lot lines which separates the lots. The proposed plat amendment also includes the dedication of Crescent Tram roadway to the City. The subject lots are located in Block 14 of the Snyder's Addition to the Park City Survey.

K CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 13, 2016

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Laura Suesser, Doug Thimm

EX OFFICIO:

Bruce Erickson, Planning Director, Francisco Astorga, Planner; Kirsten Whetstone, Planner; Anya Grah, Planner; Hannah Turpen, Planner; Makena Hawley, Planning Tech; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

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

ADOPTION OF MINUTES

March 23, 2016

Commissioner Suesser referred to page 17, last paragraph, which reflected that she asked the applicant to address some of the concerns raised in the letter. She corrected that statement to accurately reflect that she had asked the applicant to address **the** concerns raised in the letter.

MOTION: Commissioner Band moved to APPROVE the minutes of March 23, 2016 as amended. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT
There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Erickson stated that the Commissioners were sent an update from the County Transportation. He thought the key take away from the update was the number of employee trips and the rate of growth of employment, relative to the rate of growth for

housing. Director Erickson remarked that job growth is at approximately 40%. To the best of his recollection housing growth in the City is approximately 1% and approximately 5% in the County. He pointed out that most of the trip generation is from employees and he believed that would play into the transportation discussions in the General Plan. Director Erickson stated that if the Commissioners had further questions they could be addressed in a work session forum.

Director Erickson reported that the HPB has approved the material deconstruction to do three openings in the roof of the white barn this Spring and insert steel trusses so it is seismically and wind loaded strengthened. CRSA is the project architect and there is a rigorous preservation plan. Director Erickson stated that if anyone had questions, Planner Hannah Turpen had a presentation from the CRSA Architects explaining how they intend to accomplish the work.

Chair Strachan asked if the barn would be closed to the public, and if so, for how long. Assistant City Attorney McLean pointed out that currently the barn is not open not accessible to the public. Planner Turpen explained that a building permit application has not yet been submitted so the Staff was unclear when construction would begin. However, she understood that they would try to keep as much of the property accessible as possible, but still keep the public safe and the site secure. Director Erickson assumed a late May, early June start date. Planner Turpen stated that the goal is to do the work during the shoulder season.

Assistant City Attorney McLean noted that the Treasure Hill application will be coming back to the Planning Commission at some point. She reminded the Commissioners and the public that this is a pending application and any public comment should be sent in writing to the Planning Department or directly to Director Erickson or Planner Astorga. Ms. McLean clarified that if the Planning Commission appears to be rude if they are approached by the public, it is only because they are not allowed to talk to the public about a pending application. All conversations should occur during a meeting.

Commissioner Joyce stated that he would not be able to attend the next Planning Commission meeting on April 27th.

Chair Strachan announced an agenda change this evening. He noted that the Blue Ribbon Commission would be the next item on the agenda. The LMC work session items would be discussed at the end of the meeting.

WORK SESSION

Review of the Blue Ribbon Housing Commission Report dated March 30, 2016 and preparation of comments to City Council per City Council Request

Rhoda Stauffer, the Housing Specialist for the City introduced the member of the Blue Ribbon Commission - Meg Ryan, Nicole Butolph, Ron Hunt, Mike Stewart, Glenn Wright, Tom Horton and Mark Sletten.

Ms. Stauffer noted that not every member would be giving a presentation this evening. She assumed the Planning Commission had read the report and would ask questions when necessary. Meg Ryan was also prepared to highlight the high notes if the Commissioner were interested. Chair Strachan thought it would be helpful.

Meg Ryan reported that the Blue Ribbon Commission would be attending the City Council meeting the following evening. They were before the Planning Commission this evening to here initial feedback. This is a work in progress and the Blue Ribbon Commission was asked to provide the Council with feedback on the EPS Study that was commissioned in order to look at the regulatory components of housing in the LMC. Ms. Ryan stated that that piece was still being finalized. She understood that the Planning Commission and the City Council were scheduled for a joint meeting on April 28th to discuss the details of the EPS Study. Ms. Ryan noted that what would be presented to the City Council tomorrow is an overview of other policy considerations. The regulatory component is in the EPS study such as the current in-lieu fee, requiring things of developers, etc. She anticipated future conversations once they share their policy thoughts with the City Council.

Ms. Stauffer stated that the Planning Commission was not given the full Staff report, which gives the background on the Blue Ribbon Housing Commission. She explained that the members were appointed in October and they have been meeting two to three times a month since October and they completed their work in March. They were asked to be the community filter for the regulatory work that Economic and Planning Systems are doing, and looking at Code and the Housing Resolution to determine its effectiveness and whether or not changes need to be made. Ms. Stauffer stated that the Blue Ribbon Housing Commission had other thoughts on the education pieces they wanted to provide to the City Council and that would be part of their presentation to the Council the following afternoon.

Chair Strachan stated that Blue Ribbon Commissions are often overworked and under-appreciated. However, this group was very much appreciated and it was a good report. Chair Strachan especially liked the recommendation that all development should pay something towards the affordable goals. He wholeheartedly agreed, and thought it was a good move to make it a top priority.

Chair Strachan asked if the group had discussed requiring that affordable housing be built first in most developments. He noted that many times larger projects are have promised and are legally required to put in affordable housing, but the profitable part gets built first and the affordable housing comes at a later, undetermined time, and in some cases not at all. He asked if that had come up in their discussions and what ideas they had for addressing it.

Mike Stewart stated that it was very appropriate to have milestones depending on the size of the development where affordable housing is provided concurrent with market based housing. Mr. Stewart stated that he is a developer who has done a lot of affordable housing in his past on a number of very large projects, and he always produced it upfront. He has seen a lot of agreements in both the City and the County where it has been discussed and the assumption was that it would be done upfront. He noted that they asked Ms. Stauffer and the Staff why the affordable housing that was supposed to be built with already approved projects was not built.

Chair Strachan hoped the City Council and Summit County would put some teeth in it and issue a stop building order unless they see affordable housing going in.

Commissioner Joyce recalled previous discussions where they suggested withholding a Certificate of Occupancy for any part of the development until the correct threshold of affordable housing is provided. Commissioner Joyce stated that he has also been frustrated by the fee-in-lieu piece. It is not high enough to be sufficient and it does not involve enough projects. He questioned whether a fee-in-lieu was an easy way out. Commissioner Joyce preferred to have the fee-in-lieu be the less desirable option than the building alternative. It should be more punitive so building affordable housing is less expensive than paying the fee-in-lieu. Commissioner Joyce pointed out that fee-in-lieu also puts the burden of land acquisition on the City for providing affordable housing.

Ms. Ryan stated that the group had discussed that at length. One of the things was prioritization and fee-in-lieu was low down on the priority list. They also talked about making it fractional units so it was not used at all.

Ms. Stauffer explained that it was not in the Blue Ribbon Commission report because fee-in-lieu is going to be addressed heavily by Economic and Planning System at the April 28th meeting.

Chair Strachan thought they needed to be careful of annexing more land to make room for affordable housing because that is a double-edged sword. Space is scarce, but in his opinion, annexing more space and building homes on it is not the answer.

Ms. Ryan stated that the group talked about that as well, and there are a lot of infill and acquisition opportunities. With the funds committed and the current zoning there are many opportunities. They also had many discussions about being more aggressive with zoning. Ms. Ryan stated that if they choose not to do that there are still opportunities within the parameters. She remarked that it is not a competition between open space and other goals. The housing in town can also solve transportation goals and potentially historic preservation. That led to the conversation about it being instrumental to have a partnership with the County.

Commissioner Phillips stated that the Park City Planning Commission meets with the Snyderville Planning Commission to try to align their goals and to learn from each other as well. He hoped that would prove to be fruitful.

Commissioner Phillips referred to the calculation for single residents and remodels and asked if the group had any recommendations on whether it should be by square foot or by valuation. He understood that they would get into the details with the City Council, but he was curious as to whether the Blue ribbon Commission had even discussed it.

Ms. Stauffer stated that Economic and Planning Systems has gone into more detail in their work, and the Blue Ribbon Commission agreed with where they were ending up. She did not have information with her, but they will learn more about their recommendation on April 28th.

Commissioner Phillips clarified that his reason for raising the question is because if it's based off of valuation, being in the construction industry he knows it's very common for applicant's to under value their scope of work. If it's based off of evaluation there should be some standard average number for different types of construction. Based on his explanation, Ms. Stauffer better understood the question. She stated that most of what they do in the Housing Resolution is based on square footage. They do their own valuations. They do not take value from the application.

Commissioner Phillips noted that the report made reference to buying current stock and converting it. Of all things, that is disappearing rapidly. He thought they should buy the current stock before it is no longer affordable to purchase because it may never come back.

Commissioner Phillips stated that on the flip of side of being punitive on the in-lieu-fee, he suggested having incentives on the other end in an effort to change the mood and the way people think about the bonuses, and encourage developers to start using the bonuses. If it gets abused they could scale it back. Commissioner Phillips stated that if affordable housing is a priority he preferred to see it over-used rather than under-used.

Nicole Butolph stated that the Blue Ribbon Commission had a long discussion about in-lieu-fees. Ms. Stauffer made it clear that using in-lieu fees are actually the discretion of the City Council and it is low on the priority list in terms of allowing people to use it. The circumstances in which in-lieu-fees are actually used are very low. Ms. Butolph clarified that because it does not happen often, they decided not to spend an exorbitant amount of time talking about in-lieu-fees.

Ms. Ryan stated that the density bonus was also discussed at length and the group basically thought that it was not being utilized and it was not useful. They thought it should be revisited. Mr. Stewart thought it was a political challenge because in most places the density bonus is insufficient to attract the developer community economically to make it work. In addition, it is very difficult to get approved by the public. The group determined that it needs to be looked at differently than it is today. Mr. Stewart stated that as they looked at the inventory in town and the available development opportunities, they were very few major developments left where that incentive might actually apply. To get the development community engaged it would have to be more substantial, but it is more difficult to get approved from a zoning regulation standpoint as well as from the public.

Commissioner Phillips asked if any of the members of the Blue Ribbon Commission had input on what the Planning Commission could do to make a difference. Ms. Ryan stated that she is the planner out of the group. In her opinion, once the Planning Commission and City Council figure out the policy direction, the challenge is looking at the Code. If they are serious about doing affordable housing they need to streamline the process. If they want affordable housing upfront they need to put that in the Code.

Glenn Wright stated that from a policy standpoint there are difficult but potential decisions to make. There are fewer opportunities to build and if affordable housing is a priority and they want more housing in the City they need to think about allowing more height and density, particularly in the transit corridors. Mr. Wright commented on the importance of having affordable housing in transit corridors.

Mr. Wright stated that the Blue Ribbon Commission also looked at City-owned land. Some of the decision made in the past have excluded some of the land from housing purposes. As decisions are made on City-owned land or purchasing land, affordable housing should be part of the discussion.

Commissioner Band asked how much time the group spent discussing what type of housing is appropriate, such as houses versus apartments. She understood that the conventional wisdom is to keep families in town, and they need to have a patch of grass. She understood there were limited land resources, and she asked how much of that should

be given to make sure people get people get a patch of grass. Mr. Stewart stated that the Blue Ribbon Commission sees this as creating a menu of opportunities because there is not one simple solution. One thing that stood out from an affordability standpoint was the importance of segmenting each affordable section and setting specific goals for each one because the housing need varies. On the low end the City has done well with apartments and what they have today. The middle income families are the ones who are currently lost in Park City. It is one constituency but it is not the only one.

Ms. Stauffer stated that they do regular assessments of need, as well as a survey of the community and what they want. The City was hiring consultants to do the actual study of what people want when they buy to help them understand the market. Ms. Stauffer noted that anecdotally, the best way to get the best housing in Park City is condos and stacked flats. However, she knows from experience that many young families would rather live in Heber than buy a condo in Park City. They do not want to exclude young families but it is impossible to do all single family homes in the City.

Commissioner Band asked if they would be surveying people who already own a house in Park City, or the people who actually have the needs. Ms. Stauffer replied that it would be a survey of people who have the needs and what they would buy.

Commissioner Joyce referred to a comment about more land being available in the County. He stated that when they talk about working with the County it suddenly becomes easier to put housing outside the City limits; but it adds to the existing transportation issues. He asked if the Blue Ribbon Commission had discussed that issue.

Ms. Ryan replied that it was discussed. They concluded that the City should do what it can within the finite borders, but development in the County will occur anyway and there are partnership opportunities that may meet those goals. It would enable corroboration to work with the transit corridors. As they work through joint transportation and recreation, housing is an integral part. Ms. Ryan stated that the City should not ignore the opportunities they may have in a working partnership with the County. The message from the Blue Ribbon Commission is that it was time to explore it.

Mr. Wright remarked that the County has some of the same ideas; and working together with the County they have talked about some type of joint venture Regional Housing Authority. He stated that the key is developing the transportation infrastructure and developing dense nodes in the western part of the County. Park City proper is a dense node, as well as the Canyons base, Kimball Junction, and the new development that has been approved at Silver Creek. Those are the four major dense nodes and that is where the affordable housing needs to be. Mr. Wright stated that both the City and the County have goals of affordable housing and transportation, and energy in becoming a green

community. Those are all centrally related by creating density, creating transportation and doing it together.

Commissioner Thimm agreed with the comment about building height. In his profession he tends to work with developers and property owners who want to get the highest and best use for their property. A density bonus in his mind can be very meaningless if you do not have the platform to have additional density someplace. Commissioner Thimm believed that creating building height or more buildable area was important. He remarked that reducing setbacks was probably impractical, but creating sensitive ways within the zoning ordinance that would allow for a height bonus in addition to a density bonus could make a density bonus more meaningful.

Mr. Wright agreed with Commissioner Thimm; however, it becomes a political issue within the community. The sentiment is that the community will not accept it. Mr. Wright stated that if this is a goal, the political leaders need to lead and recognize that height is a tool they need to consider.

Commissioner Thimm stated that in working with the development community over the years he has found two key interests. One is the profit motive and the other is time. He asked if consideration was given to the notion of reducing or waiving plan check and permit fees, and possibly providing for preferential or accelerate review of documents when the City issues permits.

Mr. Wright replied that the group did not get specific but they did talk about the time it takes. Mr. Stewart remarked that it was part of the menu and he agreed that time is money. They had discussed the possibility of fee waivers and other things the City could do. He believed that with most developers, particularly on larger projects, time savings would be the most impactful thing they could do.

Ann Laurent, Community Development Director, stated that the Building Department was currently talking about what could be most effective from a building perspective. She believed fee waivers could be looked at and recommended. Ms. Laurent stated that expediting the process is more difficult because two parties are involved with plan review. It is difficult to expedite a project when the plans are not complete, and she was concerned that it would give the perception that drawings do not have to be complete or meet Code. Ms. Laurent noted that the City has been careful not to set an expectation that may not come to fruition if there are problems with the plan check. She was more interested in how to move projects through the entitlements and the plan review pieces, as well as the planning and land use components. That has been more controversial in the estimation of why the resolution has not been as heavily applied as they would like. Ms. Laurent

emphasized that from a regulation perspective there is no way to expedite the process.

Commissioner Thimm clarified that he was not suggesting that they ignore the IBC or other Codes. However, he knows of communities where if drawings come and there is some threshold of affordable housing it gets priority. Ms. Laurent thought that could be an option. Another option she has done in past communities is when developments have standard units the City can approve a model for site adapts. So if the developer has pre-approved plans that they want to apply in multiple circumstances, they would not have to go through the whole review. Ms. Laurent was open to options.

Commissioner Thimm stated that in terms of the definition of affordable housing and income basis, he noticed in the report a HUD standard of 80% AMI. He asked if thought had been given to a deeper target. He is involved with multiple projects where 60% AMI is a goal that appears to be attainable. Ms. Stauffer explained that it was only an explanation of how RDAs are run, which is why 80% was cited. She stated that they target a "work force wage" by calculating what real wages are like locally. She is currently in the process of doing that calculation because the 2015 numbers must be completed by April or early May. That is an annual deadline for the prior year numbers to be available. Ms. Stauffer noted that consistently the median wage for Park City ends up equaling approximately 60% of AMI.

Chair Strachan thanked the Blue Ribbon Commission members for their time and a good report. He believed all of their recommendations were right on point. Chair Strachan encouraged them to keep moving forward and to keep the Planning Commission updated.

Commissioner Phillips requested that the Commission members come to the meetings and provide input when the Planning Commission discusses the Code changes.

The Planning Commission adjourned the Work Session and moved to the Regular Agenda.

CONTINUATION(S) – (conduct a public hearing and Continue to date specified)

1. 844 Empire Avenue – Plat Amendment creating one (1) lot of record from the lot and portions of Lots at 844 Empire Avenue (Application PL-15-03034)

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

MOTION: Commissioner Phillips moved to CONTINUE Empire Avenue plat amendment to May 11, 2016. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

2. 803 Norfolk Avenue Plat Amendment – Combining lot 1 and the south half of Lot 2, Block 14 of Snyder's Addition to the Park City Survey (Application PL-15-03049)

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

MOTION: Commissioner Thimm moved to CONTINUE 803 Norfolk Avenue plat amendment to May 11, 2016. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

3. 7800 Royal Street East #16 – Plat Amendment for Building E Unit 16 of Sterlingwood Condos. The amendment will change a current Common Area staircase to Private Area in order to enclose it. (Application PL-15-03110)

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

MOTION: Commissioner Joyce moved to CONTINUE 7800 royal Street East #16 plat amendment to April 17, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

4. 1000 Ability Way – Master Planned Development (MPD) – request for approval of an MPD for future expansion of the National Ability Center including additional lodging, expansion of the Equestrian Arena and Administrative Building, and other activity additions and/or improvements (Application PL-16-03096)

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

MOTION: Commissioner Band moved to CONTINUE 1000 Ability Way master planned development to May 11, 2016. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. <u>1280 Park Avenue – 1280 Park AVENUE Condominium Record of Survey – proposal to create a two-unit condominium from the existing two (2) residential units</u> (Application PL-15-03043)

Planner Hannah Turpen reviewed the condominium plat application for the 1280 Park Avenue condominiums. The property is located in the HRM zone and consists of a historic house in the front and a new addition in the back. The new addition is currently under construction. The property owner would like to create a 2 unit residential condo unit so they can sell each unit separately.

The Staff recommended that the Planning Commission review the application, conduct a public hearing and consider forwarding a positive recommendation to the City Council.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Joyce noted that the house is historic and there is a piece of the house that is not historic. Currently it is one house, but if they cleave it into two condos he wanted to know how the historic registry piece would apply since half would be historic and the other half would not. He questioned how changes could be made to each unit.

Planner Turpen did not believe this was the only condo with this situation. She explained that it is in the Historic District and either unit would have to meet the Historic District Design Guidelines. It would be treated the same as if it were any other single family home or a condo.

Commissioner Joyce pointed out that the older historic piece is listed as a Landmark structure, which has tighter restrictions. He stated that even if it remained a house rather than a condo, what could be done with the addition is different than what could be done to the historic portion. Commissioner Joyce ask if the back half would lose its historic consideration once it becomes a separate condo, or whether it is treated as a Landmark.

Assistant City Attorney McLean explained that it is part of the site. She noted that currently with the addition the structure becomes a duplex. The condominium application allows each unit to be sold to two different owners. Ms. McLean remarked that anything on the site is subject to the Historic District Guidelines, the front of the house will continue to be maintained as a Landmark, but the back of the houses, Unit B, would have to meet the Historic District Guidelines for newer construction. Because they are tied together, it would

be subject to all of the same restrictions that applied when the addition was initially added. Ms. McLean pointed out that the address would be the same because the second unit would not have its own address. Commissioner Joyce questioned why it would not be two addresses since the units front different streets. Planner Turpen stated that Sullivan Road is not a plated right-of-way. Therefore, Park Avenue is the official right-of-way for that property. Ms. McLean noted that the address would be 1280 Park Avenue Unit A or Unit B. Commissioner Joyce asked if the Fire Department would understand that it would not be a Sullivan Drive address if they received an emergency call. Ms. McLean stated that they would check with the City Engineer to make sure the Fire Department has that understanding. Chair Strachan reiterated that Sullivan Road is not a platted road. Ms. McLean assumed that in the event of an emergency the called would articulate that they were the unit in the back.

Commissioner Joyce stated that if he were buying the condo and he looked in the HSI, he wanted to know if it would be obvious that his new address being 1280 B would show up other than just being zoned in the Historic District. Planner Turpen replied that the entire site is known as 1280 Park Avenue. They designate the site and not just the house, so it would be affiliated with that despite it being Unit B.

Assistant City Attorney McLean suggested that the Planning Commission could add a condition of approval regarding that the CC&Rs shall reflect that Unit A is on the Historic Sites Inventory. Commissioner Joyce did not think that was necessary. He was comfortable with the explanations.

Commissioner Campbell asked if there should be a plat note on Unit B stating that all historic restrictions on Unit A are applicable to Unit B. It would be unfortunate if a potential buyer in the future was not aware of the restrictions that may be enforced before they make the purchase. He thought a plat note would make it clear when doing a title search. Planner Turpen offered to meet with Ms. McLean to draft a plat note.

Director Erickson suggested an additional condition of approval #4 that the plat reflect the location and the requirements to comply with the Historic District Design Guidelines. It should also be repeated in the CC&Rs. Director Erickson preferred to address it as a condition of approval because it is easier to find it in the CC&Rs when doing a title search than finding it on the plat.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the 1280 Park Avenue condominiums plat based upon the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1280 Park Avenue

1. The duplex dwelling is located at 1280 Park Avenue in the HR-M zone. A duplex dwelling is an allowed use in the HR-M zone.

2. The duplex dwelling consists of a Historic Structure with a non-historic rear addition. The Historic Structure was constructed in 1904 and the new addition is currently under construction.

3. A Historic District Design Review (HDDR) application for the new rear addition to the Historic Structure (creating the duplex dwelling) was approved on July 20, 2015.

4. The Historic Structure is designated as Unit A and the new rear addition is designated as Unit B on the proposed condominium record of survey plat

5. The site is listed as “Landmark” on Park City’s Historic Site’s Survey.

6. There are no existing physical encroachments on the site.

7. The minimum lot size for the HR-M is 3,750 square feet for a duplex dwelling. The property is 5,154 square feet. In the HR-M zone no maximum footprint calculation is established, as the size of a structure is determined by the setback and height requirements.

8. The maximum height for a structure is 27 feet above existing grade. The maximum height of the new rear addition is 27 feet and the maximum height of the Historic Structure is 18 feet.

9. A lot line adjustment was approved by City Council on March 27, 2003 creating the 1280 Park Avenue Subdivision. The 1280 Park Avenue Subdivision combined the existing platted lots and remnant parcels into one (1) lot of record and brought the lots into compliance with the minimum lot size for the HR-M zone.

10. Historic Structures that do not comply with Building Setbacks are valid Complying Structures. The north Side Yard Setback of the Historic Structure is 2.9 feet to 3.1 feet (west to east). The south Side Yard Setback of the Historic Structure is 3.7 feet to 3.6 feet (west to east).

11. Under § 15-14-1, the Planning Director may deem existing violations in substantial

compliance with the Land Management Code. On April 6, 2016 the Planning Director deemed the south Side Yard Setback violation of the rear addition as 1280 Park Avenue de minimis, and in substantial compliance with the LMC.

12. The south wall of the new rear addition is clad in horizontal cedar siding with a two inch (2") profile. The horizontal cedar siding falls under Side Yard Exceptions in LMC § 15-2.4-4. Therefore, the level of non-compliance of the south Side Yard Setback is reduced from 0.25 feet (3 inches) and 0.4 feet (4.8 inches) (west to east) to .083 feet (1 inch) and .24 feet (2.8 inches) (west to east).

13. The error extends a maximum of 2.8 inches (2.8") beyond the vertical plane of the south Side Yard Setback. As no additional square footage was achieved in the rear addition due to this violation, the Planning Director has determined that the violation is de minimis and not advantageous to the scope of the development.

14.Any new additions to the structure will have to meet the five foot (5') Side Yard Setback as outlined in § 15-2.4-4 (G) SIDE YARD.

15.Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment. The new addition (Unit B) creates a Lockout Unit. The new rear addition (Unit B) has a twocar garage arranged in a tandem configuration accessed from Sullivan Road. In addition, the driveway for Unit B has a one-car parking space. In total, Unit B provides three (3) parking spaces

16.The Historic Structure (Unit A) is exempt from Parking Requirements as defined in LMC § 15-2.4-6; however, the Historic Structure has a driveway (accessed from Park Avenue) which provides a parking space for one (1) vehicle.

17.Vehicular and pedestrian access for Unit A is proposed to come from Park Avenue.

18.Vehicular and pedestrian access for Unit B is proposed to come from Sullivan Road.

19. In 2008, a Conditional Use Permit was approved for a concrete driveway and curb cut located in the rear of the Historic Structure. Staff determined that a new Conditional Use Permit would not be required because the new driveway accommodating vehicular access for the new rear addition (Unit B) would utilize the existing curb cut and would not intensify the use of the vehicular access.

20. Unit A contains 2,265 square feet (including the lower level).

21. Unit B contains 3,410 square feet (including the garage). Unit B contains 968 square feet of private interior garage space. The driveway of Unit B can accommodate one (1) car and is designated as Limited Common for the Benefit of Unit B.

22. The driveway of Unit A can accommodate one (1) car and is designated as Limited Common for the Benefit of Unit A.

23. A Common Area and Non-Exclusive Utility and Drainage Easement extend along the entire length of the north lot line. The easement extends to the northern exterior facades of Unit A and Unit B.

24.A Non-Exclusive Utility and Drainage Easement extends along the entire length of the south lot line and west lot line. The easement extends to the southern exterior facades of Unit A and Unit B.

25. The property is located in a FEMA Flood Zone A which requires the lowest occupied floor to be equal to or above the base flood elevation.

26. Utilities, including sewer, water, gas, and electricity for both units will originate from Park Avenue, as service is not available from Sullivan Road.

27. The findings within the Analysis section of this report are incorporated within.

Conclusions of Law – 1280 Park Avenue

1. There is good cause for this condominium Record of Survey plat.
2. The Record of Survey plat is consistent with the Park City Land Management Code and applicable State law regarding Condominium Record of Survey Plats.
3. Neither the public nor any person will be materially injured by the proposed Record of Survey plat.
4. Approval of the Record of Survey plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 1280 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the Record of Survey and Condominium Documents and CC&Rs for compliance with State law, the Land Management Code, and conditions of approval, prior to recordation of the plat.

2. The applicant will record the Record of Survey at Summit County within one year

from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. The CC&Rs shall include a tie breaker mechanism.

4. The CC&Rs shall reflect that the site is listed on the Park City Historic Sites Inventory and any development shall be in substantial compliance with the requirements outlined in the Land Management Code for Historic Sites.

5. A Plat note shall be added and state that the site is listed on the Park City Historic Sites Inventory and any development shall be in substantial compliance with the requirements outlined in the Land Management Code for Historic Sites.

2. 2300 Deer Valley Drive East – Deer Crest Hotel Conditional Use Permit Amendment – request to amend conditions of approval regarding construction phasing for Phases 2 and 3 of the St. Regis Hotel at the Snow Park Site (Application PL-16-03101)

Planner Whetstone introduced Michael Zicarro and Tom Bennett, representatives for the applicant, Deer Crest Janna, the property owner of the Deer Crest CUP.

Planner Whetstone reviewed the request to amend conditions of approval of the Deer Crest CUP, which is the St. Regis Hotel, regarding the timing of construction of phases two and three. Planner Whetstone reported that the St. Regis was originally approved in 2005 and was amended in 2008. More recently language was extended in 2014. The entire hotel project was approved as a conditional use permit, which included all phases, and everything from the site to the architecture. Conditions were placed having to do with the timing of the parking structures and condominiums at the Snow Park site.

Planner Whetstone noted that the address is 2300 Deer Valley Drive, where the funicular goes up and the funicular building sits in the building sits in the building. She noted that the north side over by Powder Run was always intended to be the third phase. The south side, which had the temporary sales building was phase two.

Planner Whetstone stated that when this was amended in 2014 to address the timing, it only referred to the timing of Phase 3, and required building plans by June of 2016. She noted that the language did not address Phase 2. Therefore, the owner has submitted an application to request an amendment to the CUP. She pointed out that essentially the amendment changes some conditions of approval, but it actually clarifies and extends the

conditional use for construction of Phases 2 and 3. Planner Whetstone referred to page 91 of the Staff report which contained the proposed request to change Conditions 3 and 4.

Planner Whetstone reviewed the proposed changes to the Conditions.

Condition #3 – Instead of saying that the applicant shall submit a complete application and building plans for construction of the parking structure and condominium units at Snow Park North on or before June 18th, the applicant was asking to change that to **construction of the Phase 2, parking structure and condominium units at Snow Park South, prior to December 31, 2017. If plans are not submitted within that time frame that CUP will expire and they will have to submit a new one. The language further states that they will submit a building permit application for Phase 3 within 18 months following the issuance of final certificates of occupancy for the South.**

Condition #4 – This condition would be modified slightly to address updating the parking study. Planner Whetstone noted that this was important because there is existing surface parking at both sites. Certain things have to happen with that parking to ensure that they have the necessary parking for the hotel. She pointed out that some of the required parking is at Snow Park. The new condominiums will require parking but they need to make sure that parking will be provided during construction. Planner Whetstone stated that the City is requesting a parking study at the time of the building permit for Phase 3, but also requesting a general parking study because there have been comments about how the parking is actually working. When the CUP comes back there is the opportunity to get a more general parking study. The study will be presented to the Planning Commission as an information item if the Staff finds any issues in their review.

The Staff had reviewed the request against the conditional use permit criteria and requested that the Planning Commission conduct a public hearing and consider approving the amendments regarding the timing of construction for Phases 2 and 3 at the St. Regis.

Approximately 200 noticing letters were sent out and Planner Whetstone had received four or five emails and phone calls from people requesting the Staff report and the exhibits. She did not receive any follow up on those requests. There was interest from Black Diamond, Powder Run and others in the neighborhood.

Tom Bennett, representing the applicant, stated that this was a situation where it takes a lot of words to lay out something that is quite simple. He thought Planner Whetstone outlined it accurately and he had nothing further to add at this time. He was prepared to answer questions.

Chair Strachan asked why the Phase 2 extension was not requested with the previous amendment. Mr. Bennett Zicarro replied that there was never a timing deadline set for Phase 2. The timing deadline was always with respect to Phase 3. As mentioned in the Staff report, this goes back to an issue that rose in 2009 by a neighbor within Deer Crest. Mr. Zicarro stated that they have a surface lot and the Planning Commission at that time wanted to know whether it would always be a surface lot or whether it would eventually be a parking structure with building above it. Therefore, they were given a time frame to do that. In 2014 the time frame was addressed and extended; however, it essentially put Phase 3 ahead of Phase 2. When they started planning for Phases 2 and 3 last summer they realized that the phases were now out of order. Mr. Zicarro remarked that they have to build on the south side first because that is the parking garage that would add parking availability when they build on the existing parking lot. He reiterated that there has never been a timeframe by which Phase 2 had to move forward. Mr. Zicarro clarified that the intent of this request is to put the phases back in the right order.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Joyce thought this proposal defeated what was originally trying to be addressed. He stated that there is open parking on the north side and the Planning Commission tried to address the concern of how long it would an open parking space versus a parking structure or parking under condos. That was the big debate and they established an end date. Commissioner Joyce stated that he was on the Planning Commission in 2014 and it was not accidental that they focused on the north side for Phase 3. They specifically talked about when that open parking lot would get its construction. It was the purpose in 2009 and it was talked about again in 2014. Commissioner Joyce did not believe Phase 2 was relevant in 2014. The deadlines were about that north parking lot.

Commissioner Joyce believed the current request exacerbates the concern because instead of having a clear deadline, Phase 2 would be moved out to December of next year and the parking lot would be tied to a building permit within 18 months after the CO of Phase 2. He pointed out that granting this request could potentially extend having the parking lot for another 10 or 15 years without ever triggering the condition that was agreed to with much debate and the appeal process in 2009. Commissioner Joyce thought they were very specific in 2014 and the deadlines were set in place for a reason.

Planner Whetstone explained that in 2009 there was an amendment to the CUP to build a structure. The applicant came in with a request and the condition was changed to say that they could build a parking lot. Planner Whetstone referred to the action letter from the 2009 meeting and read Condition of Approval #14 on page 109 of the Staff report. Condition #14 – "Within five years of approval, the applicant will either submit building plans for construction of the parking structure at the Snow Park north side or apply for an amendment to the Deer Crest Hotel CUP to be approved by the Planning Commission that either extends the time frame for an additional year, or allows the parking lot as a permanent solution at the Snow Park North".

Commissioner Joyce understood that neither of those were part of the request this evening. Planner Whetstone answered yes. She noted that in 2014 the applicant requested a change to the condition, and at that time a date was set. Planner Whetstone stated that if the parking on the north side is taken away before the replacement parking is built there would be no parking for the hotel. Therefore, Phase 2 has to occur before Phase 3.

Planner Whetstone noted that the Planning Commission could approve the request to amend the conditions for the construction; they could deny the request; or they could continue the discussion and direct the Staff to prepare findings. She pointed out that if the Planning Commission denies the request the applicant would have to bring in plans for the north side by June 2016.

Assistant City Attorney McLean recalled that the issue regarding the building of the parking lot was that initially it was temporary and it needed to be turned into a permanent parking lot. She noted that it was turned into a permanent parking lot as part of what occurred in 2009. Ms. McLean stated that the Planning Commission did not want a temporary parking lot without an end date because then it would not be temporary. She referred to page 109 of the Staff report, which was the exhibit from the Jerry Rice appeal. She noted that the condition #14 talks about within five years of the approval that either extends the time frame for an additional year, or allows the parking lot as a permanent parking solution at Snow Park north. Her recollection wasn't that they needed to build a parking structure, it was that they wanted a permanent parking lot.

Assistant City Attorney remarked that in terms of extending this out, the Staff discussed whether conditions have changed in the Code that would prevent the applicant from getting the CUP of they were to reapply today. She recalled that the Staff conclusion was no, and a Finding was added to make it clear because the City does not like to extend things out.

Commissioner Joyce noted that the Planning Commission has a list of LMC changes they will be looking at over the next 18 months, yet this could possibly extend out ten years. He believed it took away their flexibility.

Chair Strachan agreed with Commissioner Joyce in terms of what happened during the 2014 meeting. However, if they do not grant this request and the CUP expires in June 2016, the applicant will submit a new CUP. The Codes are the same and the Planning Commission would have to approve it because the impacts have already been proven to be mitigated. That would put them in the same situation of having a flat parking lot for the next five or more years while the applicant continues through the process with a pending application for a CUP. Chair Strachan pointed out that they end up in the same place with a flat parking lot and no way out under either scenario. Either they grant the extension this evening, or they deny it and applicant comes back with a new application and the flat parking lot remains.

Commissioner Joyce understood Chair Strachan's point, but based on that logic the whole negotiation for an end date to the parking lot has no teeth whatsoever. He stated that if the options Chair Strachan laid out were the only options, the only teeth would be if somewhere in that time a substantive LMC change was made that would affect bringing the CUP back under a new set of rules, which could be better or worse for the applicant.

Chair Strachan remarked that in many other circumstances there are teeth to deadlines. He believed if they asked the applicant's representatives what the detriment would be, it would be that they have to spend a lot of time and money on a new CUP.

Commissioner Joyce had two issues. One was that he did not agree with the idea that this was a mistake. It was what they talked about and cared about in 2014 and the reason they set a deadline. Secondly, he was comfortable with the extension until he saw it kick off of the Certificate of Occupancy. He was concerned that they got away from a hard date and instead were setting a date based on something that is 95% in the applicant's control.

Commissioner Joyce clarified that he did not want the applicant to repeat the CUP process, but the Planning Commission either needed to reach the conclusion that the parking lot was fine as it; or they set a hard date for Phase 3 and the building plans.

Chair Strachan thought they needed to reach a compromise where the CO does not mark the line. It would be some other benchmark.

Mr. Zicarro noted that something new that they were proposing was to set a time deadline on the start of Phase 2, which does not currently exit. Their goal is to set time frames on this project going forward. Mr. Zicarro stated that they were willing to set an outside date

which is three years from the date that Phase 2 is required to proceed to start Phase 3. He noted that they also agreed to provide a second parking study. One was submitted in 2012 and they were agreeing to do another one over a 12 month period so the Planning Staff could accurately assess the parking for the project and whether or not it is appropriate. If it is not appropriate, the applicant would have to address it before starting Phase 2.

Commissioner Campbell asked Commissioner Joyce if his objection was to the flat parking lot itself or whether he was trying to do a minimum number of parking spaces to make sure the parking does not fall below that. Commissioner Campbell thought the Commissioners had agreed that if they were going to restrict parking spaces generally that they wanted maximum numbers rather than minimum numbers to keep traffic down. He asked if the other Commissioners shared his recollection.

Commissioner Joyce explained that his concern was that in 2009 there was an agreement that said no one wanted a flat temporary parking lot. Commissioner Campbell asked if his opposition was to the big wall or because there were not enough parking spaces. He asked Commissioner Joyce to disregard what was done in 2009 and to explain his opposition based on present day. Commissioner Joyce replied that he was trying to get rid of the big wall. He explained that at some level he personally did not care, but at lot of work and energy took place in 2009, as well as an appeals process, that produced an end result. Commissioner Campbell pointed out that seven years later the Planning Commission has concluded that traffic is a bigger problem than parking, and he thought they had agreed not to impose minimum parking spaces. Commissioner Joyce remarked that when the applicant submits building plans for Phases 2 and 3 and the parking study, they could look back and determine at that point whether they were requiring the applicant to build too much parking.

Commissioner Campbell stated that one of the conditions is a new parking study and if it has more than two spaces he would be against it because each space will be filled with a car that uses City streets and that is what they want to avoid. It would not bother him at all if they build Phase 2 first and it obliterates every parking space up there for five years. In the end parking will be self-regulating and the result will be the right number of parking spaces. Commissioner Joyce believed this was an LMC discussion that needs to take place. However, the LMC currently requires a number of parking spaces based on the type of business or residence. If they want to focus on mass transit and less parking they have to change the LMC.

Commissioner Campbell was concerned about asking the applicant to come back with a traffic study with results that they do not really care about. Commissioner Joyce argued that Commissioner Campbell might not care, but that was not the case for everyone.

Planner Whetstone clarified that the applicants needed the parking to meet the minimum parking requirement for the hotel on top because of the Settlement Agreement restricting the number of overnight spaces at the Roosevelt Gap site. Therefore, they are counting on the parking at Snow Park required by the CUP and the settlement Agreement to meet the parking for the hotel. Planner Whetstone stated that it is fairly under parked because the parking standards do not required parking for employees. They must have a 200 space parking lot on the Mayflower site for the employees that are shuttled up through Deer Crest. She noted that they were already meeting the minimum parking requirements.

Commissioner Campbell recalled from the 2014 renegotiation that the Planning Commission had requested some type of beautification to make the wall look nicer. Planner Whetstone stated that the idea was to make it a permanent parking space with permanent landscaping and drainage. Commissioner Campbell asked if one of the options this evening would be to allow the applicant to make the parking lot as it exists a permanent lot. Planner Whetstone clarified that it is basically a permanent parking lot now. She explained that the original Conditional Use Permit expires in one year unless it is extended. This one is 80% complete. If it were not for the phasing issue and the condition that required the parking structure before issuing the CO, and the fact that no one wanted a parking structure before there were units on top to cover it up, this discussion would not be taking place because the conditional use permit was not expired.

Commissioner Campbell remarked that the language Assistant City Attorney McLean read from page 109 ends with, "….or allows the parking lot as a permanent parking solution". Planner Whetstone stated that the condition was put on the CUP when it was phased.

The Commissioners discussed options to resolve this issue. Chair Strachan noted that the applicant has UEs that they are entitled to. Commissioner Joyce stated that if Planning Commission decides that this was permanent parking, the applicant could come back with a new CUP request.

Commissioner Campbell wanted it clear that he was opposed to any regulation of parking spaces. Commissioner Joyce reiterated that currently the LMC has parking requirements that the Planning Commission needs to enforce. If Commissioner Campbell felt that strongly he needed to raise his concerns and be a big proponent for making changes when they discuss the LMC and whether or not to change the parking requirements.

Chair Strachan understood that the applicant and some of the Commissioners were in favor of imposing a new hard deadline based on a new benchmark that is not just the CO plus 18 months. Everyone concurred. Chair Strachan stated that the next step was to figure out the deadline and the benchmarks.

Mr. Zicarro stated that currently there is no deadline on Phase 2. If they intend to impose a deadline that needed to be done first. He remarked that in discussions with the Planning Staff they talked about various time frames to start Phase 3. They came up with the proposal that was mentioned earlier and they were willing to change that to set a firm date, which is three years of the commencement of Phase 2, or three years from the December 31, 2017 date. Chair Strachan asked how they would define commencement. Mr. Zicarro defined it as building permit. However, if the deadline for Phase 2 becomes December 31st, 2017, then they would set three years from that date as the firm deadline for the commencement of the building permit. Mr. Bennett clarified that it would be the submission of an application for a building permit, which would be 12/31/2020.

Commissioner Joyce referred to page 92 of the Staff report, the recommended amendment, and understood that based on what Mr. Bennett had stated, the language would be revised to read, "A complete building permit for Phase 3 shall be submitted by December 31st, 2020." Mr. Bennett concurred. Commissioner Joyce noted that the amended language that was proposed already identified the date for a building permit for Phase 2 as December 31, 2017.

Chair Strachan thought it should be clarified that Phase 2 is required to be completed before Phase 3 begins. Commissioner Joyce believed the amended language on the bottom of page 91 already sets the building permit piece for Phase 2. He thought that should be left intact. Planner Whetstone stated that the south side has to be completed so they can use that parking before they tear up the north side.

Chair Strachan was bothered by Mr. Bennett's comment that 2017 is the submission of a building permit. He thought that deadline should be the actual construction of Phase 2 rather than just submitting plans. Mr. Bennett stated that once the permit plans and applications are submitted the timing is out of their hands and in the hands of the City. He preferred the date to be within the developer's control. The submission of a building permit application would be in their control. Commissioner Joyce was comfortable with the timing of the submission of the building permit. He was not interested in forcing the building phases. His concern was to make sure there was an adequate parking plan. Mr. Bennett pointed out that when the Phase 2 building is built, the parking is built first. Therefore, the parking could potentially be serviceable six months before the condos are built on top.

Commissioner Joyce summarized the changes per their discussion. He referred to the bottom of page 91 with the amendment to Condition #3, and suggested that they leave it intact as written. As the language continues on page 92, the bottom sentence should be revised to read, "A complete building permit application for Phase 3 shall be submitted by December 31st, 2020". That was the only change he would request. Mr. Bennett and Mr. Zicarro were comfortable with that change.

Commissioner Campbell asked if they could strike Condition of Approval #4 regarding the parking study. Chair Strachan stated that the last time the applicant came before the Planning Commission they had already completed a parking study. His concern then and still now is the fact that everyone parks in the Snow Park parking lots. Not everyone would agree, but he believed it was true based on what he sees. Chair Strachan stated that in regards to the last parking study, the Minutes reflect that Mr. Bennett had said, On the busiest day of the year approximately 40% of the spaces were still open and he was clearly demonstrating to the Planning Commission that the project has more parking than has ever been used. Chair Strachan stated that if that was the case it creates three problems. One is why would they build more parking. The second is how to discourage people from parking in Snow Park. The third was whether they needed another study if the evidence is clear that it is already an over parked facility. Chair Strachan clarified that he was talking about the Deer Valley Snow Park lot.

Mr. Zicarro stated that they have taken great strides to make sure their hotel guests and employees do not park in the Deer Valley lots. Deer Valley is quick to let them know whenever that happens. Mr. Zicarro noted that during the last winter season they were only informed that one employee parked there twice. However, the hotel cannot control people who come to the restaurant and park there. Mr. Zicarro stated that the parking shown in the preliminary plan is exactly the number of spaces they were required to provide in 2009. He explained that the hotel has evolved even since 2012 and the Planning Staff thought it was important to have an idea of the current parking needs. That was the reason for suggesting another traffic study. Mr. Zicarro noted that the results may be the same or similar to what it was in 2012. He noted that in 2012, on a Saturday during Sundance at the busiest hour, they were at 44% capacity. The parking lots are for hotel guests. Employees park outside the lower Jordanelle gate by Route 40 and they are shuttled to the hotel.

Mr. Zicarro stated that they were willing to do the parking study because they have other “homework” to do over that one year period. The parking study would be presented to the Planning Staff and the Planning Commission if the parking result was different. It would be early enough in the process to modify what they were originally directed to provide in 2009.

Director Erickson thought it was important to keep the parking study as a condition for several reasons. If it does support the position of being over parked they would have fact based analysis to consider when they discuss changing the regulations. Combined with other parking studies coming in from other projects, they will have more than an anecdotal set of evidence. Director Erickson could see trip generation for the hotels changing again from hotel shuttles from Salt Lake City to the Black Car solutions. He was unsure where it would shift again for guests in the next five years. Director Erickson stated that they need

to be planning ahead to 2020 to look at changes in the hotel operations and whether or not it would be over parked.

Chair Strachan asked if the parking study was required by the Settlement Agreement. Mr. Bennett answered yes. Planner Whetstone stated that the proposed language in the condition was requested by the City Engineer.

Commissioner Joyce thought the parking studies ignore the one thing that he and Commissioner Campbell disagree on, which is the effects of having insufficient parking. On the ski area it flows over into the Library and surrounding streets and shopping center, and the burden is on those owners to enforce parking. For the Deer Crest Hotel people park in the Deer Valley parking lot and walk up. He pointed out that the parking study does not take into account the people who park where they are not supposed to be parking.

Director Erickson offered to take his comments to the City Engineer, who would be helping with the scope of the traffic study. He agreed that a peak hour of a peak day during Sundance is a high level of high end destination guests. The Saturday before the Fourth of July could more likely be people from surrounding states who choose to drive. Commissioner Joyce thought the worst scenarios were the local events where everyone drives and they all park in the Deer Valley lot. Director Erickson agreed that they should look at that piece as well. He also agreed that the parking study needs to be done correctly with the correct scopes of work, more off-site focus, and less focus on the peak high-end period and more focus on the marginal times when people bend the rules.

Chair Strachan thought it should be tied to Phase 2, the potential construction of the parking structure. Planner Whetstone replied that it was tied to Phase 2. Chair Strachan was concerned that if the study was not tied earlier than the deadline, it would only have to be completed by the end date. Director Erickson suggested that they tie the total number of parking spaces allowed in Phase 2 to the results of the parking study. He noted that as the approval stands, they are vested under the old ordinance, but they could request to be covered under the new ordinance if they reduce the maximum parking demand.

Chair Strachan was concerned that the parking study would be submitted as part of the application for building of a parking structure. Before reaching that point he would like some analysis that may say they are already over parked. In that case, the applicant should come to the Planning Commission with another CUP which may be in their best interest. It would give them the option of using the UEs to put in condos instead of parking.

Mr. Zicarro stated that in Phase 2 the current plan is to build one level of parking with approximately 35 parking spaces. The total requirement for Phases 2 and 3 are 105 spaces. They currently have approximately 68 spaces. If they submit a parking study that

dictates either more or less parking, the Planning Commission would be able to address the requirements for parking for Phase 3, which at this point with no change is an additional 70 parking spaces.

Commissioner Band understood that they should leave Condition #4 as proposed and revise Condition #3 as previously stated by Commission Joyce.

MOTION: Commissioner Joyce moved to APPROVE the amendments to Conditions # 4 of the Deer Crest Hotel CUP as proposed and to revise the proposed Condition #3 to read:

"The applicant shall submit a complete application and building plans for construction of the Phase 2, parking structure and condominium units at Snow Park South on or prior to December 31, 2017. If plans are not submitted within this date, the prior CUP approval for Snow Park South shall expire and a new Conditional Use Permit application will be required to be reviewed by the Planning Commission prior to submittal of such building plans for the Snow Park Site. A complete building permit application for Phase 3 shall be submitted by December 31st, 2020".

Commissioner Band seconded the motion.

Planner Whetstone clarified that they were eliminating the extension that was in the language that was deleted in Condition #3. Chair Strachan answered yes.

VOTE: The motion passed unanimously.

The Planning Commission adjourned the regular meeting and moved back into Work Session to discuss the Land Management Code. That discussion can be found in the Work Session Minutes dated April 13, 2016.

The Park City Planning Commission Meeting adjourned at 8:45 p.m.

Approved by Planning Commission: _____

PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
April 13, 2016

PRESENT: Chair Adam Strachan, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Laura Suesser, Doug Thimm.

Bruce Erickson, Ann Laurent, Kirsten Whetstone, Francisco Astorga, Polly Samuels McLean,

WORK SESSION ITEMS

Land Management Code Amendments 2016 Annual Review

Director Erickson stated that the Staff had identified a number of LMC changes that are primarily administrative changes that do not require a lot of discussion. These also include definition issues. The changes would not take much time and the Commissioners should be able to take action quickly.

Director Erickson requested that the Planning Commission review a list of items outlined in the Staff report and agree on which items need minimal discussion moving forward, which ones need moderate discussion, and which ones may require significant discussion. Director Erickson stated that the General Plan settles most of the main issues at the policy level. However, if there are new ones that are significant, the Staff could provide additional data and they could schedule the discussion over several meetings. Director Erickson noted that Ann Laurent, the Community Development Director, has offered to work with the Planning Commission on this endeavor. She would also be directly involved with policy matters.

Community Development Director Laurent reiterated that the goal this evening was to go through how they want to categorize and prioritize their discussions for future meetings. She discouraged the Commissioners from talking about specific items; however, if someone has a specific discussion point, they should express is so it can be included as a future discussion item. Ms. Laurent emphasized the importance of first prioritizing the list to help the Staff move forward on which items to bring back for each meeting.

Director Erickson stated that Ms. Laurent would be bringing forth a full list of items having to do with lighting, energy and housing as her part in helping the Planning Department. Ms. Laurent noted that she would be involved with anything related to building code.

The Planning Commission prioritized the list outlined on page 58 of the Staff report. Commissioner Joyce remarked that in addition to deciding the importance of the item, they also needed to consider the amount of work discussion it would take at each meeting.

1. Appeals process for extensions of HDDR and CUP approvals for consistency with Chapter 1 and throughout the Code.

The Commissioners considered this a minimum discussion item.

2. Standards for expiration of inactive or stayed applications (Chapter 1).

The Commissioners thought this item needed a higher level of discussion. Chair Strachan thought this item was important, but he thought the actual work of fixing the Code sections would not take long.

Director Erickson stated that over the course of the past few years the Staff has delayed talking about the State mandated code changes. He believed they would redline those changes and bring them back to the Planning Commission as quickly as possible for compliance with State law.

3. Standards for application revisions and requirements for submittal of new application when changes are substantial (Chapter 1).

Planner Whetstone thought they needed to clarify what would be considered "substantial" because that is currently not addressed in the LMC.

4. Clarify General Plan analysis standard of review for Conditional Use Permits and other types of applications (Chapter 1).

Chair Strachan believed this was a policy issue. Director Erickson thought it was more of a legal issue than policy. Assistant City Attorney McLean thought it was mischaracterized as written. She explained that the LMC should not be separate from the General Plan. For example, currently there is a requirement that there be a finding that it complies with the General Plan. If they move forward and make the LMC reflect what they want it to, they should be referencing the General Plan in the LMC. Ms. McLean stated that the General Plan should be the more policy related items. The Commissioners agreed. Chair Strachan pointed out that there are many things that meet the LMC do not meet the General Plan.

Commissioner Band thought the State Ombudsman was clear when he said that it is not legally defensible and that they should not be referencing the LMC and the General Plan at all. It is more of a Best Practices and visionary statement, but not policy.

Stated that he would draft specific language to address the issue.

5. Review Allowed and Conditional Uses in all Districts for consistency and for consideration of other uses (Agricultural Uses, Accessory Apartments, Portable

Storage Units, Resort Accessory Uses, Resort Summer Uses, Essential Municipal Uses, Temporary Improvements, Tents, Special Events) (Chapter 2).

The Commissioner agreed that this was a minimal discussion item.

6. Clarify Steep Slope CUP and setback applicability (regarding vertical plane) (Chapter 2).

Director Erickson stated that steep slope designation setback are on flat ground and the Staff would like to put them on a vertical plane similar to all other setbacks.

This was a definition change and the Commissioners thought it was important.

7. Allow common wall development with Party Wall Agreement for all Districts, as in R-1 (Chapter 2).

Planner Whetstone noted that this was a way to allow units to be individually sold without a condominium plat. Commissioner Band thought they should definitely allow this. Planner Whetstone stated that they would also have the Legal Department review the language.

8. Exception for ten foot horizontal step back for historic structures in HRL, HR-1, HR-2 and RC District as legal non-complying structures (Chapter 2).

Planner Whetstone stated that a historic structure is considered a legal non-complying structure for heights, setbacks, etc., but not for the ten-foot setback. They would not expect the historic structure to go 23 feet up and then create a ten-foot step.

Director Erickson did not believe there were any General Plan implications in making this change.

9. Consistent requirements for screening of mechanical equipment in GC and LI District (Chapter 2).

Director Erickson noted that his change would add language in the LMC that would require developers to identify the location of equipment as well as screening. Chair Strachan thought they needed to be more specific about screening in terms of how it looks.

10. Parking and driveway regulations regarding maximum driveway grades; parking areas for vehicles, boats and trailers; maximum parking standards; parking in

Historic District standards consistent with Parking Chapter (Chapter 3).

Director Erickson stated that this was a bad section of the Code for a number of reasons. He noted that some driveways are twice as steep as the City streets and it allows building to be pushed higher and deeper on a steep slope lot. This proposed changed would bring it back down to what can be seen in the foothills of Salt Lake.

Chair Strachan did not believe this would take a lot of Staff and Planning Commission time, but he thought they would get a lot of pushback. The Commissioners listed this as a moderate discussion item. Commissioner Campbell was concerned that half of the remaining lots in Park City would be unbuildable if they made this change.

Director Erickson added that particular concern to the discussion list.

11. Align Special Events regulations with recent Municipal Code changes (Special Events, Temporary Structures and Tents, Outdoor Events, etc. in all Districts (Chapter 2) and in Chapter 4.

Director Erickson remarked that this change would bring the LMC into alignment with the Municipal Code regarding tents, Sundance, large parties, temporary structures, etc.

Chair Strachan was uncomfortable making a decision without knowing what exactly would change. Director Erickson explained that someone could question on what authority special events regulate Sundance with a master festival license when it is not addressed in the LMC. He stated that it would simply the Code and identify Tier 1, 2, 3 and 4 events based on number of people expected. They could also add for City services. Director Erickson stated that the intent is to deregulate a personal wedding, and do a better job of regulating longer term tenants at Stein's, St. Regis, and Park City performances. They would also look at the larger event regulations to make sure it is consistent with the Master Festival Licenses.

Chair Strachan asked if the language would mirror the Municipal Code. Director Erickson replied that it would mirror the intent but it would be written a little different.

This was identified as a moderate discussion item.

12. Portable Storage Unit and Group Mail Box regulations (Chapters 2 and 4).

The Commissioners were in favor but Commissioner Band thought the community might have issues.

13. Landscape review standards for water conservation and energy efficiency, prohibit synthetic mulches (Chapter 5).

Planner Whetstone noted that this change was due to an issue that came up over rubber mulch. However, synthetic mulches was a small part of the proposed change. The rest relates to methods of water conservation and energy efficiency.

Ms. Laurent thought these were standalone issues and she was not comfortable tying it all together. The Commissioners agreed. The items were split into 13a, which was water conservation and energy efficiency, and 13b was synthetic mulches. The Commissioners agreed that 13b was a minimum discussion and 13a would require more discussion.

Ms. Laurent explained that the Environmental Group will be evaluating the General Plan and do an analysis on what items in the General Plan have the biggest impacts to make the biggest gains on the goals. She stated that they could spend a lot of time dezoning some part of the neighborhoods, but they first need to understand the impacts. She wanted to be able to present the Planning Commission with analytical data on energy related conservation measures and associated impacts.

Commissioner Joyce remarked that his frustration is that the City takes measures to conserve energy but they have not done anything to help anyone else in the community. Ms. Laurent noted that the City Council recently split the goals into municipal goals and community goals. This would be the first step in how to meet a community goal. Commissioner Joyce stated that another frustration is that the City studies everything but then does nothing. He will continue to nag on the low hanging fruit that could be done right away. Unless something happens quickly on major items such as housing and energy, he would not be voting to just sick back and wait for studies. Ms. Laurent preferred to call it an analysis as opposed to a study. The idea is that when something is controversial they will have the data point of what the impact would actually be.

14. Lighting standards for energy efficiency (Chapters 3 and 5).
15. Codify requirements for Net Zero Buildings and other energy efficiencies (Chapters 5 and 6).

Director Erickson stated that items 14 and 15 could go into the policy discussion with one exception. He would like to be able to deal with glare as a separate issue. Planner Whetstone replied that color was also a separate issue because glare and color relate to the LED.

Director Erickson requested that glare be singled out as moderate discussion. Commissioner Phillips agreed that glare would require significant discussion because it is a problem in several areas.

The Commissioners agreed that glare should be listed as a moderate discussion item. Commissioner Campbell noted that if they intend to spend a lot of time in discussion the Planning Commission would have to be educated on lighting measurements, etc. He thought this item could be subjective and very controversial. Chair Strachan pointed out that the Staff would do the analysis and that should reduce the amount of time the Planning Commission would have to spend in discussion.

Ms. Laurent suggested that they should leave it in moderate.

16. Barrel roofs as a permitted roof form (Chapter 5) and codify how height is measured (Chapter 2).

Commissioner Band explained that a barrel roof is like half of a circle. Director Erickson noted that they allow height exceptions for roof pitch, but they do not found a way of measuring the pitch of a curved roof.

The Commissioners agreed that this item would require significant discussion.

17. Unit Equivalent requirements in Master Planned Developments (Chapter 6) and for various Public Uses (in ROS and CT Districts).

Director Erickson believed the discussion would be significant for this item. The Planning Commission agreed.

18. Master Planned Development requirements (Ski Lockers, Soils Ordinance, Mine Sites, Support Commercial and Meeting Space, and Back of House Uses) (Chapter 6).

There was agreement to list this item as significant discussion. Director Erickson noted that currently they only require the identification of mine hazard site. As in the case of PCMR, they did not have to identify all mine sites; only mine hazard sites. It was simply a matter of changing the wording and Director Erickson thought mine sites could be pulled out and listed as minimum discussion.

19. Expand Annexation Expansion Boundary to include City Owned property to the North and East of current City Limits (Chapter 8).

Planner Whetstone noted that this item was direction from the General Plan to look at where they might expand and annex in.

Chair Strachan remarked that every annexation he has seen is a large piece of land with

significant sprawl. In his opinion, annexation should be limited to 100% for affordable housing or for open space. He pointed out that Park City Heights has some affordable housing but it was not entirely affordable housing.

Planner Whetstone stated that another part of this is the criteria for allowing expansion. Ms. Laurent noted that annexation criteria would be included as part of the discussion.

20. Definitions in Chapter 15 (agriculture, back of house uses, barrel roof, billboard, portable storage units (PODs), intensive office, setback and steep slope area vertical planes, publicly accessible, and others).

Director Erickson placed this as a moderate discussion item so the Planning Commission could decide whether chickens should be allowed in the Historic District or the Single Family zones.

Chair Strachan believed some of the categories listed in Item 20 would require significant discussion. Director Erickson noted that some of the things were repeats of other items, and this was primarily for definitions. Ms. Laurent questioned whether they should be handling definitions as it relates to other items. Planner Whetstone thought they should if it relates to what is being changed. Ms. Laurent stated that in addition to bringing back the State mandated code changes they would also bring back the sub-standard definitions.

21. Clarification of Planning Director approval of "diminimus adjustments."

Chair Strachan remarked that they currently enjoy a good Planning Director; however, there have been times when a Planning Director abused the diminimus adjustment loophole. He thought this item was worthy of a moderate discussion. The Commissioners concurred.

Ms. Laurent wanted to use the remaining time to go through the list of items prepared by Commissioner Band, Commissioner Joyce, and Commissioner Strachan. She asked the Commissioners to identify which ones were priorities. Commissioner Band stated that her list was more general than specific. Chair Strachan stated that his list was not ready to be discussed.

Commissioner Joyce stated that the difference between the Staff's list that they just reviewed and his list, is that is items were more along the lines of driving the City through the Code. It changes things. He thought the list they just went through were more administrative. They need definitions and they need to change language for consistency. Even the more significant ones were still insignificant. Commissioner Joyce was concerned that when all this has been done, they will have made administrative changes but they would not have changed the energy policy or pollution or housing.

Director Erickson explained the strategy they were asking the Planning Commission to put forward. He stated that if they could clean up some of the administration fights they have every day, it would give the Staff more time to focus on the major issues and the big policy decisions. He had reviewed Commissioner Joyce's list and many of the items fit it with what they plan to do. One fit in with Ms. Laurent's energy policy, one fit in with the General Plan first and the LMC second. His item regarding fireplace restrictions is already in the development agreements for Empire and Deer Valley. Director Erickson stated that at the next meeting they will incorporate some of the items into the other calculations.

Ms. Laurent noted that fireplaces is an item that the analysis will address for both gas and burning fireplaces and talk about the impacts. She stated that if the Planning Commission wanted to address fireplace restrictions on principle, they should add it to the list. Or they could address it as part of energy and how to approach the LMC from a carbon reduction perspective.

Commissioner Band thought this was the low hanging fruit that Commissioner Joyce mentioned earlier. She did not believe they needed a study to tell them that wood burning fireplaces are bad. Other cities and municipalities are already enacting laws to restrict them and Park City could do the same.

Ms. Laurent suggested that they add wood burning fireplaces under the significant column.

Director Erickson remarked that Commissioner Joyce had done a great job preparing his list and going through the General Plan. They had two options to address his list. They could either filter it out the same they did with the Staff list, or they could put numbers on them and come back at the next meeting and do a quick filter at that point. He noted that Commissioner Joyce had 20 items on his list.

Ms. Laurent believed that some of the items on Commissioner Joyce's list were already covered tonight with the Staff list. She thought his idea of energy tax was probably not a LMC discussion. Commissioner Joyce clarified that tax was probably not the right word. His intent was to actually imply a program that would include non-profit, prohibitions, fees, alternatives with renewable energy, and many other things that could be part of the energy discussion as well as the LMC. Commissioner Joyce stated that his main concern was that they would wait for all of the energy studies to be completed before they even look at making changes. He suggested that members from the Planning Commission could be part of the energy discussions because at this point they are not contributing at all. Commissioner Joyce understood that the Planning Commission could not set a tax, but there were other things they could be doing.

Ms. Laurent stated that the three critical goals are energy, transportation and housing. She

asked if it made sense to have brainstorming work sessions around those three goals. Planner Whetstone asked if Ms. Laurent was suggesting that their discussion focus on the LMC or if she was talking about general discussion. Ms. Laurent replied that the purview of the Planning Commission would be the LMC. However, the Planning Commission could still make recommendations to the City Council on other policy issues they would like the Council to consider. Ms. Laurent clarified that the ultimate goal at the end of these work session is to recommend changes to the LMC that better supports the Staff and better supports the City's goals.

Commissioner Joyce explained how he compiled his list and his purpose for going through the General Plan. His concern was that a lot of time and effort went into writing the General Plan, but not all of the issues were resolved and there are notes indicating that those issues should be revisited. Some of the issues are big and interesting. For example, one issue was whether or not to set a maximum house size in some districts. Ms. Laurent noted that they could add maximum house size as an item for discussion. Commissioner Band stated that house size also relates to energy.

Commissioner Band stated that TDR is a major issue that needs to be looked at, but no one is currently using it and she personally thought it should be a low priority item. However, she thought Back of House should be a higher priority because Vail is already at the table with their parking lots and Deer Valley will be coming in soon.

Ms. Laurent suggested that they add everything on the list as moderate and significant, as well as the three critical issues as it relates to the General Plan. They could have a discussion on all of those items and then go through the same process after that to determine priority.

Commissioner Joyce pointed out that when they went through the Staff list this evening, they categorized based on how much discussion each item would require, but they did not sort the items by importance. He thought there were some items listed as moderate that may not be a priority versus other items that relate to the three main goals. Ms. Laurent pointed out that Items 13a, 14, and 15 were goal based. Chair Strachan believed the problem is that everything was too broad. For example, screening could be a housing or an energy issue. He believed every item on the list could be categorized under energy or transportation. Ms. Laurent agreed, but she was not confident that they had captured everything in the General Plan that could be Land Management Code. She thought the discussions might flush out the missing items or give them confidence that the list is complete. The suggestion was made to have another work session to prioritize. Chair Strachan pointed out that Commissioner Joyce would not be at the next meeting.

Ms. Laurent suggested that they use the next meeting that Steve is present to prioritize. As part of that she would share the matrix of all the different things in the LMC and they

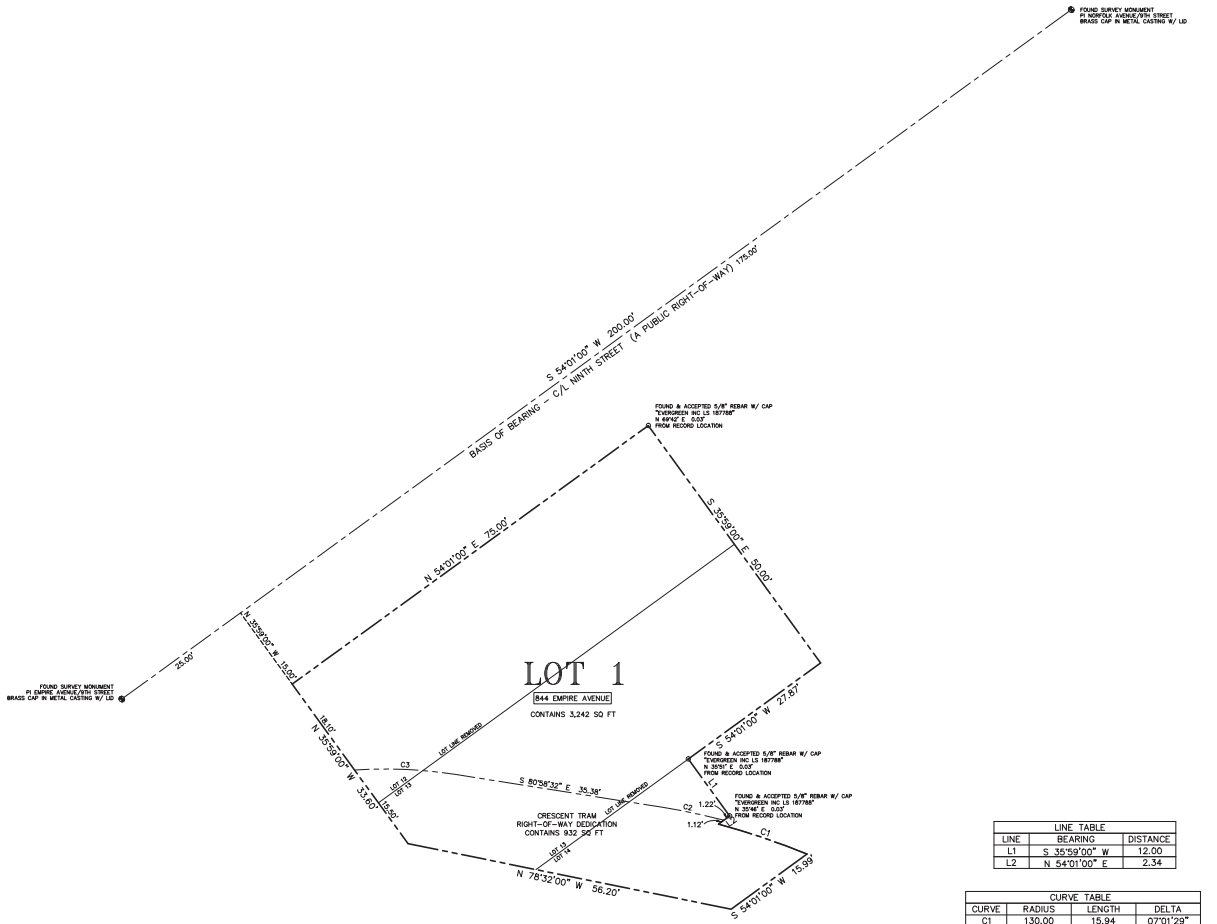
could decide how they want to tackle getting the confidence that they capture everything.

Director Erickson stated that his preference is to take LMC changes to the City Council about every two weeks, depending on the Staff workload and the significance of the issue.

Director Erickson reported that when he sent out the housing report for the Blue Ribbon Commission and the EPS, he put in the email that this meeting would be held tonight to take their input and to deliver the input to the City Council at the joint meeting on April 28th. He stated that apparently he was not clear in his email and he would send it out again tomorrow. Director Erickson noted that the City Council specially asked for input from the Planning Commission on what the Blue Ribbon Housing Committee reported.

The Planning Commission was reminded of the joint meeting with the City Council on April 28th.

The Work Session was adjourned.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 35°59'00" W	12.00
L2	N 54°01'00" E	2.34

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	130.00	15.94	07°01'29"
C2	110.00	10.82	05°38'10"
C3	77.50	17.47	12°55'07"

SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, I have prepared this Record of Survey map of 844 EMPIRE AVENUE PLAT AMENDMENT and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

REGISTERED LAND SURVEYOR
No.4938739
MARTIN A. MORRISON
State of Utah

BOUNDARY DESCRIPTION

Lot 12, Block 14, Snyder's Addition to Park City.

Also, a part of Lots 13 and 14, in Block 14, Snyder's Addition to Park City described as follows: Beginning at the Southwest corner of Lot 11, Block 14; and running thence South 54°01' West 75 feet; thence South 35°59' East 8.6 feet; thence South 78°32' East 56.2 feet; thence North 54°01' East 37 feet; thence North 35°59' West 50 feet to the point of beginning.

Less and excepting the following land conveyed to Robert G. Ward and Margery W. Ward, his wife, grantee, as show in that certain Quit-Claim Deed recorded December 28, 1983, as Entry No. 214633, in Book 283, at page 299, of Official Records, more particularly described as follows:

Beginning at the Northeast corner of Lot 14, Block 14, Snyder's Addition to Park City, Utah; and running thence South 35°59' East along the Easterly boundary of said Lot 14, 25 feet; thence South 54°01' West along the Southerly boundary of said Lot 14, 21.01 feet to a point on the Northerly side of the Crescent right-of-way; thence along said Northerly side of the Crescent right-of-way, being a 130 foot radius curve to the left (radius point bears South 22°14'19" West), 15.94 feet; thence North 54°01' East 2.34 feet; thence North 35°59' West 12 feet to a point on the Northerly boundary of said Lot 14; thence North 54°01' East along said Northerly boundary of Lot 14, 27.87 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that Todd M. Gilbert, the undersigned owner of the herein described tract of land, to be known hereafter as 844 EMPIRE AVENUE PLAT AMENDMENT, does hereby certify that he has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

ALSO, the owner hereby irrevocably offers for dedication to the City of Park City all the streets, land for local government uses, easements and required utilities shown on this plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
: ss.
County of _____)

On this _____ day of _____, 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-____.

10' 0 10' 20'

A PARCEL COMBINATION PLAT

A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

844 EMPIRE AVENUE PLAT AMENDMENT

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SHEET 1 OF 1

3/8/16 JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467
Alliance Engineering Inc
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	COUNCIL APPROVAL AND ACCEPTANCE	CERTIFICATE OF ATTEST	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2016 BY _____ CHAIR	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ _____ FEE _____ RECORDER

SNYDER'S ADDITION TO PARK CITY SURVEY, BLOCK 14,
LOT 12 AND PORTIONS OF LOTS 13 & 14,

(844 EMPIRE AVENUE)

PROJECT INTENT

Lot 12 and portions of Lots 13 & 14, Block 14, Snyder's Addition to Park City Survey, (also known as 844 Empire Avenue) are owned by the same entity. The original lot lines from Snyder's Addition to Park City Survey still exist between Lots 12 & 13 and between Lots 13 & 14. The owner desires to unify the property into one lot of record by extinguishing the existing lot line, with the ultimate goal of renovating the existing residence.

RECEIVED
DEC 11 2015
PARK CITY
PLANNING DEPT.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 35°59'00" W	12.00
L2	N 54°01'00" E	2.34

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	130.00	15.94	07°01'29"

REGISTERED LAND SURVEYOR
No.4938739
MARTIN A. MORRISON
State of Utah

SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, I have prepared this Record of Survey map of 844 EMPIRE AVENUE PLAT AMENDMENT and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTION

Lot 12, Block 14, Snyder's Addition to Park City.

Also, a part of Lots 13 and 14, in Block 14, Snyder's Addition to Park City described as follows: Beginning at the Southwest corner of Lot 11, Block 14; and running thence South 54°01' West 75 feet; thence South 35°59' East 8.6 feet; thence South 78°32' East 56.2 feet; thence North 54°01' East 37 feet; thence North 35°59' West 50 feet to the point of beginning.

Less and excepting the following land conveyed to Robert G. Ward and Margery W. Ward, his wife, grantee, as show in that certain Quit-Claim Deed recorded December 28, 1983, as Entry No. 214633, in Book 283, at page 299, of Official Records, more particularly described as follows:

Beginning at the Northeast corner of Lot 14, Block 14, Snyder's Addition to Park City, Utah; and running thence South 35°59' East along the Easterly boundary of said Lot 14, 25 feet; thence South 54°01' West along the Southerly boundary of said Lot 14, 21.01 feet to a point on the Northerly side of the Crescent right-of-way; thence along said Northerly side of the Crescent right-of-way, being a 130 foot radius curve to the left (radius point bears South 22°14'19" West), 15.94 feet; thence North 54°01' East 2.34 feet; thence North 35°59' West 12 feet to a point on the Northerly boundary of said Lot 14; thence North 54°01' East along said Northerly boundary of Lot 14, 27.87 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that Todd M. Gilbert, the undersigned owner of the herein described tract of land, to be known hereafter as 844 EMPIRE AVENUE PLAT AMENDMENT, does hereby certify that he has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

_____
Todd M. Gilbert

ACKNOWLEDGMENT

State of _____)
:ss.
County of _____)

On this _____ day of _____, 2016, Todd M. Gilbert personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, Todd M. Gilbert acknowledged to me that he is the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

_____
A Notary Public commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

NOTE

This subdivision is subject to the Conditions of Approval in Ordinance 16-____.

A PARCEL COMBINATION PLAT

A COMBINATION OF LOT 12 AND PART OF LOTS 13 AND 14 IN BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

844 EMPIRE AVENUE PLAT AMENDMENT

LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

10' 0 10' 20'

SHEET 1 OF 1

12/11/15 JOB NO.: 17-8-15 FILE: X:\SnydersAddition\dwg\srv\plat2015\170815.dwg

(435) 649-9467 Alliance Engineering Inc. CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	COUNCIL APPROVAL AND ACCEPTANCE	CERTIFICATE OF ATTEST	RECORDED
	REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2016 BY _____ S.B.W.R.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2016 BY _____ CHAIR	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ENGINEER	APPROVED AS TO FORM THIS _____ DAY OF _____, 2016 BY _____ PARK CITY ATTORNEY	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ MAYOR	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2016 BY _____ PARK CITY RECORDER	STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ FEE _____ RECORDER

Exhibit D – Existing Conditions & Topographic Map (Survey)

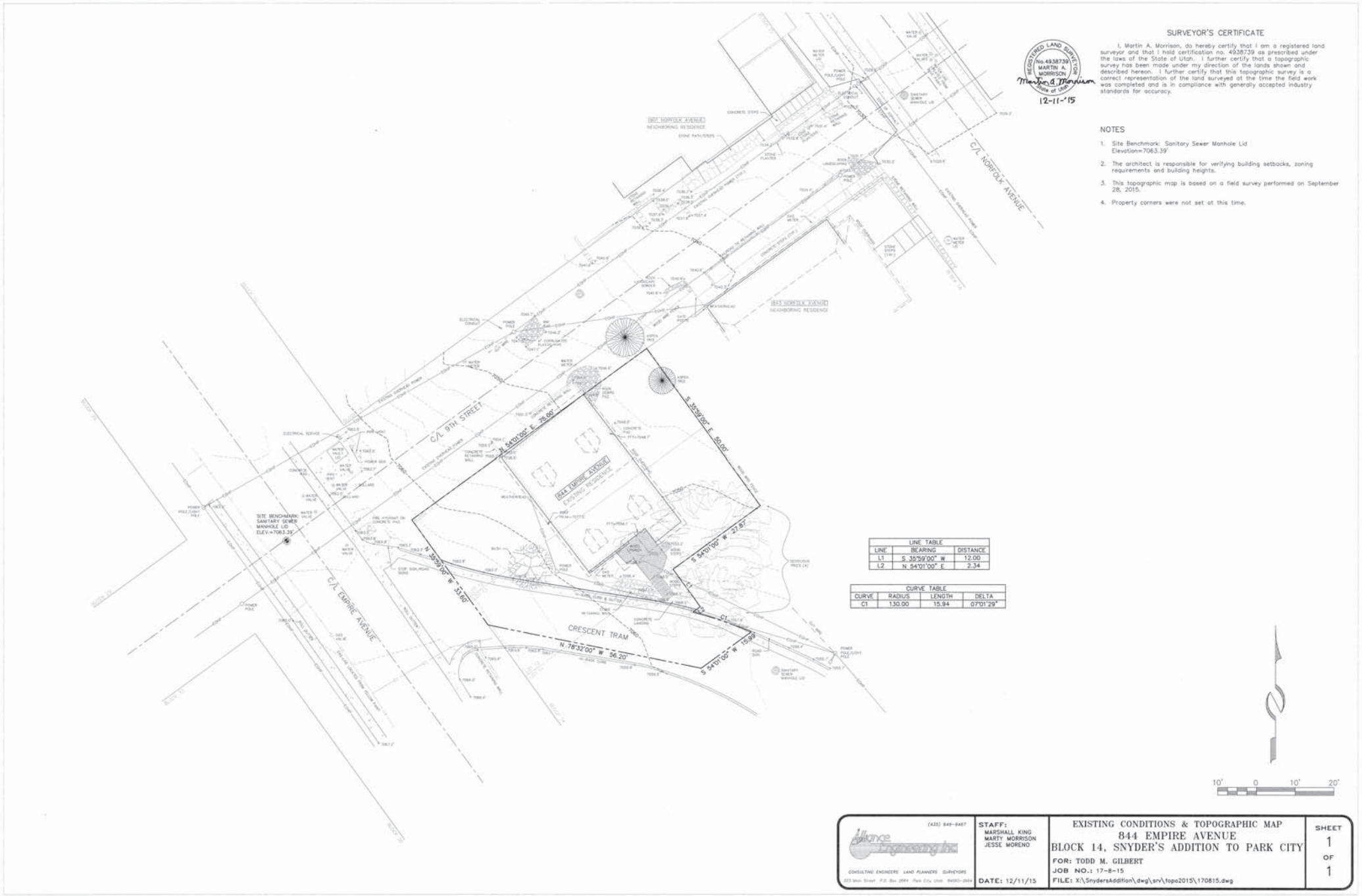
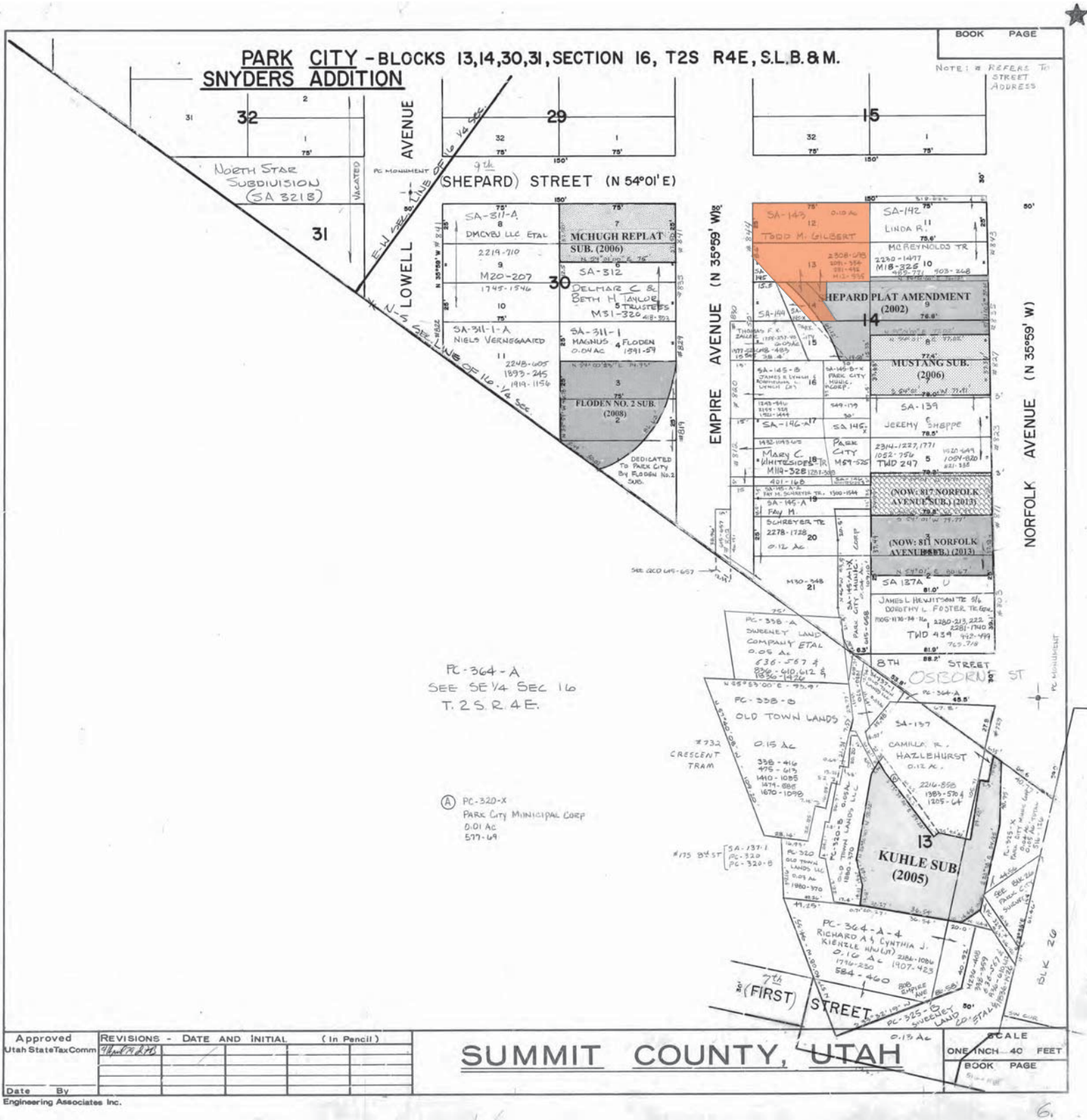


Exhibit E – Aerial Photograph

Exhibit F - Vicinity Map
844 Empire Avenue
Legend
Address
Parcels
Streets
HSI Significant Site
HSI Landmark Site
Empire Ave
Norfolk Ave
Crescent Rd
Lowell Ave
844
843
835
827
823
830
820
812
817
811
803
802
819
822
829
841
835
911
901
906
917
923
902
908
907
912
916
915
921
930
920
908
860
850
835
834
827
830
824
812
0 15 30 60 90 120
Feet


PARK CITY - BLOCKS 13,14,30,31, SECTION 16, T2S R4E, S.L.B.&M.
SNYDERS ADDITION
BOOK PAGE
NOTE: # REFERS TO STREET ADDRESS
NORTH STAR SUBDIVISION (SA 3218)
VACATED
LOWELL AVENUE
9th (SHEPARD) STREET (N 54°01' E)
E-W 1/64 LINE OF 16 1/4 SEC
N-S 1/64 LINE OF 16 1/4 SEC
EMPIRE AVENUE (N 35°59' W)
NORFOLK AVENUE (N 35°59' W)
MCHUGH REPLAT SUB. (2006)
FLODEN NO. 2 SUB. (2008)
DEDICATED TO PARK CITY BY FLODEN NO. 2 SUB.
HEPARD PLAT AMENDMENT (2002)
MUSTANG SUB. (2006)
(NOW: 817 NORFOLK AVENUE SUB.) (2013)
(NOW: 811 NORFOLK AVENUE SUB.) (2013)
KUHLE SUB (2005)
PC-364-A
SEE SE 1/4 SEC 16
T. 2 S. R. 4 E.
PC-320-X
PARK CITY MUNICIPAL CORP
0.01 Ac
577-69
PC-364-A-4
RICHARD A. & CYNTHIA J. KIENZLE HWLJT
0.16 Ac
8TH STREET
OSBORNE ST
7th (FIRST) STREET
CRESCENT TRAM
#732
#175
SUMMIT COUNTY, UTAH
SCALE ONE INCH 40 FEET
BOOK PAGE
Approved Utah StateTaxComm
Date By
REVISIONS - DATE AND INITIAL (In Pencil)
Engineering Associates Inc.

844 Empire Avenue looking northerly

Exhibit H – Site Photographs

844 Empire Avenue looking southeasterly

844 Empire Avenue looking northwesterly

844 Empire Avenue looking southerly

March 21, 2016

Park City Municipal Corporation
443 Marsac Avenue
Park City, Utah 84060

Attn: Francisco Astorga, Planning Department

Re: Plat Amendment
844 Empire Avenue

Dear Francisco,
After review of your email of March 18, 2016 we are disappointed that the entire property is not being included in the footprint area calculation as we thought it would be. Transfer of our ownership of the property occupied by Crescent Tram to the city should hold some value. Based on your email it does not. The full lot area of 4184 sq. ft. would yield a footprint of 1654 sq. ft. We understand that the maximum footprint created by the entire lot is probable not usable based on the other constraints placed on the property such as; lot shape, setbacks and designing around the historic home. We also feel that giving no credit for the Crescent Tram property is inherently unfair.
Your email stipulates that the footprint will be calculated on a lot area of 3242 sq. ft. providing a footprint of 1351 sq. ft. we feel this number is restrictive. After review of a number of design options we feel a footprint of 1476 sq. ft. would allow us to utilize a reasonable portion of the property and gain a modest 125 additional square feet of footprint over your proposed number.
We would very much like to proceed with our plat before the planning commission but feel that it is important to resolve this issue prior to that hearing. We would like to meet and discuss this issue with you at the earliest possible time.
Please let us know when you would be available to meet.

Sincerely,

RECEIVED
MAR 22 2016
PARK CITY
PLANNING DEPT.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 11, 2016

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, John Phillips, Laura Suesser; Doug Thimm

EX OFFICIO:

Planning Director, Bruce Erickson; Francisco Astorga, Planner; Tricia Lake, Assistant City Attorney

==========

REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioner Joyce who was excused.

ADOPTION OF MINUTES

April 27, 2016

MOTION: Commissioner Band moved to APPROVE the minutes of April 27, 2016 as written. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT
There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Bruce Erickson introduced Assistant City Attorney Tricia Lake, who was sitting in for Assistant City Attorney McLean this evening.

Planning Director Erickson reported on issues regarding transportation planning. He noted that the Transportation Department has been talking to the Rotary, the Chamber, the HCPA and others. They are going before the City Council and will probably come to the Planning Commission in a few weeks with a report on the transportation plan, and the Capital Improvement Plan to accomplish those. The Staff was moving forward on

incorporating the plan into the LMC as an item in the moderate category. Director Erickson clarified that the Planning Commission would have the opportunity to provide a recommendation because it is Capital Budget as well as policy changes for Transportation Demand Management.

Commissioner Phillips disclosed that he worked on the house at 220 King Road and knows the owners, but he did not believe it would affect his decision on the item when it comes before the Planning Commission. He noted that the item was being continued to the next meeting.

Commissioner Phillips disclosed that he has worked on small jobs for Mark Fischer in the past. He was not currently involved with Mr. Fischer and had no plans to work with him in the future. Commissioner Phillips did not believe his working relationship with Mr. Fischer would impact his decision on the Bonanza Park item on the agenda.

Commissioner Phillips disclosed that he has an office in the Bonanza area.

CONTINUATIONS - (public hearing and continue to date specified)

1. 220 King Road, Second Amended Lot 2, Phase 1 Treasure Hill Subdivision – Plat Amendment requesting two (2) lots from one (1) lot of record.
(Application PL-16-03098)

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

MOTION: Commissioner Band moved to CONTINUE 220 King Road, Second Amended Lot 2, Phase I Treasure Hill Subdivision plat amendment to May 25th. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

2. Land Management Code (LMC) amendments- Various administrative and substantive amendments to the Park City Development Code. Chapter 1- regarding procedures, appeals, extensions, noticing, stayed and continued applications, revised applications, and standards of review (for Conditional Use Permits, plats, and other applications); Chapter 2- common wall development process (in HR-1, HR-2, HCB, PUT and CT Districts), exceptions to building height (horizontal step and overall height) for Historic Sites, and consistent language regarding screening of mechanical equipment (GC, LI, and other Districts); Chapter 5- landscape mulch and lighting requirements reducing glare; Chapters 2 and 5-

add specifications for height of barrel roofs; Chapter 6- include information about mine sites in MPD applications; Chapter 11- historic preservation procedures; Chapter 15- definitions for barrel roof, billboard, intensive office, recreation facility, publicly accessible, and PODs; and other minor administrative corrections for consistency and clarity between Chapters and compliance with the State Code. (Application PL-16-03115)

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

MOTION: Commissioner Thimm moved to CONTINUE the LMC Code Amendments to May 25, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 844 Empire Avenue – Plat Amendment creating one (1) lot of record from the lot and portions of Lots at 844 Empire Avenue (Application PL-15-03034)

Planner Francisco Astorga introduced Tom Goff, the applicant representative.

Planner Astorga reported that the Planning Commission reviewed the request for a plat amendment at 844 Empire Avenue on March 23rd. At that time it was continued to a future date to allow the Staff and the applicant to address a number of concerns. City Engineer Matt Cassel was present to answer questions.

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

Planner Astorga stated that the outstanding items that were addressed in March related to the road dedication, the building footprint, and the intersection redesign and improvements as outlined on pages 44 and 45 of the Staff report.

Planner Astorga reported that the Planning Staff worked closely with the City Engineer and the Legal Department regarding specific Utah Transportation Code language as cited on page 44 of the Staff report. The language indicates that the roadway is dedicated and abandoned to the use of the public when it has continuously been used as a public

thoroughfare for a period of ten years. The City has evidence indicating that Crescent Tram has been used for longer than ten years. Therefore, per the LMC subdivision regulations outlined on page 45, "Land reserved for any road purposes may not be counted in satisfying yard or area requirements contained in the Land Management Code."

Planner Astorga stated that the property owner owns 932 square feet of the Crescent Tram right-of-way. Therefore, the lot area changes should that be dedicated and officially formalized to the City. The issue is that once the 932 square feet is removed, it further reduces the building footprint.

Planner Astorga remarked that the next point outlined on the page 45 of the Staff report is that the LMC simply indicates that the maximum building footprint is a function of the lot area. He explained that if that 932 square feet is formalized and dedicated to the City as part of the public thoroughfare, they would not be able to count that square footage in the building footprint. Planner Astorga pointed out that the Code does not provide another option.

Planner Astorga stated that the last item for discussion was the intersection redesign improvements. He explained that the intersection as it currently exists works for moving traffic up and down Crescent Tram. The problem is that the City Engineer is not able to grant the property owner access off Crescent Tram. The only vehicular access that the City Engineer is able to grant is either through Empire or unbuilt platted 9th Street. Planner Astorga stated that it would be more difficult for the property owner to gain access off of 9th; however, it is not impossible. The most logical place to put a driveway would be off Empire. If that is the case, that intersection would have to be redesigned to accommodate the driveway for the future remodel/improvement of 844 Empire Avenue. For that reason, the property owner would have the burden of paying the entire cost of the intersection redesign.

Planner Astorga stated that if the applicant indicates that they no longer want to have any type of vehicle access, that would be acceptable to the City. Because the site is deemed historic and a valid compliant structure, on-site parking is not required for a single-family dwelling.

Tom Goff, representing the applicant, stated that the City Engineer was requiring that they come in off of Empire. Mr. Goff noted that recent improvements with the hydrant and other water utility improvements on the 9th Street side have made it almost impossible to access off of Empire without having to move the hydrant. If they dedicate the land and lose the square footage in the house, they would no longer own the land but were still required to pay for the improvements that were done by the City previous to this application. Mr. Goff

stated that the applicant would like the City to either pay for the improvements or at least contribute towards the cost.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Thimm recalled a number of questions that were raised at the March meeting regarding the land, the roadway and what happens when it becomes dedicated. He felt those questions had been addressed in the Staff report. Commissioner Thimm had questions with regards to improvements, the fire hydrant and limited access. He asked if there was a precedent in terms of establishing who is responsible for City property such as a fire hydrant.

City Engineer Matt Cassel explained that the applicant was being requested to redo the intersection because there is not a lot of space. Space was kept available for future stairs, but at this time it does not appear that the stairs will ever go in and the City is considering allowing the applicant to use that space. Mr. Cassel stated that the City does not usually participate in a private driveway being tied into the road when road modifications are necessary to make it work. He noted that fire hydrants are located where they are best utilized and per State requirements. If a hydrant needs to be moved because of driveways, retaining walls or other needs of the homeowner, it is their responsibility to move that hydrant.

Commissioner Thimm clarified that there was precedent within the City for the applicant to have that responsibility. Mr. Cassel answered yes, the City does not participate in those types of modifications.

Commissioner Suesser referred to the comment about the stairs never going in and asked if that has definitely been determined. Mr. Cassel stated that since the time he came to Park City in 2008 they have tried to maintain a corridor to put stairs in the 9th Street right-of-way from Norfolk to Empire and continuing up from there. At one time it was considered as part of the Walkability Plan but it has since been taken out. He did not believe the stairs would ever go in because so many other utilities have been located in that corridor and there is not enough room for the stairs without moving those utilities at great expense.

Commissioner Suesser asked if it was possible for the owner to access the property. Mr. Cassel stated that the City actually sees the access off Empire, but the owner can also use

three or four feet of space on 9th Street beyond where the lot line ends to put in the driveway.

Planner Astorga explained that if the applicant chose to go through 9th Avenue for a private driveway, it would be subject to a conditional use permit to be reviewed by the Planning Commission.

Commissioner Suesser asked if it would interfere with possibility of putting in the stairs in the future. Mr. Cassel replied that if the driveway went in on 9th Street, the owner would have to sign an encroachment stating that if City facilities would go in at any time in the future, the owner would have to move the driveway at his expense.

Chair Strachan understood that there would not be an issue if the applicant was to build within the entitled setbacks and not build a driveway. Mr. Cassel replied that he was correct.

Commissioner Band asked if this application was pending when the improvements were done on Empire. Planner Astorga answered no. This application was submitted in December. Mr. Cassel pointed out that Empire was completed three years ago.

Commissioner Campbell believed that most of his concerns from the last meeting had been addressed, and he understood that the road was being dedicated. Commissioner Campbell noted that the City was taking land from the left-side of the property and the City owns property on the right. He thought it would be fair for the City to give the applicant some of its property on the right since they were taking away some of his property on the left. Commissioner Campbell assumed it was not a precedent that the City was interested in establishing. He was interested in knowing how the road has cut across this property and how long it has been there.

Commissioner Band assumed that the original property would have been compensated for the road. Mr. Cassel stated that 803 Norfolk was looking to move forward. That property owner has indicated that in 1974 they went out of town and when they came back the City was putting in a road. Mr. Cassel remarked that after ten years it becomes a prescriptive right, and based on State Code it is no longer private land even though the owner still pays the taxes. Mr. Cassel explained that this was a formal dedication of something that actually occurred a long time ago without anything in writing. He pointed out that the unfortunate situation is that the owner has been paying taxes on a community piece of property for almost 30 years.

Mr. Cassel stated that if the Planning Commission was interested in Commissioner Campbell's suggestion for the City to give back some of the land on the right, they could go

through a vacation process and see whether the City Council would entertain that idea. He noted that the City Council consistently expects to see some benefit to the community. If the trade is one acre for one acre he did not believe it would be considered. Mr. Cassel pointed out that it would not be a fair trade because the community already has use of the road.

Commissioner Campbell stated that if he was the owner he would be more concerned with the idea that he could put in a driveway and build a garage and at some point the City could shut down his access. In his opinion, that would be worse than paying to move the fire hydrant. Mr. Cassel stated that the encroachment agreement leads them down that road, but it could possibly be negotiated if the Commissioners thought the City should give more leeway. Commissioner Campbell understood the reasoning from the standpoint of the City and the need to access public utilities, etc. However, his concern was the possibility of an owner spending money to build a garage that might eventually become inaccessible. He would like the City to consider some type of negotiation where the City could give some land to ensure that the applicant could build a driveway that could not be rendered unusable. Mr. Cassel reiterated that the Planning Commission could make that a condition of approval in their recommendation, but it was a City Council decision. At this point he needed to follow through on the encroachment agreement. Only the City Council can waive certain sections of that agreement.

Commissioner Suesser liked the idea of negotiating for the City to pick up the cost of moving the fire hydrant. She preferred to restrict the driveway access off Empire and not permit access from 9th because they should not further impede the City right-of-way. Commissioner Suesser would like to see the walkability ideas further implemented in Old Town. She recommended removing that language from the condition.

Chair Strachan clarified that Commissioner Suesser was referring to Condition of Approval #5, and that her suggestion was to strike the portion allowing the owner to put in drive access on platted but unbuilt 9th Street. Commissioner Suesser replied that he was correct.

Commissioner Band understood that the applicant would not need the 9th Street access if they have access off Empire. She believed that Empire was the ideal solution; however, it would be quite expensive to move the improvements.

Director Erickson remarked that the comments regarding the fire hydrant and other issues were appropriate. Their comments would be reflected in the Minutes of this meeting and would be delivered to the City Council. He did not believe the Planning Commission has authority under the LMC to make that request as a condition of approval.

Commissioner Band supported the idea of the City participating in the cost of moving the hydrant to accommodate access on Empire Avenue.

Commissioner Thimm asked for the width of the yet to be improved right-of-way for 9th Street. Mr. Cassel replied that it was 30 feet.

Commissioner Suesser asked Planner Astorga to point to the location of the fire hydrant. Marshall King with Alliance Engineering, who had prepared the survey, indicated the approximate location.

Commissioner Campbell understood that there was a minimum required distance from an intersection to a driveway. He noted that once on to Empire, in order to meet the required distance from the legal intersection for the driveway they would already be off of their property. Mr. Cassel explained that it was one reason for allowing the owner to use part of 9th Street. Since it is at the corner, half of the driveway would be on 9th Street and the other part would be in front of their property on Empire. The three or four feet on 9th Street will help shift the driveway to help achieve the separation from the intersection. Mr. Cassel stated that the separation from the intersection is 10 feet drive to drive and a little more to offset from an intersection. He pointed out that it would still be much safer than accessing off of Crescent Tram.

Commissioner Phillips agreed with Commissioner Suesser. He thought the Staff report was well done and addressed the issues from the last meeting. Commissioner Phillips stated that aside from this project, he thought the Planning Commission needed to have a discussion on building footprints that do not max out on property lot lines. Had they found a way to give the applicant additional square footage, he would have argued that it was important to have articulation around the side of the building. Recognizing that it did not apply at this point it was not an issue for this application.

Commissioner Thimm agreed with Commissioner Campbell with respect to the value of land and the option of looking at the cost of the hydrant as issues for the City Council to consider.

Chair Strachan stated that any property along Crescent Tram is a difficult piece of property, and this one might be the most difficult. He understood that the applicant was between a “rock and a hard place”, but so was the Planning Commission against the Land Management Code. Chair Strachan noted that the applicant still had a 3400+ footprint which should result in substantial living space. He believed the owner had the opportunity to negotiate with the City Council and the Staff on how to approach access off of Empire. Chair Strachan would like for the Planning Commission to have more say and for the

fairness scale to be more balanced; but they are bound by the Land Management Code and their purview is clear.

Commissioner Phillips asked if the building application would come back to the Planning Commission as a CUP. Planner Astorga replied that the Planning Department has entertained a few HDDR pre-applications. A formal Historic District Design Review has not been submitted. He did not believe this project would require a Steep Slope Conditional Use Permit; however, it would depend on the extent of the remodel and how much area outside of the existing footprint would be amended. If they choose to go through 9th Street a recommendation from the City Engineer, that would be a conditional use permit. At this point Planner Astorga did not believe it would come back to the Planning Commission.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the plat amendment for the parcel located at 844 Empire Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Campbell seconded the motion.

VOTE: The motion passed 4-1. Commissioner Suesser voted against the motion.

Findings of Fact – 844 Empire Avenue

1. The property is located at 844 Empire Avenue.

2. The property is in the Historic Residential-1 (HR-1) District.

3. The subject property consists of all of Lot 12, most of Lot 13, and a portion of Lot 14, Block 14, Snyder's Addition to the Park City Survey.

4. The site is listed on Park City's Historic Building Inventory as a significant site.

5. The proposed Plat Amendment creates one (1) lot of record from the existing three (3) parcels, one (1) full lot and two (2) partial lots consisting of a total of 4,174 square feet.

6. A portion of the property is encumbered by the Crescent Tram Road which has been used since the late 1800s and was paved in the early 1970s.

7. The City requests that the property owner formalize the dedication to the City that portion of the Crescent Tram prescriptive easement area that is on subject property. This area consists of 932 square feet.

8. The proposed lot would be 3,242 square feet.

9. A single-family dwelling is an allowed use in the District.

10. The minimum lot area for a single-family dwelling is 1,875 square feet.

11. The proposed lot meets the minimum lot area for a single-family dwelling.

12. The minimum lot width allowed in the District is twenty-five feet (25').

13. The proposed lot is approximately thirty one feet (31') wide.

14. The proposed lot meets the minimum lot width requirement.

15. Per LMC § 15-4-17 the Planning Director has determined the following setbacks:
    a. From 9th Street, platted un-built ROW, front yard, ten feet (10') minimum. This is the historic front of the structure.
    b. From Empire Avenue, front yard, ten feet (10') minimum.
    c. From Crescent Tram, front yard, ten feet (10') minimum.
    d. From the south neighbor, rear yard, ten feet (10') minimum. This side is opposite of the historic front of the house.
    e. From the east neighboring property, side yard, five feet (5') minimum.

16. The existing historic structure does not meet the minimum setbacks along the north side, platted un-built 9th Street ROW, as the structure was built on the property line.

17. The existing historic structure does not meet the minimum setbacks along the shared property line with the neighboring site on the south as it is approximately eight and a half feet (8.5').

18. The existing historic structure does not meet minimum setbacks along the Crescent Tram ROW dedication as it is approximately five feet (5') from the new property line after the dedication.

19. LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures; however, additions must comply with building setbacks.

20. The concrete retaining wall encroaches across the north property line over the 9th Street ROW.

21.The proposed lot area consisting of 3,242 square feet yields a maximum Building Footprint of 3,151.0 square feet.

22.LMC § 15-7.3-4(I)(2) Widening and Realigning of Existing Roads indicates that where a subdivision borders an existing narrow road for realignment or widening, the Applicant shall be required to improve and dedicate at his expense such Areas for widening or realignment of such roads.

23.LMC § 15-7.3-4(I)(2) indicates that land reserved for any road purposes may not be counted in satisfying yard or Area requirements contained in the Land Management Code.

24.Utah Code, Transportation Code, Right-Of-Way Act § 72-5-104 declares that a highway (street or road, not including an area principally used as a parking lot) is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of ten (10) years.

25.Crescent Tram has continuously been used as a public thoroughfare for much longer that the required ten (10) years.

26.LMC § 15-2.2-3(D) indicates that the maximum Building Footprint is calculated according the following formula for Building Footprint: MAXIMUM FP = (A/2) x 0.9A/1875, where FP = maximum Building Footprint and A= Lot Area.

27.The proposed lot area shown on the attached requested Plat Amendment displays that the proposed lot is to contain 3,242 square feet, which would yield a maximum Building Footprint of 1,351.0 square feet.

28.In order to provide a future vehicular access to 844 Empire Avenue, the City Engineer has indicated that the existing intersection at Empire Avenue and Crescent Tram needs to be re-designed and improved.

29.The current site does not have vehicular access.

30.The future vehicle access is for the sole benefit of 844 Empire Avenue.

31. All of the costs associated of the re-design and improvements are the burden of the property owner.

32.The intersection currently works as-built, without vehicular access to 844 Empire

Avenue.

33. The City Engineer has indicated that a vehicular access can only be accommodated off Empire Avenue or through platted un-built 9th Street.

34.The City Engineer is not willing to support vehicular access directly off Crescent Tram.

35.The City's Historic Site Inventory designated the site in the significant category.

36.Historic Structures that do not comply with Off-Street parking and driveway location standards are valid Complying Structures.

37.Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment.

38.There is good cause for this Plat Amendment as the lot line going through a historic structure will be removed, 932 square feet will be dedicated to the City for the Crescent Tram road for public use, the requested Plat Amendment will not cause undo harm to adjacent property owners, and all requirements of the Land Management Code can be met.

39.The proposed lot area of 3,242 square feet is a compatible lot combination as the entire Historic Residential-1 District has abundant sites with these approximate dimensions in this neighborhood.

40.All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 844 Empire Avenue

1. There is Good Cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
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 stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 844 Empire Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. A ten foot (10') wide public snow storage easement will be required along the Empire Avenue front of the property.

4. Fire sprinklers shall be required for all new construction or substantial renovations, as determined by the Park City Building Department during building permit review.

5. Drive access to the site shall be from Empire Avenue or through platted un-built 9th Street in a location approved by the City Engineer.

6. The concrete retaining wall built over the north property line shall be resolved prior plat recordation. The applicant bears the burden of proper approvals for the retaining wall, which may include an encroachment agreement with the City through the City Engineer's office, or relocation/removal of the retaining wall, subject to compliance with applicable Design Guidelines for Historic Sites through a Historic District Design Review application.

2. 1401 & 1415 Kearns Blvd., 1415, 1635, 1665, 1685, & 1705 Bonanza Dr., 1420 & 1490 W Munchkin Rd., – Bonanza Park East Master Planned Development (MPD) Pre-Application determination in the General Commercial (GC) District. Project consists of a mixed-use development containing commercial space on the first floor and office or residential uses on the upper levels. Project includes surface parking and one level of underground parking. (Application PL-15-02997)

Planner Astorga reported that the City received an application for the Bonanza Park North East Master Planned Development Pre-application determination in the General Commercial District and listed as various sites as shown on page 65 of the Staff report. The eight parcels and lots are in the form of three separate LLCs, all controlled by Mark Fischer.

Planner Astorga reviewed the site plan on page 102 of the Staff report to orient the Commissioners to the exact sites that are part of the Master Planned Development. The sites are the Maverick Gas Station, the Park City Clinic, the Skis on the Run, Switchback Sports, the Old Miners Service Car Wash, Anayas Market, the Storage Units that are accessed of off Munchkin, Silver King Coffee, and the Kimball Arts Center.

Planner Astorga stated that the master plan has a total square footage of 281,490 square feet. The square footage it broken up into residential space which is approximately 39%, office at 22% and commercial retail at 18%. A hotel is also proposed at approximately 20% of the 281,490 square feet. He noted that the breakdown of the different buildings and uses was found on page 66 of the Staff report outlining the footprint, number of stories, setbacks and other information.

Planner Astorga stated that the LMC requires that any MPD must go through the pre-application process where the Planning Commission reviews the pre-MPD and determines compliance with the General Plan and the specific zoning district before the applicant moves forward with the full MPD. Planner Astorga explained that per the LMC the preliminary review should focus on the General Plan and the public should have the opportunity to comment on the preliminary concepts so the applicant can address the concerns.

Planner Astorga remarked that if for some reason the Planning Commission cannot find compliance with the General Plan and the zoning district, the applicant has the ability to modify their application or they can move forward and submit specific applications to amend the Zoning Code and the General Plan. Planner Astorga stated that it was a standard procedure allowed by the City; however it does not occur often.

Planner Astorga noted that the applicant was prepared with a presentation this evening. Following the presentation and public hearing, he requested that the Planning Commission discuss several items that the Staff believed could be addressed at this time.

Craig Elliott, the project architect, provided a brief history of the project and the process to reach this point. He then presented the design concepts and the reason for some of the design decisions.

Mr. Elliott stated that in 2001 he and Mr. Fischer began discussions with the City regarding redevelopment of the area, particularly in the East corner. As time evolved it developed into what is known as the Bonanza Park District. He had outlined the District in orange, which consisted of the Kearns Boulevard, Park, Bonanza Drive, and Ironhorse all the way down to Deer Valley Drive. Mr. Elliott clarified that he and Mr. Fischer were not working on the entire zoning area. Mr. Elliott outlined several different redevelopment projects that

occurred throughout the area from 2001 to 2009. He stated that in 2009 they started working on a project that was tied to this overall parcel, which is the Empire Avenue affordable housing project. It started with the CUP process through the City and it evolved through the planning process to represent the project that was completed just prior to the 2015 season. Mr. Elliott noted that it was designed to be assigned as part of the affordable housing obligations for the property for the Bonanza Park area. He pointed out that it is rare for a developer to build affordable housing before the main project. He stated that Rail Central also has 24 units associated with this project, which were built with the expectation of being assigned to this in the future.

Mr. Elliott stated that in 2009 they restarted the MPD review process with the City and Staff. They looked through a series of site suitability areas and carved out the east corner, which is bound by Kearns and Bonanza; however, nothing moved forward with their discussions with the Planning Staff. Shortly after the General Plan rewrite was started and within that rewrite the Bonanza Park District was formally acknowledged. In 2011 they submitted another MPD pre-application for a larger swath in Bonanza Park. In that submittal they offered to process the project in line with the General Plan rewrite. After three months a public meeting open house and presentation was held at the Yard to discuss the application that was submitted to the City. The area included the parcels where the Yard is, the corner of Bonanza and Kearns, and also included at the time was Powder Corp, PCMR parcel off of Bonanza. The represented massing was an idea of how the massing might fit on the site at the time.

Mr. Elliott stated that by 2015 they had been through Bonanza Park, Form Based Code, and a number of other things, and they were will in the same position from the standpoint of the Planning Code. Therefore, they went back to the straightforward MPD process.

Mr. Elliott presented photos of the area being discussed this evening showing the existing conditions, pedestrian walkways, parking and driveways, various buildings and the pavement associated with these properties. He pointed out the other negatives associated with the area that does not represent the best of Park City.

Mr. Elliott stated that in October 2015 they submitted their MPD pre-application and they were excited to finally be able to talk about it after all these years.

Mr. Elliott presented the concept of the proposed project. The “pork chop shaped” parcel was reduced to just the northeast. He showed the underlying building and infrastructure, as well as the larger portion of the District. He focused on the northeast corner of the parcel. He commented on the amount of land that is dedicated to the automobile. Driveways and parking were 52% of the total site. Building footprint was 20% and the open space was 28%. Mr. Elliott pointed out that more than half of that was associated with the

Doctor's Clinic Building. He indicated the boundaries of the parcels, which he believed was important because it comes into play when they do the analysis of the sites.

Mr. Elliott explained the site suitability analysis process, which is a process required to understand the maximum development possible with the underlying code.

Mr. Elliott presented the site plan and noted that the yellow color represented the building areas and building heights. The dark blue or purple color represented the building massing that is allowed under the General Commercial Zone. He noted that they were proposing approximately $281,000 square feet, which is less than 65% of the maximum building area in the site suitability analysis. The minimum open space requirement is 30%. This concept proposes 48% open space of the site. The area dedicated to driveways and parking is about 24%. Basically, they doubled the open space and cut in half the area on surface that is required for cars. The proposed footprint is 27% of the total site, which is only an 8% increase over the existing building footprints.

Mr. Elliott talked about site circulation, which is where they started in understanding the principles of the master plan. They looked at it from a vehicular access point and from the standpoint of pedestrian/bike access points. Red arrows indicated the ten existing access points to the property. The proposed project cuts those access points in half and reduces the access points to two locations along Kearns, two locations along Bonanza Drive, and one access point on Munchkin Road. After the analysis of the access points they did an analysis of how vehicles move on the site. Mr. Elliott stated that their proposal dramatically reduces chaos for a vehicle moving through into the site. The intent is take this from an outwardly focused project on to arterial streets, and turn it into an inwardly focused pedestrian centric space with commercial and retail mixed uses that are accessed off of street-like corridors. Mr. Elliott noted that the two arrows shown on the top and bottom were access points to the underground parking underneath the project.

Mr. Elliott reviewed the pedestrian and bike access that was also done, which showed that currently the pedestrian and bike access is relatively close high speed traffic and high volume traffic. It also showed that there are no connections directly to any of the buildings that are pedestrian focused. Every access goes through a parking lot. He explained how the proposed project would be pedestrian and bike centric. He indicated a larger star which represented a plaza to be used as a gathering space with water features and a bandstand. The smaller star represented deli and restaurant type that spill out into the gathering area.

Mr. Elliott stated that the other parts of the MPD process and the General Plan requirements talk about buffers to adjoining neighborhoods. He noted that essentially the neighborhood is completely surrounding the property with the exception of the Kearns

Boulevard side. He indicated the buffer zone. There is a 30-foot no build zone and a buffer zone that is required. The average building along the entire buffer zone is approximately 60 feet from the property line. They envision that space to be much like the extension across from the high school with open space, pathways and landscaping. It works as a visual buffer and increases the quality of the space along Kearns.

Mr. Elliott stated that they are also required to look at utilities. They had not dug too deploy into water and gas utilities, but they dealt extensively with Rocky Mountain Power and the process over the last 15 years. Mr. Elliott indicated the existing overhead power distribution. He noted that the project was designed to allow those overhead lines to remain in place, with the expectation that they will not be there forever.

Mr. Elliott commented on building design and he described their thought process. Their expectation is for this area to become a vibrant community location. It has the opportunity to provide live/work spaces and to provide services that do not exist today. As a mixed-use project it would have multiple levels. They were proposing buildings that range from three stories to five stories with a parking level below. There would be retail and commercial on the main level, parking below, and a mix of office and residential spaces on the upper levels. Mr. Elliott presented slides of places in town that already have that configuration and have been successful.

Mr. Elliott reviewed a 3-D massing of what the proposed project entails. He presented street view images from the interior of the project. The intent was to show how these spaces interact and how the buildings interact on the site.

Chair Strachan opened the public hearing.

Steve Onesco, a resident in the Prospector area, expressed concerns with the proposed project. Mr. Onesco thanked Mr. Elliott for showing the slides because it made him realize that the green hills seen in the first few slides would not be seen if this project occurs. He thought the closing slides also suggested that the residents would be blocked from seeing the sites that they appreciate as residents of Park City because the three or four story buildings would impact their sightline. Mr. Onesco cautioned the Planning Commission to be careful of presentations because the cars depicted cars were so small in relation to the stories, that it appeared each floor would only be one or two cars tall, when in reality that would not be the case. He thought the slides were misleading in the sense that the building would be huge in height. Mr. Onesco thought the comment that the coverage would go from 20% to 28% was misleading because it was more like a 40% increase than an 8% increase. Mr. Onesco felt that three to four stories was inappropriate for a residential area, and he views this project as part of the Prospector Residential area. He did not believe the City Council enforces the setbacks that exist on the books for the

Prospector Area. New building comes right out to the sidewalks and it is impossible for children to ride bikes on the sidewalks. He was concerned that this project would represent more of the setback issue. Mr. Onesco appreciated architectural renderings, but he was more interested in seeing models or renditions of air, light and noise pollution, and sight blight. He would like the opportunity to put together a power point presentation that accentuates the negative aspects. He believed the proposed hotel would bring more laborers to Quinn's Junction because they could not afford to live in town and it would generate more traffic driving into town. Skier traffic coming down the hills during the winter would impact with the traffic in and out of this large new development. Mr. Onesco stated that he is very sensitive to light pollution because it is contrary to the mountain environment they like to promote. He named buildings in Park City where the lights are overwhelming in terms of obscuring the night sky. He suggested at the very minimum to have a consultant report on how this project would affect the night sky so the community can understand what impacts to expect. Mr. Onesco commented on noise pollution and the constant drone of HVAC units currently in Prospector. He has complained to City Code Enforcement about the excess decibels. It disrupts the entire neighborhood and there are no longer peaceful walks through town. Mr. Onesco believed the pedestrian walkways being proposed were a token offer of compensation. They will not be used if they are not lighted because of safety concerns; and if they are lighted it will add to light pollution. He did not find that to be an acceptable tradeoff. Mr. Onesco stated that currently in Prospector he cannot count all the stars in the Big Dipper, and he was afraid they would lose more of the night sky and more of the day sightline of the green hills and views if this project moves forward.

Ruth Gezelius offered important points if they were to see redevelopment on this parcel. With this level of commercial and residential density they need to seriously take into account where the transit pick up would be from this site. In this particular location it would lend itself to consider Bonanza versus SR248, which is an outgoing transit lane at this point. Ms. Gezelius stated that her second point in relation to transit and parking on this particular site is that basically they have underestimated the amount of parking places they really need for delivery trucks and commercial vehicles in commercial developments. Where they have permanent tenants in residential uses on upper levels, they have also underestimated the number of parking spaces and storage areas that are required to make a parcel livable. Ms. Gezelius noted that many people in this area of town rely on public transportation to go to the supermarket. She also urged the Planning Commission to take very seriously the issue of height exceptions. Over the years the City has been restrictive and stringent regarding giving anyone height restrictions; and people in the Historic District have been asked to take height reductions that have been onerous for many people. They have only allowed height exceptions that were either on a historic commercial street or for large public buildings, such as the ski lodges and existing historical structures such as the

Library. Ms. Gezelius did not believe it was possible within the City limits to accommodate everyone who wants to be here and everything they want to build.

Clay Stuard stated that he had submitted written comments and he would only highlight what was written. Mr. Stuard assumed this MPD would be a long process and he understood the fact that this was a difficult site to plan with real constraints. He applauded some of the design features that were incorporated into the plan. However, six out of seven buildings are four or five stories high in a district that allows three stories. For him personally, that is an overwhelming negative for the plan from the very beginning. Mr. Stuard believed the applicant's request for additional height was based upon a distorted interpretation of the LMC and the General Plan. It does not make sense because the underlying assumptions are not commercially viable to reach their maximum square footage number. Mr. Stuard was unsure where the applicants would take this and what direction the Planning Commission would provide, but if it stays in its current form it should be rejected outright.

Lee Whiting, the President of the Claim jumper Condominium Association stated that the Claim Jumper residents are affected by development in the area. He noted that the following evening the City Council would be discussing the potential purchase of a parcel that, in his, opinion should be related to this application. The solutions that they seek for the City with respect to congestion, transportation and access need to be integrated. Mr. Whiting hoped there would be some level of linkage established between these proposals and that the City Council and the Planning Commission not deal with these matters in isolation. Mr. Whiting commented several items in the Staff report that he felt would affect the Claim Jumper. One is a pre-existing agreement with UDOT for signalizing Homestake and the intersection of Homestake and 248/Kearns in the event that denser development occurs to the East, which is the parcel being considered this evening. Along with that, the agreement states that there would be access restrictions, which appears to be the case, and he urged the Planning Commission to pay attention to tying that together with the UDOT agreement. Mr. Whiting referred to the proposal being discussed by the City Council, and noted that in the real estate purchase contract there appears to be an easement being granted for the extension of Munchkin road to Homestake Road, which affects the flows in this area. That was an integration issue that the Claim Jumper Condos oppose because it would greatly increase traffic in the area. Mr. Whiting clarified that Claim Jumper was also against the idea of having a transit center across the street. They preferred the previous proposal, which was a 21 townhome development with good setbacks; and it limited the congestion and traffic in their area, which is primarily residential. Mr. Whiting stated that pedestrian access is a concern with the limited ingress/egress to this substantial development, pedestrian warnings on sidewalks and other things to promote safety should be considered if this project moves forward. Mr. Whiting asked about the parking ratios, which was directly tied to the proposed 1,000

spaces for the proposed transit parking and affordable housing plan that is part of the parcel purchase discussion. He asked if this project is adequately parked and whether the idea of selling the parcel and the City absorbing the cost of providing parking was an externalization of costs from what might be the responsibility of the density of the development. Who pays for the parking and how is a significant question. Regarding the height restriction, Mr. Whiting thought it was a topographical argument. The photos Mr. Elliott presented showing the images across town and the heights on the building on Main Street are greatly impacted by the surrounding topography. If you stand on Marsac or Rossi Hill or the upper levels of Park Avenue and Empire you can look over the tops of those buildings and still see the beautiful mountains. He believed a responsible study of elevations and projections and from what vantage points the entry corridor is affected by the massing should be considered. Mr. Whiting noted from the Staff report that the Staff was requesting significant discussion on some of the issues.

Bill Coleman thought there were many good things about this project given the recent history of the area. He commented on the history going back to 1970 when there was a higher height restriction. Mr. Coleman stated that they need to solve the issue of density, and the finest way to solve it is with height variation at the very least. He liked the idea of a village that has people living in so it is animated. Mr. Coleman did not believe that currently exists in Prospector, even though they tried to have a village plaza going through. It was intended well but it never happened right. Part of how this could work so easily now compared to before is the exercise the City went through with the Form Based zoning because they took the best of that and put it on paper. Mr. Coleman understood that some people's sensitivities are somehow offended by very easy things, but he thought this was a great opportunity to use this long process to address of the important issues, including height and night lighting. Resolving the issues in the best way possible is the art or compromise. Mr. Coleman stated that getting housing into this part of the commercial district is imperative and he was unsure how it could be accomplished without additional height. He would not be opposed to allowing even more height. He would look for a zone that allows for more height in the Homestake and Claim Jumper areas if they ever decide to redo those units. Mr. Coleman believed that higher density should come in the form of height, and this area is the perfect place for it. He understood it was a balance act but this plan was a great springboard and he hoped the Commissioners would see it that way.

Alex Butwinski, a Park Meadows resident, agreed with Mr. Coleman. This is the last piece of property that could be developed with any cohesive plan, and he believed this project was a great start. Mr. Butwinski stated that he has never been afraid of height. He suggested that the people concerned about the view should stand on Sidewinder and look to the west and consider what already blocks their view. The further they go away from the height the less the impact is on the hillside looking up. He was confident Mr. Fischer and Mr. Elliott would work on showing that representation as the process moves along.

Mike Sweeney referred to the first speaker's comments about noise pollution. Mr. Sweeney does sound testing and explained that if a dba is increased by three, it would double the sound level. Based on that formula, the meeting this evening was being conducted at approximately 60-65 dba. If they keep multiplying by three they would figure out how many times louder this is than the 50 dba, which is the requirement that must be met after 10:00 p.m. per the sound ordinance.

Mr. Onesco corrected some misperception. He stated that decibels is the way to measure sound; however, a quiet room is typically 20 decibels, which is the sound he believed they were hearing in this room. A noisy classroom or gymnasium or a police whistle would be 80 decibels. A turbo jet airplane is 150 decibels. Mr. Onesco remarked that 50 decibels was not occurring in this room and he believed Mr. Sweeney was inaccurate. He suggested that the Planning Commission consult the experts to find out what the noise would be during construction. He reiterated that there was significant noise pollution in Prospector without this project. He assumed the hotel would have HVAC and other amenities that will require a constant drone of noise in the neighborhood. Mr. Onesco offered to share his information on decibels after the meeting if they were interested.

Chair Strachan closed the public hearing.

Chair Strachan clarified that the 281,000 square feet proposed was 65% of the maximum building area the developer believes they are entitled to. Mr. Elliott stated that it was 65% of the maximum building area that is quantified by the Code. He has met with the Staff multiple times over the past ten years to ask how it should be calculated, and that number was based on the direction he was given over the years. Chair Strachan asked if 65% included the open space requirement. Mr. Elliott explained that the maximum building area is just the space inside the building. They were proposing 65% of the maximum. The open space they were showing was different because the open space is a footprint calculation, whereas the building areas is a multiple level calculation.

Chair Strachan requested that Mr. Elliott go through the footprint calculations as he perceived them. Mr. Elliott stated that the buildable area of the footprint was 150,000 square feet based on the setbacks and the underlying zone. Chair Strachan asked what percentage of that number they were looking to build.

Director Erickson thought it was better to ask the applicant to come back with the calculations to make sure it is accurate. Chair Strachan clarified that he would not hold the applicant to the number, but he thought it would be helpful if the Planning Commission understood the applicant's position on how the number is calculated and whether they would be using a percentage of 150,000 square feet or the entire square footage. Mr.

Elliott replied that it would be a small percentage of the 150,000 square feet. He was working the calculation to give them a number.

Planner Astorga referred to the site suitability analysis on page 103 of the Staff reported and noted that the applicant was building up to the 30 foot frontage protection zone. The Code allows that subject to a conditional use permit. Therefore, the applicant was assuming that the Planning Commission would be willing to grant a conditional use permit for five sites that would allow him to build up to that 30 foot line.

Chair Strachan believed a number of assumption would be made that may or may not pan out as reality unfolds. Mr. Elliott stated that when they made the submittal in 2011 the City Council hired an architect in town to do an analysis of the proposed square footage. He noted that this was proposal was very similar.

Mr. Elliott stated that based on his quick calculation of the total buildable area the percentage was approximately 41%.

Commissioner Band stated that the purpose of the pre-MPD is to determine compliance with the General Plan and the Zoning District LMC. She believes the documents contradict each other on some points, and on other points it asks for things that at are not required in the pre-MPD application. Regarding compliance with the General Plan, Commissioner Band noted that the overriding goal for this neighborhood per the General Plan is to create new housing opportunities while maintaining existing affordable units. That language was contained on page 168 of the General Plan, Volume 2. She read General Plan Goal 3, “Encourage alternative modes of transportation”, which also matches Part B of the GC Zone to allow commercial uses that orient away from major traffic thoroughfares to avoid traffic congestion. Commissioner Band pointed out that it was also noted in 1C and 3A of the General Plan. She thought the presentation this evening showed how they were trying to mitigate traffic and curb cuts. She agreed with public comment regarding the bus, and the need to heavily look at connectivity and walkability because traffic is a top priority in the City. Having curb the cuts on to Kearns and Bonanza with this kind of density will add significantly more traffic. Commissioner Band stated that any plan put forward should have foot, bike, and bus alternatives spelled out, curb cuts minimized, mitigation plans for vehicular traffic and an emphasis on full connected street if possible.

Commissioner Band read Goal 5 of the General Plan, “Applicant should state Green Building Practices”. She stated that the Planning Commission could not judge for compliance with the General Plan without that information. She noted that the General Plan, in general and for the zone, 3.3 calls for sustainable redevelopment. Also, 15.6, Part 1, Part J of the LMC states that, “An MPD should encourage mixed-use, walkable and sustainable development and redevelopment that provide innovative and energy efficient

design, including innovative alternative to reduce the impacts of the automobile on the community". In reference to Goal 7, the applicant should provide information about residential specifics because the Planning Commission could not judge for compliance with the General Plan without that information.

Commissioner Band stated that even though the GC zone allows both hotels and nightly rentals, the General Plan encourages nightly rentals to be limited and hotels to be in the resort zone, per 7B and C. Commissioner Band stated that in her opinion the City does not need another hotel, particularly in that location. She noted that a local hotel owner, who is also a City Council member, told her that Park City has the lowest year-around occupancy of any resort town. Park City is in the mid to low 30 percent range when most resorts run 60-80%. The problem is not the number of visitors, but the fact that there are 200-300 more beds than comparable resort towns.

Commissioner Band stated that when Form Based Code was being discussed she was on record for saying that the residential zones should remain residential. The General Plan would like this area to be a live/work/play neighborhood, and she was opposed to allowing nightly rentals. She pointed out that even without nightly rentals, many of the homes being sold in neighborhoods are going to second home owners, and people are losing their neighbors. Other than changing the LMC she was unsure how that issue could be addressed.

Commissioner Band commented on height and density. She noted that the General Plan Natural Setting, Goal 4B, is to buffer entry corridors from development and protect mountain vistas. The Frontage Protection Zone purpose in the LMC 15-2.20.1(a)(b)(c)(d) is to preserve Park City's scenic view corridors, preserve and enhance rural resort character of Park City's entry corridors, provide significant landscaped buffer between development and highway uses, minimize curb cuts, driveways and access points to highways. Commissioner Band stated that when the Planning Commission considers giving height and Frontage Protection Zone exceptions, it is because the City will get more than it is giving. Commissioner Band noted that she is not afraid of height and she has previously said that on the record. She also liked the design that was presented this evening. However, if they allow going into the Frontage Protection Zone and allow height, the City needs something in return.

Commissioner Band stated that based on presentation for this project they would lose a coffee shop, an art center, a car wash, and a local market. They would get a hotel that is not needed, more traffic and more density.

Commissioner Band read from LMC 15.6 – Master Planned Developments, "MPDs should result in a net positive contribution of amenities to the community, provide a variety of

housing types and configurations, provide the highest value of open space for any given site, and redevelopment should maintain compatibility with the surround neighborhood. Commissioner Band stated that she was not willing to go into the Frontage Protection Zone or allow height exceptions without serious guarantees that there would be a lot of deed restricted housing.

Commissioner Band was very sympathetic with the applicant who has spent many years waiting for the City to get new zoning in place to build. She also recognized that it was frustrating to be dealing with a General Plan that contradicts the zoning in some places. However, while some of the specifics do not line up, the overriding goals of the LMC and the General Plan to reduce curb cuts and traffic, protect view corridors, and keep the sense of small town when dealing with new projects were clear and the City should definitely get a net gain.

Commissioner Suesser agreed with Commissioner Band. In addition, she would like the project to focus on providing more residential space. She did not believe Prospector needed more office space because much of the existing office space in that area is empty. Commissioner Suesser had concerns with the amount of surface parking that was evident in the presentation. She also agreed with the comments questioning the need for another hotel in that area.

Commissioner Campbell asked which document would prevail when the LMC and the General Plan contradict one another. Assistant City Attorney Lake replied that the LMC would be the governing document. Commission Campbell stated that this project was large enough that he personally would like the guiding principle to be the General Plan. Page 180 of the new General Plan talks about Prospector Square being the City's first mixed use and mixed housing neighborhood. It is a great idea but it will never happen if the City keeps rejecting whatever plan comes in. Commissioner Campbell preferred to give the applicant some positive guidance. He noted that the City Council talks about affordable housing being the most important issue, but without added density they will never achieve it. Commissioner Campbell was more than willing to trade density for affordability. If Mr. Fischer is bold enough to build the number of units they were talking about for this project it would help keep the prices in check. Commissioner Campbell favored following the General Plan and adding density to keep down the cost of housing. In his opinion, that is the only model that will work. In terms of blocking views, he would like to know whose views it blocks. He referred to Commissioner Band's concern about the entry corridor, but he does not consider anything past the High School as the entry corridor because by then you are already in town. Commissioner Campbell did not believe they needed to worry too much about blocking the views from people driving their cars along Kearns. He was much more interested in finding ways to get people out of their cars. For that reason, he could care less about adequate parking. If they want people to use

alternatives other than cars they need to make using a car more difficult. Commissioner Campbell emphasized that the City needs a place where people can live and walk to restaurants and walk to work. He thought this proposal was the best they have seen and if it works other people will do it.

Commissioner Phillips stated that when he looks at this project he sees open space and some definite "gets" for the City. Height will be a big discussion and he is also on record as not being fearful of height. Commissioner Phillips remarked that having space in between the buildings is helpful because it gives views between them, as opposed to areas in Prospector where the buildings are built to maximum height all the way around. Commissioner Phillips believes the General Plan indicates this area as a place for density. He likes a lot of the design aspects. He also liked the interior parking and other things they talked about in the Form Base Code discussion. He favored the walkability and he believed that less curb cuts would definitely help with traffic on the two major congested roads. Commissioner Phillips stated that he did have concerns, but he liked what they were starting with he was hopeful that this project was something they could all work through and add to the City. He was not opposed to additional height with some "gets", but he was leery of having it in the Frontage Protection Zone because it is more visible at that point. If it is set back the height becomes less visible. He clarified that he was not opposed to building in the Frontage Protection Zone, but he was concerned about putting height there. Commissioner Phillips referred to public comment regarding light pollution and noted that it was an issue that he has been thinking about as well. Whatever ends up being built, he would like the common spaces that have to be lit for code purpose and public safety to face inside the development as opposed to facing the major streets.

Commissioner Phillips pointed out that height will be one of the bigger topics for discussion with the community and he requested that Mr. Elliott provide better visuals. He would personally like visuals from the viewpoint of the Wells Fargo corner looking into this area, and what it would look like. Commissioner Phillips suggested that Mr. Elliott show the visual of what the project would look like if it was built to Code and within the requirements of the zone, versus the visual of having space looking through these buildings. He believed what could be built would be very plain and not what anyone wants, but people do not understand and showing the difference would be helpful to the community. Commissioner Phillips asked Mr. Elliott for better visuals of shots down the view corridors. In terms of finding compliance with the General Plan and the codes, it was difficult at this point to make that determination but he understood that it was something they would be working through. Commissioner Phillips felt there were a lot of good things with this project.

Commissioner Thimm agreed with most of the comments from his fellow Commissioners. As he looked at the Staff report and listened to the presentation he thought a lot of good

things were happening. Bringing a mix of uses into a parcel and allowing them to co-mingle and work together was a good urban solution. Commissioner Thimm remarked that using building and sidewalks to start to define street edges was better than parking lots. He was concerned about the amount of height being put right on the edge of Kearns Boulevard and asked if there was a way to move the height to the center. Commissioner Thimm clarified that he was not concerned with the height in terms of the amount of area because five acres is a significant amount of land. He would like the Planning Commission to consider building height as they continue to look at this project. Commissioner Thimm noticed that everything was presented and based upon square footage. He was curious as to how many units are anticipated, how many keys for the hotel, and the number of jobs anticipated for the amount of square feet of office space. He believed that bringing Class A office space into this area would be a positive. Commissioner Thimm stated that the General Plan talks about bringing in limited residential, but it does not define the term "limited residential". He believed this project puts residential where it needs to be because it creates people places at the ground floor and builds up from there.

Commissioner Thimm understood the concern that Commissioner Campbell has consistently expressed regarding number of parking spaces. However, he applauds the idea of putting the vast majority of parking under the project. Commissioner Thimm had concerns with putting the parking lot right on the street edge and the statement it makes driving on Bonanza. He understood there would be a landscape buffer, but he suggested that they look at whether it could be tucked back and behind. Commissioner Thimm stated that the presentation helped him better understand what is being done to reinforce hiking and biking trail connections. He asked that some thought be given to the creation of appropriate bike parking areas within the edges of the active spaces and at entries and to the site. He also suggested adding a bike repair area. Commissioner Thimm commented on sustainability goals and what type of platform might be utilized for this project. He was struck by the idea of LEED for Neighborhood Development which was mentioned in the Staff report. He believed LEED ND was a logical platform. Commissioner Thimm stated that LEED at a certified level or silver level was fairly easy. He noted that Park City is trying to develop the notion of stepping beyond what is easy, and for that reason he encouraged the idea of looking towards a LEED gold level of certification. It would be more difficult but it would make the right statement for some of the precepts within the General Plan, as well as the community goals.

Commissioner Thimm asked for the number of affordable housing units that have been built. Mr. Elliott replied that there were 12 units at Empire and 22 single room occupancy units at Rail Central. Commissioner Thimm understood from the presentation that those units were the affordable housing for this site. Mr. Elliott stated that it was a small portion. Commissioner Thimm thought there should be a commitment to have some affordable

housing on this site. Mr. Elliott replied that there would be on-site affordable housing.

Director Erickson clarified that the Affordable Housing Resolution of 2015 requires that 20% of the affordable housing residents are housed on site.

Commissioner Thimm encouraged a commitment to public art in the plaza spaces. It helps to create an environment where people want to live, and it increases the ability of a space to thrive. Commissioner Thimm recalled that solar was mentioned in the presentation. He had concerns with the south sun and the way it would relate to the plaza spaces, especially with Building F at three stories and Building G at four stories. He questioned whether it would allow enough light to come into the plaza space. He commented on the benefits that take place for plaza spaces and the extension of usage time when the sun is allowed to come in and warm up the space. Commissioner Thimm asked if a traffic impact study was done for this project considering the density. Mr. Elliott answered no, but a study would be done as this project moves forward. Commissioner Thimm was not concerned about blocking view sheds, and he did not mind the notion of framing views. He would like to take a closer look at the buffer zone and where it starts to encroach into the area of needing a CUP within 100 feet of the Frontage Protection Zone, and whether five stories was appropriate in that location. That was his biggest concern at this point.

Commissioner Thimm referred to the connection between Kearns and Bonanza Drive and the ability to drive straight through as a shortcut. He questioned whether that was the best solution from the standpoint of traffic calming. He liked the idea of having a good strong bicycle access path through there but it needs to be safe. Commissioner Thimm thought the issue of the shortcut becoming a thoroughfare and creating an unsafe condition needed to be addressed. In general, Commissioner Thimm thought this plan was well thought out.

Chair Strachan stated that this project takes Park City and the Bonanza Park area into a completely different world. He was not suggesting that it did not comply with the General Plan, but the proposal is ambitious and unique. There needs to be design features that make it very attractive to the City. As it stands now, they do not know enough to judge. They have only seen pictures and in his view it is radically different from anything they have ever seen. Chair Strachan remarked that it would be an educational process through a series of many meetings, and the applicant needs to make the Planning Commission and the community comfortable with a very modern and very contemporary design that Park City has never seen before, particularly at this scale.

Chair Strachan focused on what he believed would be the primary issues. He noted that height would be the driving factor. He agreed with Commissioner Thimm that the height along the roads is inappropriate. It needs to be stepped and centered. Only then could

they have a gradual interplay with the other buildings that are likely to be built at some point in the future. Chair Strachan was opposed to creating a walled experience for travelers going through. He thought the pictures of Lower Main Street that Mr. Elliott showed in the presentation is a walled experience for walkers, bikers and drivers. That is not the model the General Plan embraces, and it is not the model that best serves this site. Chair Strachan was not opposed to tall buildings in the right place, but it should not be next to the road. He believed that if the applicant could move the height to different places, the Commissions would likely be more receptive to a height exception if it was off the road.

Chair Strachan agreed with public comment that the transit hub that the City appears to be moving towards must be tied into this project. The applicant needs to work with the City and incorporate it into their plan. If the two move forward on mutually exclusive pathways and never connect it would be a lost opportunity of the highest order. Chair Strachan requested that the applicant show how they intend to incorporate the transit hub when they come back for each meeting. He understood the City's plans were tentative at this point, but he suggested that they incorporate any information on what the City plans to do. Chair Strachan stated that bike paths should not go through parking lots and hard right angles never work for bike paths. The bike path shown in slide 61 of the presentation would not be a practical use for bikes. It may work for pedestrians, but in his experience pedestrians follow the bikes because bikes takes the shortest distance between two points. Chair Strachan remarked that it also needs to connect into the Rail Trail.

Chair Strachan remarked that as the Staff pointed out, many things need to be discussed in terms of the General Plan. The public expressed their concerns and comments and he left it to Mr. Elliott and Mr. Fischer's experience to sift out which comments need to be addressed. They need to provide the evidence that the Planning Commission needs in order to make a finding that it complies with the General Plan. Chair Strachan did not believe this project was a non-starter or out of the realm of possibility, but it will be a long process and they have a long way to go.

Director Erickson commented on the suggestion to tie in the potential purchase of property. He referred to bullet point #2 on page 96 of the Staff report and noted that two sections of the LMC require the applicant to deliver all properties owned by the applicant, which includes the Emporium and other parcels which may affect transportation and circulation in that district. He stated that if the Planning Commission was going to find for compliance with the General Plan, they should consider whether this property needs to be in compliance with the LMC to bring other properties owned by the applicant into this MPD process. This would include the potential sale of property, the gateway property and the Boneyard because all of these circulation elements need to be considered on a General Plan scale as they move forward. He emphasize that this could not be considered in isolation.

Chair Strachan agreed with Director Erickson; however, that gives the applicant an almost unworkable requirement. He believed the applicant is entitled to phase their project and he was not sure they could force them to bring forth a global plan on the idea of all or nothing. He understood that the City would like to see that connection, but the applicant owns the property and can propose whatever they want.

Director Erickson offered to review the LMC language. He thought there may be a way to address General Plan issues on a larger scale and site specific issues inside the application submitted. Chair Strachan believed the LMC speaks to that. The advantage is having a small handful of owners, and he would leave it to those owners to not allow one of them to ruin it for the rest by building non-connectable projects. Chair Strachan was less concerned about that issue, but he appreciated that the Staff was taking a broader, larger connectivity view. He urged the applicant to participate in all of those conversations. Chair Strachan recognized that Mr. Fischer has been developing in Park City for a long time and he trusted his experience and judgment to follow the Planning Director's direction.

Mr. Elliott stated that they have been working with transportation and intend to continue doing so. In the previous application they were told that they could not be processed together because they were not connected. Mr. Elliott thought there might be a disconnect between their understanding and the direction that was previously given. Commissioner Band asked if Mr. Elliott would like to process them all together. Mr. Elliott explained that at this point they decided to move forward with the corner because they do not know what will happen with the other parcels until they know what happens at the rear of the property.

Director Erickson stated that the City was moving forward to try and meet the transportation and the trip demand reduction goals. They have an agreement with UDOT to not approve any new accesses on SR248, and to reduce the number of accesses on to 248 to just Homestake Road. He noted that all the other accesses into the property come into play as they move forward looking at General Plan compliance for this parcel. Director Erickson was not concerned about the other land use issues. The primary concern were housing issues and transportation issues, particularly on Bonanza and SR248. Chair Strachan believed that was the right focus.

Mr. Elliott stated that this was submitted as a pre-application, understanding that there are a lot of complexities. He was trying to figure out what level of detail they needed to provide in the pre-application versus the MPD application. He stated that is has been a balancing act and the intention is not to show specific things. They were trying to find the right approach. He requested that they be able to focus on the General Plan issues for the next

meeting in terms of their approach and get direction from the Planning Commission to make specific adjustments in the MPD application.

Chair Strachan understood the concern and noted that it was a balancing act that is done with every pre-application. The Commissioners were asking for more detail but neither the General Plan nor the LMC is clear on what detail needs to be provided. Chair Strachan stated that from his general experience, the pre-applications that provide the greater amount of detail are usually the easier ones to get through. Hearing Mr. Elliott say that certain issues will be addressed when they reach the point of the actual MPD causes concern for both the Planning Commission and the public because it is all based on trusting that they will comply with the General Plan without knowing any specifics. Chair Strachan urged the applicant to be as specific as possible in terms of the issues the Commissioners outlined in their comments this evening.

Commissioner Band stated that she personally would like to see as much detail as possible in the pre-MPD process, and she thought the applicant would want to provide that detail so they would know what might not be acceptable before they get too far into the process. Mr. Elliott clarified that his struggle was how much interior detail they wanted to see. He believed that was part of the discussion about housing. He would not be able to say how much housing would be provided and the type of housing until he designs the interior of the building. He was trying to figure out what balance he could provide to get the right information to make the Planning Commission comfortable with the General Plan obligations. Mr. Elliott was comfortable with trusting the process and the process of design, taking it from the macro scale to the micro scale. The issue was finding the right balance for the pre-application.

Chair Strachan remarked that the key is to show where exactly they would put the affordable housing because that is the number one question. At a minimum, that needs to be specified. He noted that Mr. Elliott gave percentages of the different uses and it would be helpful to know where those uses are going to be on the site. Chair Strachan did not believe it was important to have detailed interior design.

Planner Astorga noted that the specific he was looking for were outlined on page 96 of the Staff report. As an example, the first challenge was that the specificity of each commercial use was not indicated, and he was unable to run the affordable housing formula to determine how many units would be required in the project. He was comfortable working with the percentages of uses to start running the formula to get a better idea of what the requirement would be. Chair Strachan thought it was incumbent upon the applicant to provide the Staff the information necessary to run the formulas and analysis.

Director Erickson stated that the Planning Department would work with the applicant to get more specifics on what they can deliver specifically. He believed that the attributes of the site and conformance with the General Plan were driven by external circulation, internal circulation and affordable housing compliance. Chair Strachan concurred. Director Erickson stated that height, volume and the other site designs that were mentioned could move from there.

Mark Fischer, the applicant, thanked the Planning Commission for their time and attention this evening. He stated that the goal is to create a fantastic projects. In terms of the global comment, it was his reason for developing all nine parcels. Mr. Fischer believes his proposal is global and they have gone to great expense and time to do it this way. He urged the Planning Commission to consider that the plan being presented is a global plan because the other parcels are clearly separate and not contiguous. Mr. Fischer was willing to take whatever direction is given by the Planning Commission and the Planning Department, but he wanted to clarify that this project is an attempt to do what he considers a global application by including the contiguous parcels. Mr. Fischer asked the Planning Commission not to assume that the Kimball Arts Center and other great amenities are not part of these buildings. They should assume that they are.

Mr. Fischer stated that he had written down all of the public comments and the Commissioners comments and he intended to address all of them.

After discussing potential dates to schedule the next meeting, the applicant was comfortable coming back on June 22nd.

MOTION: Commissioner Band moved to CONTINUE Bonanza Park East MPD to June 22nd, 2016. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 8:08 p.m.

Approved by Planning Commission: _____