



**PARK CITY APPEAL PANEL MEETING
SUMMIT COUNTY, UTAH
June 17, 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 June 3, 2024
- 4. PUBLIC COMMUNICATIONS**
- 5. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES**
- 6. REGULAR AGENDA**
 - 6.A. **Appeal of 1115 Aerie Drive Final Action** – The Appeal Panel Will Hear an Appeal of the Planning Commission's May 8, 2024 Approval of a Conditional Use Permit for a Sports Court at 1115 Aerie Drive in the Estate Zoning District. PL-24-06135 (60 mins.)
(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
APPEALS PANEL MEETING
SUMMIT COUNTY, UTAH
MARSAC MUNICIPAL BUILDING
JUNE 3, 2024**

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

EX OFFICIO: Rebecca Ward, Assistant Planning Director; John Robertson, City Engineer; Mark Harrington, Senior City Attorney; Jaron Ehlers, Planning Technician; Jacob Klopfenstein, Planner
I

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.

Matthew Day moved to APPROVE the April 30, 2024, Appeal Panel Meeting Minutes as presented. Esteban Nunez seconded the motion. The motion passed with the unanimous consent of the Panel.

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

Matthew Day moved to APPROVE the May 6, 2024, Appeal Panel Meeting Minutes as presented. Esteban Nunez seconded the motion. The motion passed with the unanimous consent of the Panel.

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

Matthew Day moved to APPROVE the May 20, 2024 Appeal Panel Meeting Minutes as presented. Esteban Nunez seconded the motion. The motion passed with the unanimous consent of the Panel.

3. PUBLIC COMMUNICATIONS

There were no public comments.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Chair Strachan noted that Todd Godfrey was not yet in attendance.

Chair Strachan reported that he also discussed a briefing schedule for appeals with Special Counsel, Margaret Plane. Summit County has an Ordinance that sets the briefing schedule, including timelines. Staff will draft a corresponding City Ordinance. When an appeal comes in, it will provide all parties with a schedule of important dates. For instance, when the Applicant's response to the Staff Report is due to the Appeals Panel. It was noted that it would be helpful to outline what can be included in the appeal and the different types of materials that should be provided for review by the Appeals Panel.

Justin Keys, Attorney for the Appellant, added that that would be very helpful to have that information. He has been through this process with Summit County, and they provide a cheat sheet as to what needs to be provided, when, and any limitations regarding the briefing. He suggested including page count limitations. It will help streamline the process for both the Appeals Panel and appellants.

Planning Director, Rebecca Ward, indicated that Staff had nothing to disclose or communicate at the time.

5. REGULAR AGENDA

- A. **Appeal of 844 Empire Avenue Plat Amendment 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 a Crescent Tram Road. PL-24-06100.

Planner I, Jacob Klopfenstein, presented an overview of the items covered in the Staff Report. He reported that the 844 Empire Avenue Plat Amendment was originally approved on June 2, 2016. As part of the approval, Plat Note 3 states: "Drive access to the site shall be from Empire Avenue or through platted, unbuilt 9th Street in a location approved by the City Engineer." Access can not be from Crescent Tram Road. In January of 2024, the applicant applied for a Plat Amendment to remove Plat Note 3. On April 10, 2024, the Planning Commission denied the requested Plat Amendment. On April 22, 2024, the Applicant appealed the denial. The 9th Street right-of-way is immediately northwest of the property. Empire Avenue is to the west, and Crescent Tram Road is on the south side of the property.

Concerning the 2016 Plat Amendment, the City Engineer at the time referred to Ordinance 2016-26 as his rationale for not supporting vehicular access to 844 Empire Avenue directly from Crescent Tram Road. He indicated that vehicular access could only be from Empire Avenue or the 9th Street right-of-way and that the existing intersection of Empire Avenue and Crescent Tram Road would need to be redesigned or improved to accommodate that vehicle access.

Private driveways in platted, unbuilt City streets or rights-of-way were previously allowed with a Conditional Use permit in the Land Management Code. However, that stipulation was repealed in 2020 and is no longer an option.

With regard to the existing conditions at 844 Empire Avenue, in 2022 the Water Department raised concerns that the water line under that right-of-way could not support the weight of a car passing over it regularly or being parked on top of it. The City Council also reduced the speed limit on Crescent Tram Road from 25 miles per hour to 20 miles per hour. In 2024, The 9th Street stairs were completed in that right-of-way. The subject property is immediately adjacent to the right-of-way.

In 2014, a fire damaged a significant portion of the historic structure at 844 Empire Avenue. On February 7, 2024, the Historic Preservation Board conducted a site visit to evaluate the damage. They then approved material deconstruction and panelization requests to facilitate rehabilitation of the Significant Historic Structure.

On March 13, 2024, the Planning Commission denied the Plat Amendment by a vote of four in favor, and two opposed. The Final Action Letter denying the amendment was ratified on April 10, 2024.

In response to a question regarding the water lines in the 9th Street right-of-way, City Engineer, John Robertson, stated that the water lines cannot withstand the weight of a vehicle. If the driveway access was from Crescent Tram Road, it would not go over the water line. The previous City Engineer would not allow access from Crescent Tram Road, but conditions have changed. The City Engineer at the time made a decision based on the existing conditions. They did not consider the stairs now in that location. There were utilities in place at the time, and Mr. Robertson believes the intention was to have the utilities lowered for the driveway.

Mr. Robertson did not believe a driveway could be safely accessed from the 9th Street right-of-way at this time. In his opinion, it is a safer condition to place the driveway 20 to 25 feet from the Empire Avenue and Crescent Tram Road intersection. There is currently no parking on Crescent Tram Road, with the exception of two homes that have room for a car to park parallel to the driveway. Parallel parking is not an option at this property.

In response to a question from Matthew Day, Director Ward stated that the Land Management Code previously contained a Conditional Use Permit process where homes that were on platted, unbuilt rights-of-way could apply for a Conditional Use Permit for a driveway associated with the home. The criteria for a Conditional Use Permit gave discretion for that review at the time. Changes then occurred at the state level that impacted the review criteria for Conditional Use Permits and required that they must be granted if the detrimental impacts can be reasonably mitigated. In 2020, the Planning Commission recommended that the City Council remove the Conditional Use Permit process. The City Council adopted that Ordinance. Currently, for a private driveway to be in a private, unbuilt right-of-way, the Applicant can still go through a review process. It would require City Engineer review, then Planning Commission review and recommendation, but would not require a Conditional Use Permit. The final decision on the Encroachment Agreement would be at the City Council's discretion. The Applicant can still request an Encroachment Agreement, but it would no longer be through a Conditional Use Permit process.

Justin Keyes stated that the Conditional Use permit had practical application. In Old Town Park City, access was an issue. It was designed for buggy transportation. Miners built their homes close to each other and walked to the mines to work. It was not designed for vehicular access. City Code has very strict requirements for public streets, and it is sometimes impossible for the platted private streets to conform to those requirements. As a means of getting vehicular access

to some mine structures, the City created very liberal private drive statutes. Many jurisdictions allow a maximum of three homes to be accessed off a private drive, but Park City has no such restrictions. If a property owner needed access through a right-of-way that could not meet public street requirements, they used to be able to do it through the Conditional Use process and agree to put in a private drive, which has a lower standard than a public street. They would then enter into an Encroachment Agreement with the City. Because of state laws relating to Conditional Use, Park City has modified its procedure for approving the improvement of rights-of-way into private drives. The Conditional Use process has been removed from the Code so the City can retain more control over how rights-of-way are improved.

Relevant to their appeal, Mr. Keyes indicated that a lot has happened to the right-of-way since the last Plat Amendment. The stairs and more utilities are now in the right-of-way. It is highly unlikely that the City Council would approve turning 9th Street into a private drive because of the associated risks. He asserted that the appeal represents a better approach for the driveway in this home.

Mr. Keys introduced his associate, Charles Pearlman, and architect, Jonathan DeGray. He thanked the Panel for their time reviewing the materials and being present for the meeting. He also thanked Staff for their work on this project and others.

Mr. Pearlman presented the Plat Amendment Appeal. He referenced Utah Code 10-0a-707-3-C regarding the Appeal Authority requirements, specifically item (i): "A Land Use decision is arbitrary and capricious if the Land Use decision is not supported by substantial evidence in the record." And (ii): "A Land Use decision is illegal if the land use decision is based on the incorrect interpretation of a Land Use regulation." He asserted that the decision was not supported by substantial evidence and is based on an incorrect interpretation of Land Use regulations.

Regarding Material Finding of Fact 22(a), Mr. Pearlman indicated that a number of relevant facts have changed since the 2016 ruling. Chair Strachan asked for clarification on whether evidence exists that the prior engineer did not prepare a study or if there just isn't one in the record. Mr. Pearlman confirmed that there is not one in the record. He reviewed the 2016 meeting minutes and could not find reference to a study. He believes it was just the opinion of the City Engineer at that time.

Mr. Pearlman continued his rebuttal of Finding of Fact 22(a). Regarding the second bullet point addressing utilities, the water line is the primary change. There was an existing, smaller line at the time, but it was updated to a larger line with a pressure-reducing valve. Mr. Day noted that the pressure-reducing valve is above ground, so it would be impossible to have the required ten feet of clearance for a driveway.

Chair Strachan requested clarification on the presence of overhead utilities in the area. Mr. Johnson confirmed that Rocky Mountain Power is currently moving lines underground in the area, but he is unsure if the line on the 9th Street right-of-way will be affected.

Mr. Pearlman showed Google Maps images of the area as it is currently and prior to the previous Plat Amendment.

With regard to Material Finding of Fact 22(b), which indicated that the change does not preserve the present Land Use, Mr. Pearlman asserted that "Land Use" in that context means the list of types of uses allowed by the Code. For this property, the Land Use is Single-Family Residential,

which will not change. Mr. Pearlman added that, because the Land Use is not changing, this finding is not supported by evidence in the record. The standard is improperly applied because this Code section has never been applied to individual applications. He further asserted that the Applicant's position is that many of the Findings of Fact regarding Code compliance are based on provisions that were not intended to be applied to applicants but are rather guiding principles for the other provisions. It is the Appellant's position that compliance with the substantive provisions should mean you are in compliance with this section. Mr. Day clarified that Land Use is "the purpose or purposes for which land or structures are occupied, maintained, arranged, designed or intended." Mr. Pearlman stated that the Code lists allowed uses for each zoning district.

Chair Strachan noted that LMC §15-2.2-4 mentions driveways in several areas and asked for confirmation on which point was found to be non-compliant. He asked if any plans were referenced in the finding. Mr. Pearlman responded that the Planning Commission meeting minutes for this finding do not provide such reference. He clarified that the alleged noncompliance is with LMC §15-2.2-1(a). LMC §15-2.2-4 was mentioned as it does not require parking; there is no Code requirement for a driveway. Mr. Day asked if a distinction was being drawn between not being required to have a driveway and not having a right to have a driveway. Mr. Keys responded that the Finding of Fact is that the Applicant changed the type of use. Typically when you change a type of use, it would go from, for example, single-family residential to commercial or another identified use. They assert that merely adding a driveway does not change the single-family use. While the Code does not give them the right to have a driveway, the Appellant's position is that they do have a right to one if there is good cause. The Planning Commission's finding was that there is no good cause because the use is being changed. However, the Appellant believes that the Code requirements were misinterpreted.

It was confirmed that new construction houses in Old Town would be required to meet the minimum parking requirements and would therefore need a driveway. The lot would be rendered unbuildable if those requirements could not be met.

Chair Strachan disagreed with the Appellant's attorney regarding the definition of use. It states, "the purposes for which land structures are occupied, maintained, arranged or designed." His interpretation is that if there is an existing house without a driveway, which is the case for many homes in Old Town, that is how it was arranged, designated, or designed. His opinion is that it does change the use with reference to the purpose statements in LMC §15-2.2-1, which talk about the intensity of the use on substandard streets like Crescent Tram Road.

Mr. Pearlman asserted that this Code has been interpreted differently by the City in the past. There are hundreds of historic houses in Old Town that did not originally have driveways but now do. He stated that if that is how the Code was intended to be applied, all of those driveways violated the provision. Chair Strachan countered that none of those driveways are located at the intersection of Empire Avenue and Crescent Tram Road, which he believes is one of the most unique areas in Old Town. Mr. Pearlman stated that the City Engineer has determined that it is safe. Mr. Nunez asked for examples of similar homes on Crescent Tram Road that did not have driveways but do now. Mr. Pearlman stated that there may be one historic structure on the road that does not have a driveway. All the other historic homes on Crescent Tram Road have driveways.

Chair Strachan asked Mr. DeGray if he is aware of any homes that did not previously have driveways and had one approved. Mr. DeGray stated that all homes on one side of Crescent Tram Road are newer construction with driveways. There are two new builds with access from

Empire Avenue. On the other side, there is a row of historic homes that are accessed from Woodside Avenue. One home on Crescent Tram Road had a driveway and garage approved, but the owners decided not to install the driveway and instead turned the garage into living space. Another house also did that. Those homes are accessed from Woodside Avenue.

Mr. Pearlman addressed Material 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." He indicated that the finding is based on LMC §15-2.2-1(C) which addresses the Historic District review process. It is their position that LMC §15-2.2-1(C) should not apply because this is a Plat Amendment to remove a Note put in place at the request of the previous City Engineer. Whether or not the plan complies with the Historic District's design requirements is not a determination to be made on this application.

With regard to Material Finding of Fact 22(d): "The proposal is not consistent with the General Plan's policy of reducing parking and encouraging walkability," Mr. Pearlman indicated that they believe the Code is also improperly applied here as this Code section does not apply to individual applications. It is their position that the General Plan is meant to guide what is in the LMC. If the Applicant is complying with the LMC but not the General Plan, he believes it is an issue with the Code, not the application.

Mr. Pearlman then addressed Material Finding of Fact 22(e): "The proposal does not create actual Clear View sight lines, despite meeting Chapter 15-3 Off-street Parking of the LMC." It is the Appellant's belief that the statement indicates that the Planning Commission didn't feel comfortable with it even though it complied with the Code.

Regarding Material Finding of Fact 22(f): "The proposal does not comply with LMC Chapter 15-7 Subdivision General Provisions," Mr. Pearlman expressed their position that nothing in this Chapter applies directly to the application. It is about the process. He asserted that this is an error based on an incorrect interpretation of a Land Use regulation.

Mr. Pearlman next addressed Material Finding of Fact 22(G): "The proposal directly adversely affects the health, safety, and welfare of the citizens of Park City." It is the Appellant's position that this finding is not supported by the record, including the Staff Report for the appeal. The finding does not reference a specific part of the Code. Everything in the record, including comments of Staff and the City Engineer, indicates that it does improve health, safety, and welfare.

The first Conclusion of Law states that there is no Good Cause for the Plat Amendment to remove Plat Note 3 requiring driveway access from Empire Avenue. Mr. Pearlman provided the definition of Good Cause as defined by LMC §15-15 and stated that the Conclusion is in error because it is not supported by substantial evidence in the record. They believe the record shows positive benefits: it will resolve existing issues with the property; it will preserve the character of the neighborhood and Park City; and it furthers the health, safety, and welfare of the community.

With regard to the Second Conclusion of Law about the requirement for finding Good Cause, Mr. Pearlman indicated that they previously discussed why he believes that finding is incorrect. Nothing in the record suggests procedural errors, and there is no evidence that the Plat Amendment is not consistent with the referenced Code provision. There are a number of requirements in LMC § 15.-2.2 for the Historic Residential ("HR-1") District, but both Staff and the record indicate that the Plat Amendment Application applies with all necessary codes.

Chair Strachan asked for the architectural drawings to be brought forward for review. Mr. Pearlman indicated that the Planning Commission stated that they relied on the plans in making their decision. However, the Final Action Letter is required by LMC § 15-7.1-6(C)2 to list the reasons for rejecting the application. The plans inform certain aspects of the letter, but he stated that they cannot be substituted as the reason if they weren't specifically cited in the Final Action Letter. Chair Strachan asked if a variance has been approved for the setbacks. Mr. Pearlman indicated that it was put on hold when the Plat Amendment was rejected.

Mr. Klopfenstein reviewed the Planning Commission's decision. Land Management Code states that to approve a Plat Amendment, the Planning Commission has to establish a finding of Good Cause, as well as 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," et cetera. It is not limited to the specific things listed in the Code and is decided on a case-by-case basis. He noted that the question before the Appeals Panel is whether the Planning Commission incorrectly applied the standards to this application for a Plat Amendment in regard to the Good Cause determination.

With respect to Finding of Fact 22(g), Mr. Klopfenstein asserted that the Planning Commission had concerns about the ability of someone pulling out of that driveway to see vehicles turning left from Empire Avenue onto Crescent Tram Road, as well as other safety concerns.

Mr. Day asked for clarification on the City's position. Senior City Attorney, Mark Harrington, stated that there was a positive recommendation from the engineering staff to approve. The Planning Commission denied the application based on their findings, which are in the context of Good Cause. All the findings informed the Planning Commission's decision on whether the Applicant met their burden of Good Cause for the change from something they previously agreed to as a condition of approval.

Finding of Fact 22 (a) indicates that no relevant facts have changed since 2016. The Appellant asserts that there have been several changes, but the Finding states that no *relevant* changes have occurred. From the Planning Commission's perspective, they still have the same right to solve their access from either Empire Avenue or the right-of-way as they did in 2016. It was not a guarantee then and is not a guarantee now. Finding of Fact 22(a) also states that no changes have been made to Crescent Tram Road. They did not ignore the changes to the unbuilt right-of-way. They decided those changes were not relevant to what was agreed to before, and no changes have been made to Crescent Tram Road. He indicated that part of the Panel's mission is to decide whether they agree with those findings based on the evidence provided by the City Engineer and the Appellant.

Regarding the finding that the proposal does not preserve the present Land Use because it is exempt from off-street parking per LMC § 15.-2.2-4, Mr. Harrington stated that the Planning Commission has pointed out that the property is exempt from parking, so off-street parking is not required for the use. The proposal did not further the single-family use because the parking is not necessary. They did not state that the use changed, as has asserted by the Appellant. They stated that the proposal does not further the single-family use that already exists because it exists today without a driveway.

Regarding Finding of Fact 22(c), Good Cause includes the phrase "contributes to the character of the neighborhood." They viewed the site plans in the context of how the driveway and garage will contribute generally compared to a platform off of Empire Avenue or something at the rear of the property. Safety issues were also of paramount concern. Regarding the Clear View of Sight, it meets the standard, but they found that the grade change and the curvature have an impact on visibility. Based on personal observation, several Commissioners stated that they did not believe it was safe. The Planning Commission understood that the math works, but disagreed that the functionality and line of sight are safe.

Mr. Harrington stated that the Commission took the totality of circumstances into consideration in finding whether the Applicant met the burden of showing Good Cause to change a Plat Restriction that was already approved. That was the context, not whether a new application would meet a purpose statement individually.

Chair Strachan opened the public hearing.

Kaitlin McHugh reported that she has lived on Empire Avenue since 2006. She does not believe enough information has been presented for a decision to be made and requested the opportunity to view the site plan and elevation. She noted that the property in question is at a congested, dangerous intersection that is particularly harrowing in the winter. It is essentially a one-car street that has two lanes. She believes there was good reason when it was decided that the access had to be either via the 9th Street right-of-way or Empire Avenue. There is precedent for that, as many of her neighbors have driveways off of the 9th Street easement. She is concerned for public safety, especially for pedestrians, as she has seen many accidents at the intersection. She does not think there is Good Cause for the application, and she does not see how the proposal would improve the area or make it safer. The conditions on Crescent Tram Road have not changed since the early 2000s or earlier.

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

Mr. Day asked for clarification on why the Appellant believes there is just cause for the change and how it benefits the area. Mr. Keys stated that the application provides Good Cause. He asserted that this is a rare circumstance where the Planning Commission did not go with the recommendations provided by Staff. Staff made their recommendation based on Code analysis. The City Engineer performed the analysis and decided that it meets all safety requirements. He agrees that the intersection can be harrowing to navigate in the winter, but does not believe that issue can be rectified in Old Town. The City just does what it can to provide access to those locations. In this case, the Panel is considering whether or not to facilitate off-street parking. If the Plat Amendment is not granted, the property owner will have to park somewhere else and walk up the road. He believes Good Cause exists because it exists under the Code.

Mr. Day asked Mr. Keys to articulate what the Good Cause is. Is the only Good Cause that a car is being taken off the street and put in a driveway? Mr. Keys responded that that is one element of Good Cause. The Appellant reviewed the facts the Planning Commission relied on to say that there wasn't Good Cause and pointed out that those facts were either not supported by the record or were directly contrary to the Code. State law requires substantial evidence on the record as to each of the essential Findings of Fact.

Mr. Keys spoke to the Planning Commission finding that there was not a clear line of sight. He asserted that the finding is in direct contravention of the City's expert, the City Engineer, who said

that there is a clear line of sight and it is safe. It is also in direct contravention of what the Code describes as being a clear line of sight. He pointed out that staff outlined why there was Good Cause for the approval. Typically in a Plat Amendment context, Good Cause exists when you meet the requirements of the Code. It is a broad standard, but also a low bar to achieve.

Chair Strachan stated that he reviewed the minutes from 2016. He was also on the Planning Commission at that time and remembers the property. The situation on Crescent Tram Road has degenerated since then, not improved. He does not believe the Planning Commission had substantial evidence to make determinations about the clear line of sight, but they did have substantial evidence to determine that no relevant changes had been made to the 9th Street area and no changes at all had been made to Crescent Tram Road. He noted that it was always understood that whoever develops this property would have to redo the intersection of Crescent Tram Road and Empire Avenue. That was part of the discussion during the 2016 Planning Commission meeting. The fact that 9th Street is gone doesn't leave the property optionless. It leaves it with the same option they had before, which is to redesign the Empire Avenue and Crescent Tram Road intersection. Given the understanding that the land owner has had since 2016 and the worsening situation on Crescent Tram Road at present, he does not believe the Planning Commission erred in that finding. Based on the City Engineer's study, he does not believe the line of sight finding was inaccurate, but he believes the other findings they made were correct and are supported by the record.

Mr. Day stated that he believes relevant facts have changed. The speed limit has dropped. He does not believe the Panel is in the position to decide if Crescent Tram Road is more or less dangerous than any other street. If the City Engineer says that it is safe, he defers to that opinion. He does not believe that adding a driveway changes the Land Use. Regarding Sections 22 C, D, and E, he agrees that those sections refer to how to interpret Code and go to the point of Good Cause. He finds that there are changes in the relevant facts, there will be no major change to the Land Use, and he believes the Planning Commission erred because there is just cause for the amendment.

Mr. Nunez noted that the Panel has had the benefit of discussing things thoroughly. He has lived on Empire Avenue for six years and regularly travels on Crescent Tram Road, so he is very familiar with the intersection and its inherent dangers, especially in winter. However, the City Engineer and Staff reviewed the amendment and recommended approval, and it is his opinion that the Panel should defer to their expertise and determination. He agrees with Chair Strachan that the property owner understood the current use and agreed to the specific Plat Amendment that they now seek to remove. Many other approvals will be required before the house can be built, but he believes the Panel should grant the appeal on this issue.

Chair Strachan thanked the other Panel Members for their input and asked for their final opinions on the matter.

Mr. Day stated that the Good Cause for removing the Plat Amendment is, first, that it allows the applicant to have off-street parking in an already congested area; and second, that it remedies the issue caused by the water line and stairs in 9th Street right-of-way. The property owner was previously granted the right to access from two different locations. Improvements to the 9th Street right-of-way removed that location from availability. Removal of the Note remedies that issue and provides a secondary access location.

Mr. Nunez commented that he finds Good Cause in that it provides the ability for the property owner to park off-street safely and prevents them from having to cross traffic or find parking elsewhere. He also finds that there is Good Cause for the public in that there is another place for a property owner to park their car and therefore they won't have to worry about traffic in that intersection. He feels that there is Good Cause for both the public and the property owner.

MOTION: Esteban Nunez moved to GRANT the 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 a Crescent Tram Road. Matthew Day seconded the motion. Vote on motion: Matthew Day-Yes; Esteban Nunez-Yes; Adam Strachan-No. The motion passed 2-to-1.

Chair Strachan directed Staff to prepare the Final Action Letter reflecting the findings of the Appeal Panel, which will be circulated to the Panel for final review and approval.

6. ADJOURNMENT

Motion: Adam Strachan moved to adjourn.

The meeting adjourned at approximately 6:28 p.m.

PENDING APPROVAL

Appeal Panel Staff Report



Subject: 1115 Aerie Drive
Application: PL-24-01635 – Appeal
PL-21-05101 – Conditional Use Permit
Author: Jacob Klopfenstein, Planner I
Date: June 17, 2024
Type of Item: Appeal of the Planning Commission’s Approval of the Conditional Use Permit for a Private Recreation Facility (Sports Court) at 1115 Aerie Drive

Recommendation

(I) Review the Appeal of the Planning Commission’s approval of the Conditional Use Permit for a Private Recreation Facility (sports court) at 1115 Aerie Drive, (II) conduct a public hearing, and (III) affirm, deny, affirm in part and deny in part the Planning Commission’s decision, or continue the Appeal to a date certain and direct staff to gather more information.

Description

Appellant: Craig Kipp
Location: 1115 Aerie Drive
Zoning District: Estate
Adjacent Land Uses: Single-Family Residential
Reason for Review: The Appeal Panel hears appeals of Planning Commission Final Action on Conditional Use Permits.¹

CUP Conditional Use Permit
E Estate
LMC Land Management Code

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC [§ 15-15-1](#).

Summary

On May 8, 2024, the Planning Commission voted unanimously to ratify a Final Action Letter approving a Conditional Use Permit (CUP) for a Private Recreation Facility (sports court) at 1115 Aerie Drive. As part of the May 8, 2024 CUP approval, the Applicant proposed reducing the size of a concrete sports court pad on the property from 4,795 square feet to 2,085 square feet, removing a portion that encroaches into

¹ Land Management Code [§ 15-1-8](#)

the Side Setback and onto adjacent property, and removing and reconfiguring portions of the retaining walls in the northeast corner of the Lot to help with grading and on-site stormwater retention (Exhibit B, May 8, 2024 Planning Commission Final Action Letter).

On May 15, 2024, the Appellant appealed the Planning Commission's CUP approval (Exhibit A, Appellant Submittal). The Appeal submittal included two letters of support authored by Ginny Schulman and Kerrin Antonsson, two residents of the Aerie neighborhood (Exhibit A, Appellant Submittal, p. 5-8).

The Appellant points to the [July 13, 2022](#) Planning Commission meeting, the meeting in which the Planning Commission initially denied the sports court CUP, when the Applicant's representative said the sports court would not be used as a pickleball court and the Applicant would accept a condition that it would not be used as such.

The Appellant contends that the Applicant and their representatives did not mention pickleball or plan for a pickleball court until after the City Council adopted [Ordinance No. 2022-08](#) which establishes Land Management Code (LMC) regulations for pickleball in residential areas, and therefore the Applicant should be required to adhere to the regulations set forth in LMC [§ 15-4-22 Outdoor Pickleball Courts in Residential Areas](#). The Appellant argues that the sports court should not be vested from before Ordinance No. 2022-08 took effect, stating that it is not a sport court, but rather is a pickleball court.

The Appellant and authors of the letters of support raise issues regarding the water feature, playground, putting green and astroturf at 1115 Aerie Drive. However, the Planning Commission's action that is being appealed was limited to a CUP for the sports court only, and the Planning Commission did not review the features addressed by the Appellants.

For the full Appellant statements, please see Exhibit A, Appellant Submittal.

For the Applicant's response, please see Exhibit H Applicant's Brief In Opposition To Appeal.

Background

On January 21, 2021, a landscaping company applied for Grading/Landscaping Permit 21-122 to replace three retaining walls not to exceed four feet in height at the northeast corner of 1115 Aerie Drive. On September 8, 2021, Community Code Compliance issued two stop-work orders (CE-21-01142 and CE-21-01143) because work outside of the Grading/Landscaping Permit 21-122 approval had occurred. The landscaping company constructed, in part, a 4,795-square-foot sports court and retaining walls that encroached into setbacks and crossed property lines. On October 1, 2021, and February 25, 2022, the City issued letters to the property owner outlining the code compliance issues and required permits.

On December 20, 2021, the Applicant submitted two applications to the Planning Department:

- An Administrative CUP for retaining walls greater than six feet in height from Final Grade.
- A CUP for a sports court (Private Recreation Facility).

On July 13, 2022, the Planning Commission reviewed the CUP application for the sports court and denied the application, finding that the CUP application did not comply with LMC [§15-1-10 Conditional Use Review Process](#), due to a lack of information submitted regarding screening and landscaping, compatibility with surrounding structures, potential noise, lighting, environmentally sensitive lands, steep slopes, and appropriateness of the proposed Structure to the existing topography of the Site. The Planning Commission also found that the proposal was not consistent with the Park City General Plan because it allowed for disturbance of Sensitive Lands without adequate mitigation ([Meeting Packet](#), item 5.E; [Minutes](#), p. 14-29).

On August 1, 2022, the Applicant filed an appeal of the Planning Commission’s denial of the CUP. The Applicant requested the appeal be placed on hold and asked the Utah Property Rights Ombudsman to issue an Advisory Opinion on the Planning Commission’s denial of the CUP. On November 16, 2023, the Utah Property Rights Ombudsman issued an Advisory Opinion (Exhibit E).

The Utah Property Rights Ombudsman concluded that:

- (i) The Sports Court did not violate any plat note or building area restriction.
- (ii) The Planning Commission erred in denying the Application for insufficient evidence.
- (iii) The Applicant should be allowed to supplement its Application with any insufficient information.

On March 4, 2024, the Appeal Panel considered the appeal of the Planning Commission’s denial of the CUP for the sports court. The Appeal Panel granted the appeal in part and remanded the appeal in part to the Planning Commission ([Meeting Packet](#), item 6.A; [Minutes](#), p. 4-14). The Appeal Panel found in part:

- New information has been presented and should be reviewed by the Commission regarding the Steep Slope determination(s) and potential mitigation of any adverse impacts reasonably anticipated from the proposed use.
- The Planning Commission should determine whether conditions proposed by the Applicant regarding lighting, noise, and screening reasonably mitigate the detrimental impacts and proposed use.
- The remaining findings of the City’s Conditional Use review must be revisited consistent with the Appeal Panel’s determinations and the additional information provided by the Applicant (Exhibit F).

On March 22, 2024, the Applicant submitted an updated project narrative (Exhibit F) with Steep Slope analysis and drainage plans, as well as the plans for the reduced-size sports court.

On April 24, 2024, the Planning Commission conducted a site visit, reviewed the

Applicant's updated proposal, held a public hearing, and directed Planning staff to draft a Final Action Letter approving the CUP ([Meeting Packet](#), item 6.E; [Meeting Recording](#)). On May 8, 2024, the Planning Commission voted unanimously to ratify the amended Final Action Letter approving the CUP ([Meeting Packet](#), item 5.A; [Meeting Recording](#)).

Standard of Review

Pursuant to Land Management Code [§ 15-1-18](#), Final Action by the Planning Commission may be appealed to the Appeal Panel. The Appeal Panel shall act in a quasi-judicial manner and review factual matters de novo, without deference to the Planning Commission and staff determination of factual matters. The Appeal Panel shall 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.²

Burden of Proof

Pursuant to LMC [§ 15-1-18\(G\)](#), the Appellant has the burden of proof to demonstrate that the Planning Commission as land use authority erred in approving the CUP.

There are certain Uses that, because of unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent land Uses, may not be Compatible in some Areas or may be Compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

The Planning Department will evaluate all proposed Conditional Uses and may recommend conditions of approval to preserve the character of the zone, and to mitigate potential adverse effects of the Conditional Use.

A Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use in accordance with applicable standards.

If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, the Conditional Use may be denied.³

When considering a CUP, the Planning Commission reviews the proposed Use for compliance with the following general standards:

1. The Application complies with all requirements of the LMC,
2. The Use will be Compatible with surrounding Structures in Use, scale, mass and circulation, and
3. The effects of any differences in Use or scale have been mitigated through careful planning.⁴

² LMC [§ 15-1-18](#)

³ LMC [§ 15-1-10](#)

⁴ Land Management Code [§ 15-1-10](#)

Additionally, the following 16 criteria are reviewed for CUPs:

1. Size and location of the Site;
2. Traffic considerations including capacity of the existing Streets in the Area;
3. Utility capacity, including Storm Water run-off;
4. Emergency vehicle Access;
5. Location and amount of off-Street parking;
6. Internal vehicular and pedestrian circulation system;
7. Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;
9. Usable Open Space;
10. Signs and lighting;
11. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;
12. Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;
13. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;
14. Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;
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
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.⁵

The Appeal Panel must determine whether the Planning Commission incorrectly applied the above standards to the CUP application.

Analysis

(I) The Planning Commission found that the sports court, as conditioned, complies with the Land Management Code.

The Appellant argues the Applicant did not mention the sports court would be used as a pickleball court until after the City Council adopted [Ordinance No. 2022-08](#), codifying LMC [§ 15-4-22 Outdoor Pickleball Courts In Residential Areas](#) on April 28, 2022.⁶

⁵ Land Management Code [§ 15-1-10](#)

⁶ The letter of support authored by Ginny Schulman and submitted with the Appeal suggests that no neighborhoods in Park City have chain link fences. The Planning Commission does not have authority to approve chain link fences and the chain link fence was not within the scope of the sports court CUP. Pursuant to LMC [§ 15-4-2 Fences And Retaining Walls](#), chain link fences are prohibited in all Zoning Districts, but may be allowed as an exception for recreational facilities, such as sports courts, subject to Planning Director approval. The Applicant's Administrative Conditional Use Permit is pending resolution of this appeal and no chain link fence for the sports court has been approved.

The Applicant submitted a complete CUP application for a Private Recreation Facility on December 20, 2021 (Exhibit G, CUP Letter of Intent). Also, on December 20, 2021, the Applicant paid the \$1,140 fee for the CUP review. As a result, the Applicant's CUP submittal was vested for a Private Recreation Facility, including pickleball use, on December 20, 2021. Pursuant to LMC [§ 15-15-1 Definitions](#), Private Recreation Facilities was defined as follows:

Recreation Facilities, Private. *Recreation facilities operated on private Property and not open to the general public including Recreation Facilities typically associated with a homeowner or Condominium association, such as pools, tennis courts, playgrounds, spas, picnic Areas, similar facilities for the Use by Owners and Guests (See [Ordinance No. 2022-08](#), Attachment 1, Line 1594 to see the definition of Private Recreation Facilities prior to the 2022 amendment).*

At the time of the Applicant's CUP submittal, pursuant to LMC [§ 15-2.10-2\(B\)\(19\)](#), Private Recreational Facilities such as sports courts in the Estate (E) Zoning District required a CUP, including use for pickleball courts. The use at the time the applicant's Application vested under the LMC included pickleball courts⁷.

The Appellant states⁸ the sports court use as a pickleball must comply with LMC [§ 15-4-22 Outdoor Pickleball Courts In Residential Areas](#), especially regarding the following:

- a) A noise study must be completed for pickleball courts....none was completed.
- b) There must 600 ft of separation from the adjacent residential property lines to the pickleball court...At this site, there are several adjacent properties within this 600 ft setback.
- c) On July 18, 2022, at a Planning Commission meeting (per the approved minutes), the owners representative said that the Sports Court would not be used as a pickleball court. This was after the approval of LMC #15-4-22.

The Planning Commission—as part of the 16 CUP criteria—was required to evaluate the impacts of noise prior to granting the CUP. Despite the fact that LMC [§ 15-4-22](#) does not apply, the Planning Commission still properly evaluated and mitigated adverse impacts of noise by reasonable Conditions of Approval. On March 20, 2024, the owner of SportsWest Construction, Dale M. Hendrickson, submitted a letter regarding planned noise reductions regarding pickleball. This was [Exhibit J](#) to the Planning Commission's April 24, 2024 Staff Report. Mr. Hendrickson notes in the letter that his personal background is a general contractor for more than 37 years and that he is not a sound engineer. However, he recommends the following to the Applicant:

⁷ Land Management Code [§ 15-1-17 Vesting](#)

⁸ See Exhibit A: Appellant Submittal, p. 3

1. Sport Court SportGame PB open cell surface system we are installing absorbs 20% of the downward reflective sound waves.
2. “AcoustiFence soundproofing material placed around a pickleball court can reduce noise by up to 10 -12 decibels, a 50% reduction in sound.” <https://usapickleball.org/member-news/quash-pickleball-noise-with-acoustifence/>
3. The Owl pickleball paddle is the “...first paddle qualifying for USA Pickleball’s (Sports governing body) new Quiet Category. Owl Paddles reduce the noise of your game by more than 50%.” <https://www.owlpaddle.com/technology>

He then cites Facebook research completed by Bob Unetich.

The Planning Commission considered the materials submitted by the Applicant, the November 16, 2023 Utah Property Rights Ombudsman Advisory Opinion (Exhibit E), and the Appeal Panel ruling of March 4, 2024, and determined that any detrimental effects caused by the proposed development could be reasonably mitigated to comply with the LMC. The Planning Commission then crafted Conditions of Approval as part of the Final Action Letter to mitigate those anticipated detrimental effects. For those relating to use of the sports court for pickleball, the Planning Commission required the following Conditions of Approval:

- I. Use of the Sports Court will be prohibited from 10:00 PM to 7:00 AM and the use of pickleball is restricted from 8:00 PM to 8:00 AM.
- J. The surface of the Sports Court shall be comprised of SportGame PB Open Cell materials or similar noise-reducing materials.
- K. An “AcousticFence” or similar soundproofing fencing must be installed around the Sports Court.
- L. Sports court may be used for paddle games (including pickleball), but only when USA Pickleball’s Quiet Category compliant paddles and soft balls are used.⁹

The Planning Commission found reasonably anticipated detrimental effects from the sports court, including pickleball-related effects, have been mitigated through the inclusion of these Conditions of Approval. Additionally, the Applicant must comply with Municipal Code of Park City [Chapter 6-3 Noise](#). Planning Commission approval of a CUP does not exempt a property owner from compliance with the Noise Ordinance, and use of the sports court must comply with Municipal Code of Park City [§ 6-3-9\(A\)](#):

Use District	10:00 p.m. - 6:00 a.m.	6:00 a.m. - 10:00 p.m.
Residential	50 dBA	55 dBA
Commercial	60 dBA	65 dBA

⁹ See Exhibit B May 8, 2024 Planning Commission Final Action Letter, p.9

Condition of Approval H in the May 8, 2024 Final Action Letter prohibits overhead lighting for the sports court, and requires that any exterior lighting for walkways and landscaping shall comply with the City's outdoor lighting code pursuant to LMC [§ 15-5-5\(J\)](#) and shall be down-directed, fully shielded, with bulbs 3,000 degrees Kelvin or less. Condition of Approval H also stipulates that final lighting details must be reviewed by the City's Planning Department prior to installation and final inspection.

Department Review

The Planning Department, Executive 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 29, 2024. Staff mailed courtesy notice to property owners within 300 feet on May 30, 2024. The *Park Record* published courtesy notice on June 1, 2024.¹⁰

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 approval of the 1115 Aerie Drive CUP and direct staff to prepare a Final Action letter accordingly.
- The Appeal Panel may grant the Appeal and reverse the Planning Commission's approval of the 1115 Aerie Drive CUP, 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 approval of the 1115 Aerie Drive CUP 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 approval of the 1115 Aerie Drive CUP, 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 Submittal

Exhibit B: May 8, 2024 Planning Commission Final Action Letter

Exhibit C: July 13, 2022 Planning Commission Meeting Minutes

Exhibit D: Park City Ordinance No. 2022-08

Exhibit E: Utah Property Rights Ombudsman Advisory Opinion dated November 16, 2023

Exhibit F: Applicant's Updated Project Narrative dated March 22, 2024

¹⁰ LMC [§ 15-1-21](#)

Exhibit G: Applicant's 2021 CUP Letter of Intent

Exhibit H: Applicant's Brief In Opposition To Appeal dated June 12, 2024

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

RECEIVED

MAY 15 2024



PARK CITY
PLANNING DEPT.

APPEAL OF A LAND USE DETERMINATION

For Office Use Only

BOARD REVIEW

APPROVED _____

DENIED _____

PROJECT PLANNER _____

APPLICATION #

PL-24-06135

DATE RECEIVED

05.15.2024

EXPIRATION _____

PROJECT BEING APPEALED

PROJECT NAME: 1115 Aerie Dr. (PL-21-051010)

ADDRESS: 1115 Aerie Dr

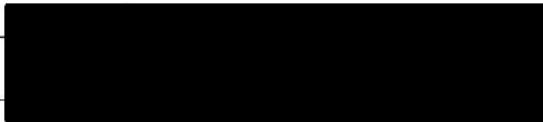
LAND USE AUTHORITY
BEING APPEALED: Park City UT 84060

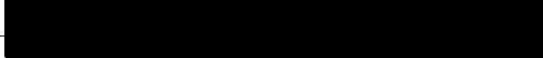
DATE OF FORMAL
ACTION: MAY 8, 2024 (C.U.P.)

APPELLANT INFORMATION

NAME: Craig Kipp

MAILING
ADDRESS: 

PHONE #: 

EMAIL: 

APPELLANT REPRESENTATIVE

NAME: _____

MAILING
ADDRESS: _____

PHONE #: () - _____

EMAIL: _____

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: *Craig R. Kipp*
Name of Applicant: *Craig Kipp*
Mailing Address: [REDACTED]
Phone: [REDACTED] Fax: [REDACTED]
Email: [REDACTED]
Type of Application: *APPEAL*

1115 Aerie Drive Appeal
(PL-21-051010)

May 15, 2024

Petitioner:

Craig Kipp



RECEIVED

MAY 15 2024

PARK CITY
PLANNING DEPT.

Relationship to the property:

I live within 300 feet of the Pickleball Court

Two Reasons for the Appeal:

- 1) The Conditional Use Permit (CUP) for project PL-21-05101 was approved, with conditions, on May 8, 2024 via a letter from Sarah Hall, Planning Director. However, this project includes a pickleball court. According to Park City LMC #15-4-22 (pickleball ordinance), there are at least three specific issues with this conditional approval:
 - a) A noise study must be completed for pickleball courts....none was completed.
 - b) There must 600 ft of separation from the adjacent residential property lines to the pickleball court...At this site, there are several adjacent properties within this 600 ft setback.
 - c) On July 18, 2022, at a Planning Commission meeting (per the approved minutes), the owners representative said that the Sports Court would not be used as a pickleball court. This was after the approval of LMC #15-4-22.

- 2) Utah is an "Early Vesting State" [1980 Utah Code 10-9a-509(1)(a)(i)]. It has been stated that this pickleball court was applied for on Dec 20, 2021, before the new Park City's April 28, 2022 LMC #15-4-22 pickleball ordinance. That is, the Sport Court is therefore "grandfathered" under "Early Vesting". However, the 1115 Aerie Dr. Dec 20, 2021 application is for a Sports Court. Not a pickleball court. For example, the Sports Court is also not a football field, rodeo arena, or a 400 meter track. The applicant did not mention, and did not plan for, a pickleball court until well after the Park City April 28, 2022 pickleball ordinance. Thus, it cannot be grandfathered. The applicant must follow Park City's LMC #15-4-22. The first time the nearby residents of the "Aerie" heard that a pickleball court was back in the design, was after the November 16, 2023 Utah State Ombudsman report. This is well after Park City's new pickleball ordinance, and well after the owner's representative said there would not be a pickleball court on this site.

Comment:

I, and a number of other Aerie residents, request that 1115 Aerie Dr follow the City pickleball permitting requirements.

Let's remember that all of the currently completed exterior work, at 1115 Aerie Dr, was completed on a four year old landscape permit: This includes the Water Feature, Putting Green, Play Ground (with equipment) and a so called Sports Court. None of which was properly permitted, drawn, plotted or designed.

If the landscape contractor had not extended the un-permitted Sports Court into the City's right-of-Way....and hit the City's main gas line going up Aerie Drive...none of this would have been discovered and stopped.

Incredibly, as a reward for this unauthorized work, the Planning Commission is now letting the owner downsize the "Sports Court" into a pickleball court...without re-permitting according to the new City pickleball ordinance.

Let's be clear, there was never a mention of a pickleball court, until after the Spring of 2022 pickleball ordinance. You cannot grandfather something that was not planned or permitted. A Sports Court is not a pickleball court.

Over four years; Planning staff changes, Planning Commission changes, Park City Ordinance changes, and Utah State Ombudsman interference on top of an extensive un-permitted residential construction. I am not sure the City has correctly followed the timing, permits and scheme here.

The 1115 Aerie Dr. owner needs to follow the City ordinances.

Additional attached appeal letters from:

Ginny Schulman.....[REDACTED] Aerie Dr., Park City UT 84060

Kerrin Antonsson...[REDACTED] Aerie Dr., Park City UT 84060

Ginny Schulman
[REDACTED] Aerie Drive
Park City, Utah 84060
[REDACTED]

May 14, 2024

RE: 1115 Aerie Drive

July 13, 2022 the Planning Commission had a hearing on the December 20, 2021 application. Mr. Wade Budge, an attorney representing the homeowner spoke at length about the proposed application for the sport court. At that meeting he stated that the sport court would not be used as a pickleball court and the applicant would accept a condition that it would not be used as such. Further Mr. Budge stated that there was no intent to install lighting, and offered that there would be plenty of light during the summer months. He reiterated that the owner would accept conditions of approval stating that neither pickleball nor lighting would be allowed. (SEE APPROVED MINUTES FROM July 13, 2022 MEETING)

During the public comment Robin Felton spoke about the lighting and noise that would impact her enjoyment of her home. Don Wood had concerns of lighting and screening. He further had concerns about the noise and the number of people that would be on the site. John Strabo had similar concerns and mentioned the noise, the water runoff, and the amount of water the landscaping would require. Mr. Strabo's property is directly below the applicant's property and his deck looks up at the retaining walls. He expressed a concern that the noise would impact his property.

"Chair Phillips returned to the permit and offered that the applicant could restore the property to what is on the permit. Mr. Sutton expressed that he was likely willing to take the property back to that point and just forget the sports court." Also in the minutes of that meeting the owner, Mr. Sutton, said "he would be willing to go back to that point and forget the sport court."

"Commissioner Kenworthy moved to deny the private Recreation Facility Conditional Use Permit on 1115 Aerie Drive subject to the Findings of Fact and Conclusion of Law as follows:"

Item 15. d. States: LMC-15-1-10(E)(12), noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site and . . . "

The motion to deny passed with unanimous consent of the Commission.

July 29, 2022 Owner appealed the decision to the Ombudsman for the state of Utah.

November 16, 2023 the Ombudsman said the Planning Commission erred. However, stated in the Ombudsman Advisory Opinion at the top of page 4 that "The applicant provided an explanation of the proposed use of the sport court as well as lighting and stated that the

Ginny Schulman
[REDACTED] Aerie Drive
Park City, Utah 84060
[REDACTED]

owner would accept certain conditions regarding use and lighting that he felt would mitigate anticipated detrimental impacts and address comments by neighbors."

March 4, 2024 The Park City Appeal Panel determined that the Planning commission should reconsider the issues because of the decision of the Ombudsman. The appeal was granted relative to some of the issues that were part of the July 22, 2024 meeting. **NOTE—the online system was not working and several people could not speak.**

March 22, 2024 the owner supplemented his application. However the Park City Building Department has no copy of that application and to date no plan for lighting has been submitted and therefore not approved although there is significant lighting on the outdoor area.

April 24, 2024 Mr. Budge stated that the appeal was granted by the Ombudsman "relative to some issued that had bedeviled here together at the prior hearing July 22, 2022 and then reprimanded the issues that we are bringing here today, which we are going to get into in a moment." Here Mr. Budge acknowledges that things were said in the July 22, 2022 meeting to appease the concerns of the neighbors. Please note that the minutes to the April 24, 2024 Planning Commission are not available, the above quote was taken from the video recording of the meeting.

In conclusion;

1. The owner's representative said the sport court would not be used as a pickleball court and there would be no lighting July 13, 2022. **SEE the minutes of the July 13, 2022 meeting.** The Ombudsman understood that the owner was willing to accept certain conditions (as represented in July of 2022) to address certain impacts and address comments by neighbors. **SEE top of page 4 of the Ombudsman decision.**
2. The proposed chain link fence is not an acoustic fence as mentioned in item K of the approval. I know of no neighborhood that has a chain link fence.
3. The area that has been consumed by a putting green, playground and sport court has exceeded the sensitive land area and resulted with AstroTurf , hardscapes and a sport court plus retaining walls that far exceed the limit of the Land Management Code. The Building Department has received no plans sine 2021 regarding the retaining walls, the steep slopes or the AstroTurf.

Ginny Schulman
[REDACTED] Aerie Drive
Park City, Utah 84060
[REDACTED]

4. The existing lighting on the putting green and playground is not to code, was never part of the original plan, the revised plan, or the final plan. The Building Department has not approved the revised plan or any lighting to the property.
5. The sport court is not compatible with the neighborhood and many neighbors are adversely affected by the lighting already. Most of the neighbors who have attended the meeting either by Zoom or in person have spoken out against the noise factor and the owner's representative stated that there would not be pickle ball or lighting both of which are allowed in the final approval. Neighbors above the site have a clear view of the site and will have issues with the noise and lighting.

The Planning Commission was wrong in approving the application which allows pickle ball and lighting. The owner and the owner's representative stated they would not have pickleball and lighting on the sport court in more than one meeting and it was also mentioned in the Ombudsman opinion. The Planning Commission should have denied the approval based on the owner saying there will now be pickleball and lighting on the sport court. The Building Department should determine if the current plan, what was built, and the current and planned lighting will comply with the Land Management Code regarding the lighting, runoff, and the retaining walls.

Sincerely,

Ginny Schulman

Kerrin Antonsson



May 14, 2024

RE: 1115 Aerie Drive

I object to the approved Conditional Use Permit for the Sport Court at 1115 Aerie Drive. On December 20, 2021 an application for a sport court was submitted but this application did not include a request to include pickleball usage and is therefore beyond the original scope of the permit. As I understand it, at the July 13, 2022, Planning Commission meeting to review the December 20, 2021 application, Mr. Wade Budge, an attorney representing the homeowner, spoke at length about the proposed application for the sport court. At that meeting he stated that the sport court would not be used as a pickleball court, and the applicant would accept a condition that the sport court would not be used for pickleball. The condition to exclude pickleball usage should be included to mitigate the anticipated detrimental impact to neighbors of 1115 Aerie Drive.

Further, even though the sports court itself will not have lighting, there is an unspecified walkway lighting plan that will likely be seen from my property.

I personally attended the April 24, 2024 meeting and spoke then to raise my objection to the possible noise and lighting that will affect my enjoyment of my property at [REDACTED] Aerie Drive.

Sincerely,

A handwritten signature in black ink that reads "Kerrin Antonsson".

Kerrin Antonsson



Planning Department

May 8, 2024

Wade Budge
Snell & Wilmer

CC: Gary Sutton

NOTICE OF PLANNING COMMISSION ACTION

Description

Address: 1115 Aerie Drive

Zoning District: Estate
Sensitive Land Overlay

Application: Conditional Use Permit

Project Number: PL-21-05101

Action: APPROVED WITH CONDITIONS (See Below)

Date of Final Action: May 8, 2024

Project Summary: The Applicant proposes reducing the size of a concrete pad from 4,795 square feet to 2,085 square feet, removing a portion that encroaches into the Side Setback and encroaches on adjacent property to construct a Private Recreation Facility (sports court), and removing and reconfiguring portions of the retaining walls in the northeast corner of the Lot to help with grading and on-site stormwater retention.

Action Taken

On April 24, 2024, the Planning Commission conducted a public hearing and approved the Private Recreation Facility (sports court) Conditional Use Permit according to the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

Conditional Use
File No. PL-21-05101
[Sports Court –1115 Aerie]

Procedural History

A. On December 20, 2021, the applicant 1115 Aerie LLC (“Applicant”) submitted an application (“Application”) and paid the required fee for a conditional use

permit in connection with a proposed sports court (the “Sports Court”) on Summit County, Utah Tax Parcel No. OOT-HSTONE-8 (the “Property”). The Application was submitted after a contractor commenced work without all necessary permits.

B. On July 13, 2022, the Park City Planning Commission (“Planning Commission”) held a public hearing and denied the Application.

C. On July 20, 2022, the Planning Commission issued its written denial of the Application. The Planning Commission reasoned that the Application (a) was not compatible with prior land use approvals, specifically a building pad note on the applicable subdivision plat prohibited the proposed sports court; (b) lacked information regarding the conditional use permit requirements for screening and landscaping, compatibility with surrounding structures, noise, lighting, sensitive lands, and steep slopes; and (c) was inconsistent with the general plan.

D. On July 29, 2022, the Applicant appealed that denial and on August 2, 2022, submitted an advisory opinion request for the Application to the Utah Office of the Property Rights Ombudsman.

E. On November 16, 2023, the Ombudsman issued an advisory opinion on this matter and concluded that the Planning Commission erred in denying the Application. Specifically, the Ombudsman concluded that: (i) the Sports Court did not violate any plat note or building area restriction, (ii) the Planning Commission erred in denying the Application for insufficient evidence; and (iii) the Application should be allowed to supplement its Application with any insufficient information.

F. On March 4, 2024, the Park City Appeal Panel held a hearing on the Applicant’s appeal and concluded that: (i) the Sports Court did not violate any plat note or building area restriction; (ii) the Applicant should be allowed to supplement its Application with additional information; and (iii) the Planning Commission should reconsider the following issues in light of the conclusions from the Appeal Panel and the Applicant’s supplemental information:

- (1) Whether the Sports Court will cause any detrimental effects, and, if any, could those effects be reasonably mitigated; and
- (2) Whether the Sports Court complies with the City’s very steep slope, significant vegetation, and impervious surface requirements.

G. On March 22, 2024, the Applicant formally supplemented its Application with a steep slope analysis, drainage plan, and an analysis of how the proposed use satisfies Park City’s conditional use permit requirements.

Findings of Fact

1. The Property is located within the Nielsen/Korthoff (Hearthstone) Small Scale Master Plan Development that was approved June 14, 1993, and within the Hearthstone Subdivision Plat that was recorded June 13, 1994.

2. The Property is primarily used as a single-family residence, which use will continue with the Sports Court being accessory thereto.

3. Pursuant to the Park City Land Management Code ("LMC") Sports Courts are a conditional use for the Property and thus require a conditional use permit ("Sports Court CUP"). The Sports Court CUP must be issued to the Applicant if the Planning Commission finds that the proposed Sports Court causes no detrimental effects on adjacent uses or if it does cause detrimental effects, those effects can be reasonably mitigated.

4. In connection with the Application, the Applicant submitted the following documents for the Planning Commission's consideration:

- a. Existing Conditions & Topography Map (Job No. 3-9-21) prepared by Alliance Engineering Inc.;
- b. Conceptual Grading & Drainage Plan (Job No. 8-3-23) prepared by Alliance Engineering Inc.;
- c. Landscaping Plan/sports court exhibit prepared by DBS + Associates, LLC.

5. The Planning Commission has the authority to act as the land use authority for the Sports Court CUP. See LMC § 15-1-10(D).

6. The Applicant submitted all the materials required by the LMC for the Sports Court CUP and presented in a public hearing regarding the proposals set forth in the Application.

7. With respect to the Sports Court CUP, the Planning Commission, after carefully considering the Applicant's submittals referenced above and the Applicant's presentation at the public hearing, has determined that any detrimental effects caused by proposed development can be reasonably mitigated and comply with the LMC's requirements.

Additional Findings

8. The Planning Commission, as the land use authority, finds that the proposed Sports Court CUP complies with the standards in LMC § 15-1-10(D). Specifically:

- a. The Application complies with all applicable requirements of the LMC as required by LMC § 15-1-10(D)(1). Based on the materials provided with the Application the Sports Court complies with all applicable LMC provisions.

b. The Sports Court is compatible with surrounding structures in use, scale, mass, and circulation. See LMC § 15-1-10(D)(2). Specifically, the Sports Court is compatible with surrounding uses as it is accessory to the primary single-family residential use on the Property. Use of the Sports Court will be limited to the Property's residents and guests and will not be open to the general public. This is consistent with the surrounding residential area. The Sports Court is and will be located entirely within the Property's setbacks and will be screened from view by the existing residence and carefully designed landscaping. The Sports Court will have no impact on the onsite pedestrian and vehicular circulation.

c. The Applicant has proposed several conditions to mitigate any differences in use or scale. See LMC § 15-1-10(D)(3).

9. The Planning Commission, as the land use authority, finds that the Sports Court CUP complies with the standards in LMC § 15-1-10(E). Specifically:

a. Size and location of the site:

The Property a single-family lot that was approved/created when the Hearthstone Subdivision was recorded on 6-13-1994. The proposed Sports Court is accessory to the single-family home existing on the Property. The size of the Property is more than adequate for the Sports Court as it will be located entirely outside the Property's setbacks. The location of the Sports Court on the Property is appropriate because it is within the Property's designated building pad, as defined by LMC § 15-15.

b. Traffic considerations including capacity of the existing streets in the area:

The Sports Court will not increase traffic to the Property as it will be primarily used by the Property's residents and guests. No new traffic impacts are being created.

c. Utility capacity, including storm water run-off:

No new utilities are being proposed for the Sports Court because as a proposed condition of approval the Sports Court will not have any outdoor lighting. The Applicant's drainage plan is adequate to manage any stormwater runoff generated by the Sports Court's impervious surface.

d. Emergency vehicle access:

The Sports Court will not change or impact any emergency vehicle access. The current emergency access to the Property from Aerie Dr. will not be impacted by the Sports Court.

e. Location and amount of off-street parking:

Per the LMC, a private recreation facility generates a parking demand of 1 space per 4 persons. This is in addition to the 2 spaces required for a single-family dwelling. Thus, the Property requires 3 parking spaces. As shown on the submitted plans, the capacity of the existing garage is 3 vehicles, with additional parking space in the driveway, outside of the setbacks of 7 vehicles. The Property has sufficient parking.

f. Internal vehicular and pedestrian circulation system:

There is no change to the existing pedestrian or vehicular circulation patterns.

g. Fencing, screening, and landscaping to separate the use from adjoining uses:

The provided landscape plan shows that the Sports Court will be extensively screened from view from Aerie Drive and the neighbors to the north and east. The landscape plan shows that at least thirty-nine (39) trees will be planted, but it is anticipated that up to sixty (60) trees will be planted, most of which are evergreens, which will provide year-round screening. The Application also depicts a ten-foot chain link fence surrounding the Sports Court on all sides for additional screening and safety, security, and noise reduction purposes. The Sports Court is adequately fenced, screened, and landscaped to separate it from adjoining uses.

h. Building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots:

The Sports Court will be within the setback and within the Property's building pad, as defined in LMC § 15-15-1. Due to the grade of the site, the Sports Court will sit approximately ten feet (10') below the elevation of Aerie Drive. There will be a two foot (2') retaining wall on the north side of the Sports Court, then an approximately 4:1 slope from the retaining wall to Aerie Drive.

i. Usable open space:

The portion of the lot containing the Sports Court will continue to be open space, as defined by the LMC¹. Thus, the Sports Court does

¹ LMC § 15-15-1: OPEN SPACE - Open Space, Landscaped. Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, recreation amenities, public landscaped and hard-scaped plazas, and public pedestrian amenities, but excluding Buildings or Structures.

not change the existing open space, and in fact, makes the existing open space more usable for recreational activities.

j. Signs and lighting:

No signs or lighting are being proposed with the Sports Court.

k. Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing:

The proposed Sports Court will be used solely for the residents and guests at the Property. The landscaping associated with the Sports Court will screen the use from Aerie Dr. The landscaping wall on the north of the Sports Court is being reduced in size from what is currently constructed to reduce visibility from adjoining uses.

l. Noise, vibration, odors, steam, or other mechanical factors that might affect people and off-site property:

Sports courts typically create noise that might affect people and off-site properties. The Sports Court, however, has been carefully designed by including a SportGam PB open cell court surface and AcoustiFence soundproofing surrounding the Sport Court to mitigate noise. Likewise, the Applicant has agreed to the conditions identified below to further mitigate potential noise concerns. The Sports Court, as conditioned, adequately mitigates any potential detrimental noise. The Sports Court will not cause any vibration, odors, steam, or other mechanical factors that may affect people and property off-site.

m. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup areas:

No changes are proposed or anticipated with regards to service vehicles.

n. Expected Ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies, how the form of ownership affects taxing entities:

The Sports Court will not change the ownership or management composition of the Property and will be used only by the Property's residents and guests. There is no change affecting taxing entities.

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:

The Applicant provided a detailed steep slope analysis that shows that the Sports Court is not located within fifty feet (50') of very steep slopes. The Property is not within the soil ordinance boundary. Finally, the sensitive land overlay is not applicable to the Nielson portion of the Nielsen/Korthoff MPD, as approved on June 14, 1993. (The Property is in the Neilson portion of that MPD).

- p. Reviewed for consistency with the goals and objectives of the Park City General Plan.

The use is consistent with the Park City General Plan and is an allowed conditional use; however, such review for consistency shall not alone be binding. There are specific elements of the general plan that the Application supports:

1. Objective 1A - Direct complimentary land use and development into existing neighborhoods that have available infrastructure and resource capacity. (pg. 27)
2. Objective 1C - Primary residential neighborhoods should encourage opportunities to enhance livability with access to daily needs, including: a mini market, a neighborhood park, trails, community gardens, walkability, bus access, home business, minor office space, and other uses that are programmed to meet the needs of residents within the neighborhood and complement the existing context of the built environment. (pg. 27)
3. The more Park City residents are able to take advantage of the benefits provided by parks and recreational facilities, the healthier our community will be. (pg. 99)

10. The location of the Sports Court is more than seventy-five (75') from Very Steep Slopes as shown on Alliance Engineering Existing Conditions & Topography Exhibit dated 4/2/2024. See LMC § 15-2.21-3(A)(3).

11. The Planning Commission finds that for the reasons above, the Sports Court will not have any unmitigated detrimental impact on surrounding uses.

12. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result from the proposed Sports Court. The Planning Commission finds that these conditions adequately mitigate potential detrimental effects that may result from the Sports Court.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Sports Court CUP meets the standards and requirements of the LMC, including the criteria for approving a conditional use per LMC § 15-1-10(D) and Utah Code § 10-9A-507. The Planning Commission concludes it is appropriate to approve the Sports Court CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the uses described in the Application.

Conditions

The Sports Court CUP is conditioned upon the following:

- A. Portions of the Sports Court and retaining walls currently located inside the front and side setbacks must be removed. The disturbed areas must be revegetated in accordance with the submitted plans. The sports court shall be constructed to the specifications of the updated site and landscape plans dated March 28, 2024, not to exceed 2,085 square feet.
- B. Any disturbed area offsite from the Property must be revegetated in accordance with submitted landscape plans.
- C. The Applicant shall bury or relocate the retaining wall that is north of the Sports Court and in the front and side setbacks. The new wall is limited to two feet (2') in accordance with the plans as submitted. Prior to obtaining a building permit for the relocated retaining wall, the Applicant shall submit to the City's engineering department an excavation and grading plan showing no erosion, land subsidence, or avalanche is created by the relocation of the retaining wall.
- D. The Applicant shall submit a construction mitigation plan for approval by the City's Chief Building Official that mitigates construction traffic on Aerie Dr. The Applicant shall submit a management and safety plan for the proposed route. Time of operations, truck inspections, and the number of trips hauling shall be outlined and regulated through the Construction Mitigation Plan.
- E. The Applicant's stormwater mitigation plan shall include mitigation for on-site retention and shall be reviewed and approved by the Engineering Department prior to building permit submittal.
- F. The Applicant shall notify the Planning Department prior to making any changes to the plans approved as part of the Sports Court CUP.
- G. The Property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not

regulated by the City for mine-related impacts. If the Applicant does encounter mine waste or mine waste impacted soils, the Applicant must handle the material in accordance with State and Federal law.

- H. No overhead lighting is permitted for the Sports Court. All exterior lighting for walkways and landscaping shall be down-directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property, and shall comply with the City's outdoor lighting code per LMC § 15-5-5(J). Final lighting details must be reviewed by the City's planning staff prior to installation and final inspection.
- I. Use of the Sports Court will be prohibited from 10:00 PM to 7:00 AM and the use of pickleball is restricted from 8:00 PM to 8:00 AM.
- J. The surface of the Sports Court shall be comprised of SportGame PB Open Cell materials or similar noise-reducing materials.
- K. An "AcousticFence" or similar soundproofing fencing must be installed around the Sports Court.
- L. Sports court may be used for paddle games (including pickleball), but only when USA Pickleball's Quiet Category compliant paddles and soft balls are used.

If you have questions or concerns regarding this Final Action Letter, please call 435-615-5060 or email planning@parkcity.org.

Sincerely,



Sarah Hall
Planning Commission Chair

CC: Rebecca Ward, Planning Director



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JULY 13, 2022**

COMMISSIONERS IN ATTENDANCE: Chair John Phillips, John Kenworthy, Laura Suesser (attended virtually), Bill Johnson, Christin Van Dine, Sarah Hall (joined the meeting in progress)

EX OFFICIO: Gretchen Milliken, Planning Director; Rebecca Ward, Assistant Planning Director; Alexandra Ananth, Senior City Planner; Makena Hawley, City Planner; Browne Sebright, City Planner; Mark Harrington, City Attorney

1. ROLL CALL

Chair Phillips called the meeting to order at approximately 5:30 p.m. Chair Phillips took a roll call, and noted that Commissioner Sarah Hall was absent, but would possibly join the meeting in progress.

The following was read:

The Planning Commission of Park City, Utah will hold its regular meeting with an anchor location for public participation at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah 84060 on Wednesday, July 13, 2022. Planning Commission members may participate in person or connect electronically by Zoom or phone. Members of the public may attend in person or participate electronically.

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

Chair Phillips reported that the Commission attended a site visit for 1115 Aerie Drive to inform them of the conditions of the site to assist with their discussions on the Agenda Item for that property.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from June 8, 2022.

Commissioner Kenworthy referenced the first sentence of the third paragraph on page 18 and

stated that it should read: "Commissioner Kenworthy noted that Utah was one of the fastest growing states, and Wasatch County was one of the fastest growing counties in the nation, and here is a ski mountain with a CCC number that talks to stewardship. He felt a specific daily ski cap on the mountain needed to be a Condition of Approval." He added that in the same paragraph, beginning with "Commissioner Kenworthy also felt..." should read: "Commissioner Kenworthy also felt there needed to be additional capacity monitoring for the City included as a Condition of Approval."

MOTION: Commissioner Kenworthy moved to APPROVE the Planning Commission Meeting Minutes from June 8, 2022, as corrected. Commissioner Suesser seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

B. Consideration to Approve the Planning Commission Meeting Minutes from June 15, 2022.

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from June 15, 2022, as written. Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

C. Consideration to Approve the Planning Commission Meeting Minutes from June 22, 2022.

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from June 22, 2022, as written. Commissioner Van Dine seconded the motion.

VOTE: Commissioner Kenworthy-Aye, Commissioner Suesser-Abstained, Commissioner Johnson-Aye, Commissioner VanDine-Aye, Chair Phillips-Aye. The motion passed unanimously with one abstention. Commissioner Suesser abstained from the vote because she was not present at that meeting. Commissioner Hall was not present for the vote.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Gretchen Milliken, reported that interviews for the Planning Commissioners would occur before the City Council on July 14, 2022, beginning at 2:30 p.m. She noted that Commissioners Kenworthy and Suesser were on the list to be interviewed. She added that there would be a joint City Council and Planning Commission meeting on August 30, 2022, at 5:30 p.m. to discuss Fractional Ownership.

Commissioner Kenworthy thanked Doug Ogilvy and his Homeowners' Association, and all the work of the Planning Staff for the historic preservation and agreement that resulted in the return of the Daly West Headframe. He stated that if they could find more unity like that, they could go a long way in Park City. He specifically referenced Steve Issowits and Sandra Morrison for their

efforts. He stressed that this would not have been accomplished without Planning Staff. He mentioned that they had to get a new roof right before winter, and noted that the applicants were generous and understood the meaning of historic preservation and the economic driver that it is.

Mr. Ogilvy thanked Commissioner Kenworthy for his comments and stated that the City came together with the Homeowners Association for something that made the funding possible. He felt that in his over 30 years in the development business, this project was one that his mother would be most proud of because of the historic preservation of something that will now be there for another 100 years.

Chair Phillips announced that after much consideration, he would finish his term this month, and the next meeting would be his last on the Planning Commission. This was not an easy decision, but for personal and family reasons he would not be able to stay on until September. He added that he took into consideration what was coming up for the Planning Commission and felt confident that the Commission could carry on without his presence until his replacement was appointed.

Commissioner Kenworthy thanked Chair Phillips for his service.

Chair Phillips noted that the Agenda would be re-ordered to accommodate unanticipated continuations. Items 5.B. and 5.F. would be heard first.

5. REGULAR AGENDA

- A. 9300 Marsac Avenue – Sommet Blanc Condominiums Plat – The Applicant is Requesting a Condominium Plat to Memorialize Previously Granted Density to Confirm the Configuration of Proposed Units and Identify Areas of Private, Limited Common, and Common Ownership. The Project Includes 3 Buildings, 49 Residential Units, 6 Affordable Deed Restricted Units, 2 ADA Units, and a 3,600 Square Foot Restaurant. PL-22-05242.**

City Planner, Makena Hawley, explained that the applicant requested a Condominium Plat to memorialize previously granted density, confirm the configuration of the proposed units, and separate the Private, Limited Common, and Common Ownership. The property is located at 9300 Marsac Avenue in the Residential Development ("RD") Zoning District. The lot is also governed by the 2007 Empire Pass B-2 Master Planned Development ("MPD"), the 2007 Amended Flagstaff Development Agreement, 14 specific technical reports, and the 2017 B-2 East Subdivision. She stated that the proposed Condominium Plat included three buildings, 49 residential units, six deed-restricted affordable units, two ADA units, and one restaurant under 3,600 square feet. It also included 107 parking stalls for Sommet Blanc, 56 parking stalls for Empire Day Lodge, and a three-acre conservation easement.

Planner Hawley reported that on March 9, 2022, the Planning Commission approved an amendment to the MPD, as well as the Development Agreement and a Conditional Use Permit ("CUP") for the multi-unit dwelling. This plat would memorialize that approval. She stated that Staff found the proposal complied with the RD Zoning District, the general subdivision requirements outlined in Land Management Code ("LMC") Section 15-7.3-2, general lot design requirements, and all of the Conditions of Approval outlined in multi-unit dwelling CUP, as well as the Conditions of Approval outlined in the modification to the MPD and Development Agreement. Staff also found good cause for this Condominium Plat, which is consistent with the density and

uses identified in the approved Development Agreement and MPD, as well as the multi-unit CUP. Additionally, the Condominium Plat provides for six affordable units.

Planner Hawley reported that Staff received no public input. Staff recommended that the Commission forward a positive recommendation for the City Council's consideration on September 1, 2022, for the Sommet Blanc Condominiums subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval. She announced that Mr. Ogilvy was present on behalf of Sommet Blanc.

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

MOTION: Commissioner Johnson moved to forward a positive recommendation for City Council consideration on September 1, 2022, for 9300 Marsac Avenue, Sommet Blanc Condominiums Plat, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as follows:

Findings of Fact

1. The Sommet Blanc Condominium Plat proposes 3 lodges, with 49 residential units (162,000 square feet), 6 Deed Restricted Units, 2 ADA Units, and 1 Restaurant (3,559 square feet).
2. The Condominium plat is located in the Residential (RD) Zone.
3. The Condominium plat is subject to the requirements of the 2007 Flagstaff Development Agreement (DA) as amended, the 2007 Empire Pass Pod B2 Master Planned Development (MPD) as amended, 14 specific technical reports, the 2017 B2 East Subdivision, and the approved Conditional Use Permit for a Multi-Unit Dwelling by the Planning Commission on March 9, 2022.
4. On March 9, 2022, the Planning Commission approved an Amendment to the 2007 Empire Pass B-2 Master Planned Development as well as the DA and a Conditional Use Permit to review the impacts of a Multi-Unit Dwelling and allow a modification to design and volumetrics, including a height exception.
5. On April 18, 2022, the City received an application for the Sommet Blanc condominium plat.
6. On May 9, 2022, staff deemed the application complete.
7. The proposed condominium plat memorializes density, size, and configuration of proposed units and identifies areas of private and common ownership.
8. Multi-Unit Dwellings are a Conditional Use in the RD Zone.
9. Through the Flagstaff Annexation and 2007 Flagstaff DA, density was allocated to clustered developments through Empire Pass.

10. On March 14, 2007, the Planning Commission approved an MPD for Pod B2 at Empire Pass as an amendment to the July 28, 2004, Village at Empire Pass MPD allocating 81 multi-family Unit Equivalents (UEs) in not more than 70 condominium units.
11. The Applicant recorded a Development Covenant which allocates 3,600 square feet of Resort Support Commercial from the maximum 75,000 square feet allowed in Resolution 20-99 that granted the equivalent of a "large-scale" MPD.
12. On July 5, 2022, the Planning Director made a Determination of Setback Requirements for Unusual Lot Configurations pursuant to § 15-4-17.
13. The RD Front Setback of 20 feet for the Main Building and 25' for a front-facing garage complies.
14. The RD Rear Setback of 15 feet complies.
15. The RD Side Setback of 12 feet complies.
16. On March 9, 2022, the Planning Commission approved an amendment to the Pod B2 MPD that modified a Condition of Approval to allow a height exception for Building A of 82 feet and an allowance of 94 feet for Building B and 106 feet for Building C above benchmarked grades (USGS 8330' for north datum point and 8380' for south datum point).
17. Condition of Approval (COA) #48 from the approved CUP requires a restriction that limits elevator overruns and mechanical screening to extend no more than three feet (3') above the permitted Building Height as shown in plans approved on March 9, 2022.
18. Building A reaches a maximum USGS elevation of 8,423' 4" over a benchmark of 8,345' (max allowed USGS 8,462') and a height of 81 feet 4 inches.
19. Building B reaches a USGS elevation of 8,452' 4.5" over a benchmark of 8,362' (max allowed USGS 8,474') and a height of 91' 7.25".
20. Building C reaches a USGS elevation of 8,482' 3.5" over a benchmark of 8,376' 6" (max allowed USGS 8,486') and a height of 105' 8.25".
21. Per LMC §15-3, Buildings A, B, and C require 142.6 off-street parking spaces for residential and restaurant uses
22. Each market rate and affordable unit will have one parking stall assigned to the unit. Per Flagstaff DA, the parking stall requirement is reduced by 25% to 107.1 rounding to 107 parking spaces.
23. The 2007 MPD permits up to 75 parking spaces on the B2 East site for the benefit of Deer Valley's adjacent Fireside Dining operation in the Empire Day Lodge.

24. The Sommet Blanc project includes 60 tandem parking spaces within a parking deck dedicated for valet parking by Deer Valley.
25. Sommet Blanc Residences will provide 163 parking spaces.
26. Subject to the COAs of the Amended DA - Materials, color samples, and final design details shall be approved by staff prior to building permit issuance and shall be in substantial compliance with the elevations reviewed by the Planning Commission on March 9, 2022.
27. 49 Market rate units are proposed for a total of 162,000 square feet or 81 UEs.
28. Two ADA units are proposed for a total of 1,609 square feet. These must remain Common Space.
29. AUEs and ADA units are not calculated in the overall residential square footage.
30. The Residential Accessory Use was not counted in the DA or the MPD, the applicant proposes a total of 141,660 square feet.
31. The total On-Mountain remaining requirement for the Flagstaff DA is 4.03 Affordable Unit Equivalents (AUEs). The applicant proposes six (6) Affordable housing units (Four Studio apartments and two, two-bedroom units) for a total of 5.9 AUEs or 4,683 sf.
32. Affordable Units constructed on-site do not count toward the Residential Unit Equivalents of an MPD and are therefore exempt from project Density.
33. The name Sommet Blanc Condominiums does not duplicate any existing Subdivision.
34. The Lot and site disturbance has been extensively reviewed by the Planning Commission and the Planning Department.
35. No Open Space is required at this time due to Sommet Blanc Condominiums being developed under the 2007 Flagstaff DA which had designated development pods and dedicated open space. Sommet Blanc is located in development Pod B.
36. The Pod B2 MPD Conclusion of Law #10 notes that the Flagstaff Annexation was not included in the Sensitive Lands Overlay.
37. The property is the site of the historic Mazepah mine shaft. In August of 2018, the EPA confirmed that all work performed to remediate and remove soil under an Administrative Settlement and Order on Consent for Removal Action was in accordance with EPA requirements.

38. The proposed structure meets the Design Guidelines within the Empire Pass Design Guidelines in effect for Empire Pass as amended by the Planning Commission on March 9, 2022 and approved by the Empire Pass Design Review Board.
39. The proposed Condominium plat allows for reasonable driveway Access.
40. Through extensive Planning Commission review, a site plan creating a significantly smaller disturbance to the Lot allowed for a 3.06-acre Conservation Easement.
41. The Sommet Blanc CUP and Amendment to the Flagstaff DA and Pod B2 MPD required 49 COAs to be met.
42. The proposed Condominium Plat complies with Land Management Code Section 15-7.3-2, as outlined in the staff report, and conditioned below.
43. The proposed Condominium Plat complies with Land Management Code Section 15-7.3-3, as outlined in the staff report, and conditioned below.
44. The proposed Condominium Plat complies with the Conditions of Approval outlined in the Multi-Unit Dwelling Conditional Use Permit and Modifications to the Master Planned Development and Development Agreement Final Action Letter.

Conclusions of Law

1. There is Good Cause for this Condominium Plat because it is consistent with the density and uses identified in the approved DA, Pod B2 Master Planned Development, and CUP as amended. The condominium plat allows for the sale of individual units and provides two affordable housing units on site.
2. The proposed Subdivision complies with Land Management Code § 15-7.3-2 General Subdivision Requirements, as outlined in the staff report, and conditioned below.
3. The proposed Subdivision complies with Land Management Code § 15-7.3-3 General Lot Design Requirements, as outlined in the staff report, and conditioned below.
4. The proposed Subdivision complies with the Conditions of Approval outlined in the Multi-Unit Dwelling Conditional Use Permit and Modifications to the Master Planned Development and Development Agreement Final Action Letter.
5. The Condominium Plat complies with Land Management Code Chapters 15-2.13 Residential Development Zoning District, as outlined in the staff report, and conditioned below.
6. Neither the public nor any person will be materially injured by the proposed Condominium Plat.

7. Approval of the Sommet Blanc Condominiums 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

1. The Planning Director, 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 recordation of the plat.
2. The Applicant shall record the Condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval will be void, unless the Applicant submits a request for an extension in writing prior to the expiration date and an extension is granted by the City Council.
3. The City Engineer shall review and approve all lot grading, utility installations, public improvements, and drainage plans for compliance with City standards as a condition precedent to building permit issuance.
4. Final utility and access shall be reviewed and approved by the Park City Fire District, City Engineer, and City Attorney as a condition precedent to plat recordation.
5. The property is not located within the Soils Ordinance and therefore it is not regulated by the City for mine-related impacts. However, if the property owner encounters mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.
6. The affordable housing obligations outlined in the 2022 CUP Conditions of Approval shall be satisfied prior to City issuance of a Certificate of Occupancy.
7. The Applicant shall submit draft deed restrictions in compliance with the approved affordable Units for review and approval by the Planning, Housing, and Legal Departments prior to submitting the mylar. The deed restrictions shall be approved, executed, and recorded simultaneously with the condominium plat.
8. No Certificate of Occupancy for any market rate unit shall be issued by the City until the affordable employee units required for that phase of development are complete and deed restrictions, in a form approved by the City Attorney's Office, are recorded.
9. Materials, color samples, and final design details shall be approved by staff prior to building permit issuance and shall be in substantial compliance with the elevations reviewed by the Planning Commission on March 9, 2022, and approved by the Empire Pass Design Review Board.

10. The Limits of disturbance shall not cross into the Conservation Easement except for allowances stated within the Conservation Easement, including such maintenance for the Mid-Mountain Trail and an access route for the Snyderville Basic Water Reclamation District.
11. The extension of the existing road and curb cut and all new utility lines shall meet compliance with all requirements as directed by the City Engineering Department.
12. Interior and exterior fire sprinkler systems may be required by the Park City Fire District at the time of Building Permit review.
13. The Applicant will record a Conservation Easement on 3.06 acres on the upper portion of the site prior to Condominium Plat recordation.
14. All Conditions of Approval outlined in the approval for the Multi-Unit Dwelling Conditional Use Permit and Modifications to the Master Planned Development and Development Agreement shall be completed by their specified dates noted in the Final Action Letter from March 9, 2022.
15. Two ADA units are proposed for a total of 1,609 square feet. These units are to remain as Common Area.
16. The existing 10-foot temporary power easement on the plat must be vacated or relocated outside the building footprint prior to recordation.
17. CC&Rs shall be reviewed and updated to meet compliance with Affordable Unit Conditions of Approval prior to recordation.

Commissioner Kenworthy seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

B. 14 Iron Canyon - Plat Amendment - The Applicant Proposes to Adjust the Platted Building Envelope to Build a New Home. PL-22-05232.

Chair Phillips noted that the above item would be continued to July 27, 2022. Planner Hawley reported that the continuance would allow for completion of a Sensitive Lands Overlay analysis. She suggested opening the public hearing before continuing the item.

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

MOTION: Commissioner Van Dine moved to CONTINUE 14 Iron Canyon Subdivision, Lot 33 Building Pad Amendment, to July 27, 2022. Commissioner Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

C. 8200 Royal Street Stag Lodge Unit 50 – Condominium Plat Amendment – The Applicant Proposes to Increase the Private Ownership Area by 612 Square Feet. PL-22- 05267.

Senior Planner, Alexandra Ananth, reported that Items 5.C. and 5.D. were two separate applications that would be presented together due to the similarities between the applications. There would be two separate hearings and two separate votes. She stated that the applications were for two Condominium Plat Amendments for the Stag Lodge Condominiums, located at 8200 Royal Street. Units 7 and 50 were proposing Plat Amendments to increase the private area of the respective condominiums.

Planner Ananth reported that Stag Lodge-Phase 1 was recorded in 1985, and had been amended three times. Phase 4 was recorded in 1992 and had been amended three times. She noted that all of the amendments were similar in that they increased private area or combined units.

With respect to Unit 7, Planner Ananth stated that the applicant proposed to increase the private ownership by 786 square feet by enclosing a deck on the upper level, as well as incorporating the loft area into the plat. She explained that the loft area was built when the unit was originally constructed, but never noted on the plat. She stated that the proposal for Unit 50 was to add some crawl space in the lower level, which would increase their private area by 370 square feet. Both of the proposals complied with the RD Zoning District, the Deer Valley MPD, and the Stag Lodge Condominium Conditions of Approval, and have been approved by the Homeowners' Association.

Planner Ananth reported that both units have two-car garages, which meets the parking requirements. No new parking would be required as a result of these amendments. She reported that the Planning Department found good cause, as the Plat Amendments would not change the footprints of the building, and therefore have no impacts on the setbacks or open space of the site. In addition, there would be no negative impacts on the public, and would not create any non-conformities. These amendments would also be consistent with previously approved Condominium Plat Amendments in this building.

Planner Ananth indicated that no public input was received on either application. The Planning Department, therefore, recommended that the Commission hold public hearings and consider forwarding positive recommendations for the City Council's consideration on September 1, 2022, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinances.

Commissioner Kenworthy asked if the addition of a crawl space would become the owner's private crawl space. Planner Ananth stated this space exists under many units, and other units had done the same by incorporating that space into their private ownership area. The crawl space area would therefore move from common to private ownership. She explained further that the crawl space was already constructed as part of the footprint and foundation of the building, and does not go into anyone else's crawlspace.

Chair Phillips addressed the request for Unit 7 and the proposal to enclose the deck. Planner Ananth explained that Unit 7 has an existing deck on the upper level that would be enclosed. It would result in a change to the façade, but not a change to the footprint.

Chair Phillips asked if the deck was currently considered common space. Planner Ananth stated that it would become part of the private ownership and could not recall how it was originally designated. She stated that the deck was not shared and has exclusive access from that unit. The plat would enclose the deck and incorporate it into the unit. Chair Phillips did not understand why a plat would be needed for this if it were already private.

Senior City Attorney, Mark Harrington, explained that the plat showed the deck as Limited Common Area. External fixtures for private use are typically included in a third category that is a hybrid between Private area and Common area and is called Limited Common Area. He added that it was not uncommon for people to seek to enclose these decks.

Chair Phillips opened the public hearing. There was no public input. The public hearing was closed.

Commissioner Suesser asked if there were previous conversions of a crawl space and a deck to Private. Planner Ananth confirmed that other units have converted crawl space and a deck through the approval process and a Plat Amendment.

MOTION: Commissioner Kenworthy moved to forward a positive recommendation for City Council consideration on September 1, 2022, for 8200 Royal Street Stag Lodge Unit 50 Condominium Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinance, attached as Exhibit A to the Staff Report as follows:

Findings of Fact:

1. The property is located at 8200 Royal Street #50.
2. The property is in the Residential Development (RD-MPD) District and is also governed by the 12th Amended Deer Valley Master Planned Development.
3. The proposed changes to Unit 50 include the addition of 370 square feet to the lower level to increase the size of the unit to 3,550 square feet of Private Area
4. No other units will be affected by this proposal.
5. The footprint of the structure will not change.
6. All changes proposed are internal and will not alter the exterior appearance of Unit 50.
7. Two parking spaces are required. Unit 50 has an existing attached two-car garage, and no additional parking is required.
8. Stag Lodge is limited to a maximum of 52 units with no Unit Equivalent or unit size restrictions.
9. There are currently 52 Stag Lodge units, and the proposed amendment does not change the number of units.

10. On July 30, 1992, the original Stag Lodge Phase IV condominium plat was recorded as a 6-unit condominium project in the Silver Lake area of Deer Valley after City Council approval on March 5, 1992.
11. Additionally, several additional Stag Lodge plat amendments have been recorded which have created additional private space within the existing footprint of individual Stag Lodge units.
12. The subject property is within the Sensitive Lands Overlay but the Overlay Zone does not apply because the MPD was approved prior to the adoption of the Zone.
13. There is no change to the open space because the footprint of the affected unit will not be changing.
14. The height and setbacks of the existing structure will not change.

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 Condominium Plat Amendments.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated 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, 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) year, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration and an extension is granted by the City Council.
3. All conditions of approval of the Stag Lodge Condominium plats as amended, and the Deer Valley MPD as amended, shall continue to apply.
4. A Plat Note shall indicate that the Condominium Plat is subject to Ordinance 2022-Xx.

Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

D. 8200 Royal Street Stag Lodge Unit 7 – Condominium Plat Amendment – The Applicant Proposes to Increase the Private Ownership Area by 787 Square Feet. PL-22-05268.

Chair Phillips opened the public hearing. There was no public input. The public hearing was closed.

MOTION: Commissioner Kenworthy moved to forward a positive recommendation for City Council's consideration on September 1, 2022, for 8200 Royal Street Stag Lodge Unit 7 Condominium Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinance, attached as Exhibit A to the Staff Report as follows:

Findings of Fact:

1. The property is located at 8200 Royal Street #7.
2. The property is in the Residential Development (RD-MPD) District and is also governed by the 12th Amended Deer Valley Master Planned Development.
3. The proposed changes to Unit 7 include Enclosing the deck on the Upper Level currently shown as Limited Common which adds 45 square feet; Adding floor space in the area designated as "OPEN" as shown on Page 2 of 6 of the First Amended Stag Lodge Phase 1 which adds 132 square feet; and Adding a Loft Level which will add 610 square feet. The applicant notes that the Loft Level was part of the original construction of Unit 7 but was never incorporated into the original plat of Stag Lodge Phase 1 Unit 7.
4. No other units will be affected by this proposal.
5. The footprint of the structure will not change.
6. All changes proposed are internal and will not alter the exterior appearance of Unit 7 with the exception of the enclosure of the Upper-Level deck.
7. Two parking spaces are required. Unit 7 has an existing attached two-car garage, and no additional parking is required.
8. Stag Lodge is limited to a maximum of 52 units with no unit size restrictions.
9. There are currently 52 Stag Lodge units, and the proposed amendment does not change the number of units.
10. Stag Lodge Phase 1 was originally recorded on March 4, 1985, as Entry No. 321328, and includes 24 units in the Silver Lake area of Deer Valley.

11. Several Stag Lodge plat amendments have been recorded which have created additional private space within the existing footprint of individual Stag Lodge units.
12. The subject property is within the Sensitive Lands Overlay but the Overlay Zone does not apply because the MPD was approved prior to the adoption of the Zone.
13. There is no change to the open space because the footprint of the affected unit will not be changing.
14. The height and setbacks of the existing structure will not change.

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 Condominium Plat Amendments.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated 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, 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) year, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration and an extension is granted by the City Council.
3. All conditions of approval of the Stag Lodge Condominium plats as amended, and the Deer Valley MPD as amended, shall continue to apply.
4. A Plat Note shall indicate that the Condominium Plat is subject to Ordinance 2022-Xx.

Commissioner Van Dine seconded the motion.

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

- E. 1115 Aerie Drive - Conditional Use Permit - The Applicant Proposes Modifying an Improved Concrete Pad and Retaining Walls into a Private Recreation Facility in the Estate (E) Zoning District. PL-21-05101.**

City Planner, Browne Sebright, was present with Planner Ananth, the property owner/applicant, Gary Sutton, and applicant's representatives Don Sargent, Jason Bola, and Wayne Budge. Planner Sebright explained that this project is located just outside of Old Town. The applicant requested to modify an existing sports court constructed outside of existing Building Pads and reduce it to bring it outside of the setbacks. He stated that the sports court was built without proper permits and crosses property lines. The applicant proposed to adjust the court accordingly.

Concurrently, the applicant submitted an Administrative CUP ("ACUP") for retaining walls greater than six feet in height, which would be heard in approximately two weeks. He added that the applicant was also working on securing an easement or transfer of property from the neighboring property to the east to accommodate the construction activity that crossed property lines. Those are dependent, in part, on the outcome of the CUP.

Planner Sebright indicated that the original landscaping and grading permit was issued in January 2021. In September 2021, Code Enforcement issued two "stop work" orders. He added that Staff issued letters to the applicant in October 2021 and again in February 2022 outlining the Code compliance issues and the options that would allow them to move forward. He reported that in December 2021, the applicant's representative submitted two applications. One was for the Administrative CUP for retaining walls, and the other for the Private Recreation Facility CUP presently before the Commission. He advised that Staff and the applicant had quite a bit of discussion since the applications were submitted.

Planner Sebright stated that in March 2022, the applicant also applied for a Plat Amendment. The applicant thereafter deferred the Plat Amendment until after the CUP applications were considered. He referenced the images in the Staff Report that depicted pre- and post-development conditions at the site. He also pointed out the area on the site highlighted in green that was disturbed prior to 2020; the more recent disturbance was highlighted in yellow.

Planner Sebright identified the areas that were the subject of the CUP. He explained that the existing concrete pad was approximately the size of a tennis court, as outlined in red on the graphic. He mentioned the putting area directly behind the home. He presented a graphic that depicted the re-sized sports court proposed by the applicant. He commented that the current pad was approximately 50' x 100' whereas the re-sized pad would be approximately 30' x 70' in size. He presented additional photographs showing different perspectives from the concrete pad.

Planner Sebright reported that Staff found that the proposed Private Recreation Facility did not comply with the requirements of the MPD; specifically, the placement of structures outside of a designated Building Pad was inconsistent with the original plat restrictions. He explained that this Subdivision contains ten lots, each of which has a 90' x 90' Building Pad that designated the general location of the home. He offered that no other structures or outbuildings were approved outside of the designated Building Pads on any other lots. There were examples of landscaping, retaining walls, and boulder walls that have been allowed, but no structures.

Based on the history of the project as reviewed by Staff, the Building Pad restriction was original. He added that he could provide additional context surrounding the foresight in the original MPD for additional Limits of Disturbance ("LOD") for landscaping that was never included in the plat, but highlighted that those would be specific to landscaping improvements.

Commissioner Hall joined the meeting.

Planner Sebright next addressed the Estate Zoning District requirements and reported that Staff found that the proposal complied with the requirements of the Zoning District. He presented the CUP criteria and reported that due to several unknowns surrounding pre-development conditions and the intended use of the court and lighting, the proposed CUP did not meet the criteria outlined in the LMC. He referenced the Staff Report identifying which criteria were not met and listed the following: Fencing, Landscaping, and Screening; consistency with development on adjoining lots; physical design and characteristics; noise; lighting; and disturbance to Steep Slopes.

Planner Sebright directed the Commission to a map provided by the applicant that showed the slopes on the site. The slopes highlighted in red were considered by Staff to be Very Steep Slopes. He added that the applicant subsequently updated his Very Steep Slopes map that identified those areas that met the definition of Very Steep Slope as provided in the LMC. He stated that the LMC has very specific restrictions on what cannot be built within 50 feet of Very Steep Slopes.

Planner Sebright stressed that this was a post-development map, as they do not have pre-development information. With respect to the fourth analysis, Planner Sebright reported that the Development Review Committee and Engineering Department acknowledged that the pad was a large, impervious surface on the site, and it was not clear if drainage was adequately mitigated. He stated that Staff received five public comments from neighbors and others, which include questions and concerns regarding lighting and landscaping and the impacts of construction activity. He added that the applicant did not provide a lighting plan associated with this application. Planner Sebright noted that one comment supported the project.

Planner Sebright indicated that Staff requested feedback from the Commission on Staff's recommendation for denial, and recommended the Commission conduct a public hearing and consider denying the application. Alternately, the Commission could require additional information to further evaluate this application.

Wade Budge, the applicant's representative, explained that the property owner acquired the site in October 2020 and invited Mr. Sutton to provide some background information. Mr. Sutton reported that he purchased the home in October 2020 intending to make this a nice place for his family and grandchildren. Approximately one month after they purchased the home, they hired a landscape company to do this project. Based on his discussions with the landscapers, he was under the impression that they had obtained the proper permitting, so he was blindsided.

He first learned that permits had not been pulled for this project when the Stop Work Orders were issued in September 2021. Mr. Sutton stated that no work has been done since that time, with the exception of retaining an engineering firm and Mr. Budge. He reported that over the past ten months, they have done a lot of work with the City to try and mitigate what was built and bring it into compliance.

Mr. Sutton apologized to the neighbors that the concrete pad was sitting there for 10 months. He stated that they would have loved to install the trees and screening to make it look better. He stressed that he wanted to work with the City and had been diligent in those efforts. He has spent significant money on engineering firms and legal fees to try and get this project to a point that would be good for everyone. He wanted the neighbors to appreciate what they have done.

Mr. Budge stated that when they first became involved in October 2021, they learned that the landscaper obtained a permit in February, but it did not cover nearly any of what ended up being constructed. He stated that upon reviewing the plat and carefully analyzing the MPD, they discovered that this was a unique subdivision in a couple of respects. He noted that it is not unique in that this lot borders an open space area.

Mr. Budge explained that the way the subdivision is unique in that it does not have a delineated LOD for the lots. He expressed that they reviewed the minutes from the Planning Commission and City Council meetings and it was clear that at the Planning Commission level Limits of Disturbance was discussed, and was contemplated to be included in what ultimately was presented to the City Council. He stated that by the time City Council approved the plat, it only contained the Building Pad. The property owner must comply with the requirements of the plat and highlighted that the Planning Commission spends a lot of time making sure that the plat notations are correct, all of the plat notes are included and everyone is put on notice of how the property could be used. For this application, Staff spent a lot of time on Limits of Disturbance; however, the applicant's focus was to address each item included in the enforcement letter, and one of the ways to do that was to first address the sports court.

Mr. Budge explained that they initially looked at the tennis court and they determined there was no way, within the confines of the property, setbacks, and other site restrictions, that this site could accommodate a tennis court. He stressed that regardless of what occurred with this application the concrete pad that encroaches into the setback must be removed. He added that they came to the Planning Commission because this sports court is an allowed conditional use provided that the applicant can show appropriate mitigation. He explained that the proposed sports court would be located fully outside of the setbacks. Mr. Budge added that they worked out the issues with the neighbor, who has now issued a letter of support.

Mr. Budge added that one of the nice things about having a sports court on this site is that there would be landscaping that would improve the experience of those driving along Aerie Drive. In addition, the owner would still be able to utilize that space for this particular use, which is allowed as a Conditional Use in this Zoning District. He stressed that they appreciated the comments from the neighbors and viewed them as helpful because they are trying to get this right. By virtue of his discussions with the neighbor on whose property the concrete pad encroached, the owner has shown that he can make it right.

Mr. Budge explained that the sports court would not be used as a pickleball court, and the applicant would accept a condition that it would not be used as such. The owner intended the court to be used for basketball and pop tennis, which is a smaller version of tennis with soft felt balls. With respect to lighting, Mr. Budge stated that there was no intent to install lighting, and offered that there was plenty of light during the summer months. The court would not be used during the snow season. He reiterated that the owner would accept Conditions of Approval stating that neither pickleball nor lighting would be allowed. He felt those would be good Conditions to mitigate reasonably anticipated detrimental impacts and would address the comments made by the neighbors.

With respect to the Limits of Disturbance, Mr. Budge explained that the Building Pad could not be the LOD as they are not the same terms as defined in the applicable Code that applied then and now. He stated that Limits of Disturbance addresses where activities could occur outside of the Building Pad, and there is no such restriction on this plat. He explained that the lot does have

limits on where various improvements could be located and mentioned setbacks and Very Steep Slopes.

Mr. Budge indicated that the plan was to obtain this approval, then obtain approval for the retaining walls. Thereafter, they would work with the Building Department to address some of the other non-conformities, including railings and landscape lighting. Mr. Budge reminded those present that when the Planning Commission addressed this plat in 1994, it specified that Limits of Disturbance were to be a Condition of Approval at the time of final plat approval. Limitations on landscaping were also to be included as part of the final plat.

He explained that when the plat was before the Planning Commission, Commissioner Alison Child asked if the Limits on Landscaping coincided with the Limits of Disturbance, and Staff responded that it was greater than the Limits of Disturbance. Mr. Budge highlighted that while there were discussions about these items being included on the plat, by the time it went before the City Council the focus was instead on the Building Pad.

Mr. Budge emphasized that this history matters because if the Planning Commission wanted to impose that restriction, it must be included on the plat. As the buyer of the property, Mr. Sutton was not obligated to research all of the MPD details, nor would they apply to the site unless included on the plat. In this situation, while there was discussion about concepts that would have potentially been included on the plat, which did not occur. Mr. Budge emphasized that these applications proposed a conforming use within an area that is not prohibited under the Code or by the plat.

Chair Phillips wanted to understand the timing as reflected in the historical minutes presented by Mr. Budge. Mr. Budge explained that in June 1993, the Planning Commission approved the MPD. In August 1993, the Planning Commission forwarded a recommendation to the City Council. He presented the minutes to the Commission for their review.

Commissioner Van Dine noted that there was no record of the sketch or discussion on the landscaping irrigation limitation. Mr. Budge agreed that this was puzzling, and added that during their discussions with Staff on this application, they raised the idea of a Plat Amendment to include what was not included in the final plat. Time was the only reason the applicant did not pursue a Plat Amendment because they want to get this fixed.

Chair Phillips referenced a sentence in the historical minutes that read: "The Limits of Disturbance required by the policy were 15 feet outside of the Building Pad, so there would not be a great deal of disturbance or difficulty re-vegetating." He asked whether this was a description of what was expected to be the Limit of Disturbance.

Mr. Budge stated that the concept in the 1994 Code was that the area of work outside of the Building Pad was ten feet. He read the following from the 1994 Code:

"The Area of Construction Disturbance attributable to the structure as opposed to utilities may not extend beyond ten feet from the Building Pad line."

He felt that the concept was to not go more than ten feet to build the structure of the home, but when it came to Areas of Disturbance, they would rely on the setbacks and the open space. He noted that there was a significant dedication of open space in the final plat.

Commissioner Van Dine referenced the language presented that stated with regards to Limits of Landscaping and Irrigation, the applicant proposed 15,000 square feet.

Chair Phillips asked about the square footage of the lot, excluding the setbacks. Mr. Budge stated they could get that information for the Commission. He added that although the applicant felt that they had a conforming use according to the use table for this zone, he requested input from the Commission on whether there should be a Plat Amendment. He stressed that they felt an obligation to move with haste on this, and expressed that this project got started in the wrong way and the applicant wanted to put it on a path to get it done the right way.

Mr. Budge explained that they analyzed the other ten lots in the neighborhood where the LOD is not called out, and showed the Commission Areas of Disturbance outside of the Building Pads. He pointed out that this Plat had been used in such a way as to not have everything confined within the Building Pad.

He next presented graphics showing that in 2006, there were improvements down the hill, and noted that the owner changed out the sod for a material that does not consume water. He felt it important for the Commission to understand the historical impacts. He presented a graphic depicting the same improvements in 2013, with a little extension of the walls. The current conditions were shown, which were the same conditions seen by the Commission during the site visit. He explained that the wall in the background would be pulled forward towards the sports court to allow for a larger area for buffering and landscaping.

Mr. Budge added that they would agree to a Condition of Approval that the applicant would obtain written approval of the project by the neighboring landowner.

Mr. Budge presented some of the relevant definitions from 1994 and noted that a Building Pad line was different than a Limit of Disturbance. The 2022 definitions were similar, but used different wording and included the same concept along with the introduction of the term Building Envelope; the Limit of Disturbance talks about the area for construction activity.

He presented the permit that was approved in February 2021 and provided to the owner by the landscape contractor. Mr. Budge read some of the notes from the permit, which stated that per the LMC, walls within the front setback could only be four feet in height above final grade and a CUP would be required for six feet or above. Walls within the side and rear setbacks could be six feet in height.

The second note stated that existing trees would remain, and the third note read, "re-plant with natural cogitation on disturbed areas."

Mr. Budge indicated that there was a call out of the Limit of Disturbance for the fence, but it was talking in terms of SWIP, which demonstrated that the term Limit of Disturbance gets used in different ways and different times.

Commissioner Johnson asked about the relevance of the permit. Mr. Budge stated that it was relevant to show not only what the landscape contractor produced in response to the owner's request for permits, but it showed that some of the work that was done, including some of the retaining wall work, was permitted. He acknowledged that some of the walls were taller than six feet, which is why the applicant has a separate application pending. If that application does not

get approved, the owner would have to modify those walls to conform to the requirements for a wall that does not include an Administrative CUP approval.

Commissioner Johnson asked why the retaining wall application would not be heard first. Mr. Budge stated they wanted it first, but were deferential.

Planner Sebright explained that from Staff's perspective, these issues were all connected because if the Private Recreation Facility were not approved, then they would address the configuration of the retaining walls.

Mr. Budge referenced a slide that depicted the Very Steep Slope area prepared by an engineering firm. He pointed to the 40% slope area on the graphic. Commissioner Kenworthy clarified that this had nothing to do with the original slope. Mr. Budge explained that the 1998 Building Permit indicated some retaining walls and improvements outside of the Building Pad, and stated that to figure out the slopes, they looked at the original Building Permit and the topography, some of which were impacted. Mr. Budge commented that if more information was needed on that issue, they could try to conduct topography from 2000.

He summarized that the applicant was seeking approval of the sports court, and they would address the other related issues through the Administrative CUP and reconciliation with the Building Department. He requested the Commission's input on the items raised and stressed that there was urgency so that they could assure the neighbors that they would not have to continue to look at the current conditions at the property.

Chair Phillips invited Staff to respond to any of the issues raised by Mr. Budge. Planner Sebright stated that the applicant noted that there was at least one other structure located outside of a Building Pad. Staff felt that would fall under the definition of Ancillary Structures, so the City did not review it to the same level. He believed that the City had not approved structures beyond boulder walls and retaining walls outside of the Building Pads in this Subdivision.

Commissioner Suesser asked if Staff felt that the lack of the Limit of Disturbance notation in the plat was an oversight. Planner Sebright did not know why the LOD was not included in the plat and added that this was not the sole basis for Staff's recommendation to deny this application. He stated that this was why they recommended to the applicant that it would be appropriate to put those notes on the plat.

There was discussion about Condition of Approval 8, and Staff was asked if there were other Conditions that spoke to the LOD issue. Planner Sebright did not see any other Conditions on the plat approval and clarified that Condition of Approval 8 was for the MPD, not the plat.

Commissioner Johnson referenced Condition of Approval 10 regarding the requirement for storm drainage detention design and security wall prior to plat recordation or issuance of a Building Permit, and asked if that was satisfied. Planner Sebright stated that it was not done on this lot. Chair Phillips noted that was for the overall subdivision drainage.

Commissioner Suesser inquired as to whether LODs were indicated on other properties in this Subdivision. Planner Sebright confirmed that LODs were never indicated on any of the lots in the Subdivision.

Chair Phillips wondered if there were neighboring Subdivisions directly adjacent that could give them an idea of what would have normally been done in that area. Planner Sebright averred that he did not know, but expressed that it was a common requirement for Subdivisions at that time. He noted the unique history of the Subdivision at issue because it was denied, appealed, and remanded.

In response to an inquiry, Planner Sebright advised that the Landscape Permit was attached as Exhibit D to the Staff Report.

Planner Sebright confirmed that the tennis court was poured in the summer of 2021.

Chair Phillips opened the public hearing.

Robin Felton (via Zoom) stated that she owns 1156 Aerie Drive, which is located across the street from the applicant's home. She offered that they are the first house in the other subdivision because the exhibit shown included all the homes prior to hers. She stated that she will be directly impacted by any lights, and acknowledged the statement that there would not be any lights. She added that they would also be directly affected by any noise caused by the sports court. Ms. Felton stressed that she was never notified of this project and added that her home is covered in dust, as is all of her HVAC equipment. Ms. Felton mentioned that the construction equipment cracked the end of her driveway and was aware that the contractor used also another driveway to turn around his construction equipment.

She wondered what her rights are since aesthetically, they look down onto the applicant's property and it will be difficult to screen the sports court from her view. In addition, she questioned how far back it would be and wondered if it would help with snowplowing in the winter since the snow would accumulate. She noted that her driveway ends right across from where the sports court would be located.

Ms. Felton reported that she left note cards in the applicant's mailbox to introduce herself and ask about the project. She was also told that this was a home that would be lived in but has heard that it would be a rental. She, therefore, expressed concerns about how the applicant would know that the restrictions on the sports court would be adhered to by anyone occupying the home. She found it hard to believe that no one was aware that this project was happening, especially since they were installing a commercial-grade playground and giant sports court.

Don Wood stated that he lives at 1503 Aerie Drive. He and his wife watched this project from the beginning and were concerned about when the big cement pad was constructed. He stated that some of his concerns regarding lighting and screening were discussed during this meeting. He opined that the proposal for a smaller sports court was a plus. His remaining concerns were noise and the number of people who might be on-site at any given time and the related issue of parking. He would like the Commission to address those concerns as they decide how to proceed.

Gretchen Hudgens stated that while she does not own a home on Aerie Drive, she has a friend that lives there. She shared a similar experience with the prior contractor and empathized with Mr. Sutton. She also had issues with that contractor regarding permitting and lack of permitting. She was impressed that Mr. Sutton was working to mitigate the issues to the benefit of not only his property but for the neighbors. She felt that some of the primary concerns were addressed and continue to be addressed. Ms. Hudgens was aware that there was construction in multiple different areas in this Subdivision, as there are in multiple areas around town. She wanted to

stress that the applicant wanted to get this done quickly, get the landscaping in place, and return it to a beautiful place as quickly as possible for their enjoyment and the neighbors.

John Strabo reported that he owns 986 Aerie Drive, which is Lot 5 on the plat. He was under the impression that the entire project was permitted and approved by the City. Although he did not hear the entire presentation by Staff, he expressed that his concerns were similar to those previously stated. He mentioned noise, potential water runoff, and the amount of landscaping that would require water. He wanted to understand the process and wondered whether there would be another meeting where he could evaluate what occurred during this meeting.

Chair Phillips stated that they would have to see where things went after this meeting. They would make sure that their discussions would inform him. Chair Phillips advised Mr. Strabo that there was a pending Administrative CUP for the height of the retaining walls, but that would be impacted by the Commission's decision on this application. He also suggested Mr. Strabo reach out to Staff with any questions. Mr. Strabo asked if the retaining walls in place were not built to Code. Chair Phillips stated that was correct, but it was to be determined as part of the process that was moving forward as well. He confirmed that the Commission's discussion at this meeting was solely on the sports court, not the overall landscaping.

Mr. Strabo had concerns about the noise from the sports court and noted that his home is directly below the applicant's property and his deck looks up at the retaining wall. He expressed no doubt that the noise would impact his property.

Commissioner Kenworthy asked Staff if they were comfortable bifurcating this and limiting it to the retaining walls on the ACUP. Planner Sebright answered in the affirmative that the site had been disturbed, so retention was needed to some extent. He confirmed that the ACUP was specific to the retaining walls. He added that drainage would be part of the application presently before the Commission.

Chair Phillips asked if drainage would also pertain to the retaining walls. Planner Ananth explained that the placement and size of the sports court would affect the height of the walls, so they first wanted a determination of what would be allowed in terms of a sports court; thereafter Staff would address the retaining walls. She added that if the walls exceed four feet in height, they would require proper drainage and would be evaluated by Engineering. She described that as a Phase 2 application.

Chair Phillips confirmed his understanding that the engineering and drainage related to the walls would be dealt with as part of the administrative process. Planner Ananth confirmed that to be accurate and added that any drainage required for the sports court would be evaluated as part of the application.

Planner Sebright added that the Engineering Department was actively reviewing that issue, and the applicant submitted a post-construction analysis of the wall. The Engineering Department was satisfied with the documentation provided by the applicant.

Commissioner Kenworthy expressed concern about the Steep Slopes and what would happen when the unpermitted retaining walls go down to four feet and get moved around. He wondered if they would have Steep Slopes in backfilling these walls. He observed that if they move the 8-foot wall and reduce it to 4 feet, it would result in a severe slope. Commissioner Kenworthy

offered that the retaining walls would create more Steep Slopes when they become limited to four feet. Director Milliken stated that Staff would have to evaluate that issue.

Chair Phillips directed the discussion to the wall directly adjacent to the sports court and explained that the proposal was that this wall would be moved out of the setback and into the site and lowered in height. By doing that, it would slope downhill, which was consistent with Commissioner Kenworthy's concerns.

Planner Ananth commented that there was no proposal for the new wall in the front, but it would possibly be a series of walls to meet the Code. Chair Phillips offered that the proposal would likely include a four-foot wall right up against the sports court, and then it would go back the minimum distance and up 2 to 4 feet. He posited that in that area, it would not be one wall, but would step up.

Mr. Budge added that their intent would not be to apply for an ACUP for that portion because they would not have a six-foot wall in that area. Planner Ananth noted that this wall was very important and would be evaluated seriously because the structure of the road depends on that wall.

Commissioner Kenworthy commented that he could not access the link for Exhibit D.

Chair Phillips addressed the Steep Slopes analysis and referenced the map presented by Staff. He understood that the map was based on existing conditions. It was clarified that the locations in red were 40% and up and in yellow was 30 to 40%.

Chair Phillips stated that if things are done properly, they would have had a true done to natural grade. Depending on how this process progresses, he would like to see USGS grade lines. He offered that one way to look at this would be how this project would have been handled if it were handled properly from the beginning. He wondered if the Steep Slopes map could be created with more detail and indicated that it would also be helpful for the ACUP.

Mr. Budge indicated that the interface between the locations in white and the red and yellow areas at the bottom of the site depicted the wall that was approved in February. They would have to do further analysis regarding the Very Steep Slopes in this area. He added that there was not much shown in red in the area of the sports court, but they would confirm that information.

Chair Phillips commented that if additional detail could not be provided, then Google Earth Natural Terrain or Sketch Up Terrain Analysis could be used for the Slope analysis. Planner Sebright added that the State of Utah has a publicly accessible Lidar database.

Commissioner Suesser agreed with Staff's analysis and stated she would support denying the CUP until the applicant worked more with Staff on this application and followed the suggestions made by Staff. She added that the Commission needed more information. Commissioner Van Dine agreed.

Chair Phillips expressed that the Commission appeared to be in support of Staff's recommendation. Mr. Budge stated that the applicant would be happy to provide the additional information and rather than going through the process of handling a denial, they would like to provide that information to the Commission. He suggested a continuance would be preferable, as they also wanted to ensure that the proposal was responsive to everyone's concerns.

Commissioner Hall supported a continuance. Commissioner Suesser wondered why Staff recommended a denial as opposed to a continuance. Planner Sebright stated that more information could be helpful if they understood the original existing grade. Beyond that, the question was whether they could adequately mitigate the loss of vegetation and the issues of drainage. He added that even with additional information, Staff would likely still recommend denial.

Chair Phillips asked if Staff could see any of that area that would be buildable. He commented that because the LOD was not defined, any action by the Commission would define it for the rest of the neighborhood as well.

Planner Sebright confirmed that he did not see Staff getting to the point of suggesting a positive recommendation. Commissioner Kenworthy agreed and saw this project as violating so many Codes on many different levels. He did not see how they could put this project back together one piece at a time.

Mr. Budge remarked that under the applicable 1993 Code, LOD referenced areas where structures would be placed, and that restriction was never placed on the property. He stated that they could make this lot better by designating a LOD around the Building Pad that would sweep around to cover the sports court while hemming in the rest so that what is seen outside would be only landscaping. Currently, landscaping is within the LOD, but they could create a LOD line.

Chair Phillips asked Staff if they would support the process to create the LOD. Planner Sebright stated that was Staff's recommendation several months back. Planner Ananth added that the intent of the MPD was to leave the rest of the site in a very natural state, and that is what the adjacent homeowners have done. She asked whether the Commission felt that they could approve a LOD that was large enough to include a sports court.

Chair Phillips suggested that they forget about the sports court and queried how the owner would move forward in the process if he has to remove the sports court and re-grade the area. While setting the LOD could help the applicant move forward, he noted that it would also guide the rest of the neighborhood. He could see some advantages in proceeding this way.

Planner Sebright reminded those present that Staff recommended the applicant go through the Plat Amendment process to establish the LOD for landscaping in accordance with the MPD's Conditions of Approval. He did not envision Staff getting to the point of including additional structures in the landscaping LOD.

Mr. Budge commented that there could be a LOD for landscaping, and noted that what was intended for LOD was areas for structures. He felt there was a misunderstanding as to whether Building Pad was the same as LOD, and they could never get comfortable with that concept. He stressed that the applicant recognized that it would be better to have certainty, and suggested that the Building Pad could remain as is, and they could add a LOD for structures and a LOD for landscaping.

Commissioner Suesser requested clarification from Mr. Budge as to what category the sports court would fall. Mr. Budge suggested that the three lines could be Building Pad, LOD, and Limit of Landscaping. The sports court would fall within the LOD. Chair Phillips noted for the record that Staff was nodding their heads in response to that comment. Mr. Sutton commented that the walls behind the home were inspected and approved by the City.

Commissioner Kenworthy read from the permit as follows: "All disturbed areas must be re-vegetated, seeded areas must be 80% or more germinated prior to site completion, mulched areas must have 50% or more plants installed; no Significant Vegetation is proposed or approved to be removed; no other scope is covered with this permit other than the retaining walls shown." Commissioner Kenworthy did not see how they could get there and indicated that he would support a motion for denial. Mr. Budge commented that a denial would help in the applicant's claim against the landscaper, but would not help them with what they were trying to get done. Commissioner Kenworthy stated that there were so many violations he could not see anything other than a denial.

Chair Phillips agreed and expressed sympathy for the applicant and what he has gone through, but the Commission could not fix that for him. In response to Mr. Sutton's prior request to address his neighbors, Chair Phillips suggested that he reach out to his neighbors and felt that they could all get along.

Mr. Sutton clarified that his attitude has never been that this had to be his way, and expressed that his demeanor has been humble. He acknowledged that he could probably sue the contractor and put him out of business, but he did not really like that idea and would rather pursue finding a way forward that would help both himself and the neighbors. He stated that he was very flexible on many of these issues, and stated that he truly had no idea that they did not have the proper applications.

Chair Phillips and Commissioner Kenworthy did not doubt Mr. Sutton's statements. Mr. Sutton reiterated that he just wanted to find a path forward and if they did not find that path, it would remain a mistake for the neighbors. He was saddened that the concrete pad had to sit for so long and he wanted to make it right and workable for all parties.

Chair Phillips returned to the permit and offered that the applicant could restore the property to what is on the permit. Mr. Sutton expressed that he was likely willing to take the property back to that point and just forget the sports court. Chair Phillips acknowledged the applicant's willingness to work through this process and noted that he had great representation and did everything he could do to try and get back into a good position.

Commissioner Kenworthy stated that in terms of setting a precedent, it would be difficult to do anything but deny this application.

MOTION: Commissioner Kenworthy moved to DENY the Private Recreation Facility Conditional Use Permit on 1115 Aerie Drive subject to the Findings of Fact and Conclusions of Law as follows:

Findings of Fact

1. The property is located at 1115 Aerie Drive.
2. On December 20, 2021, the applicant representing the property owner of 1115 Aerie Drive submitted two land use applications to the Park City Planning Department: Planning Department
 - a. An Administrative Conditional Use Permit for retaining walls greater than six feet (6') in height from Final Grade.

- b. A Conditional Use Permit for Private Recreation Facilities.
3. The Applicant proposed to modify an existing sports court (a Private Recreation Facility) located outside of the existing Building Pad. The existing sports court was not built with appropriate permits and crosses property lines.
 4. The property is in the Estate (E) Zoning District. The property includes Lot 8 of the Overlook at Oldtown subdivision.
 5. The property fronts Aerie Drive in the front and rear of the Lot.
 6. The primary access to the property is from Aerie Drive, a public street.
 7. The neighborhood is characterized by large single-family homes on lots with steep slopes.
 8. The property is subject to the Nielsen Korthoff Properties MPD, as recorded in the Notice of City Council Action letter dated August 19, 1993.
 9. LMC § 15-2.10-2(B) establishes a Private Recreation Facility as a Conditional Use in the Estate Zoning District.
 - a. Because the CUP Application was submitted on December 20, 2021, the project is not subject to LMC § 15-4-22, Outdoor Pickleball Courts In Residential Areas, which was adopted on April 28, 2022.
 - b. Private Recreation Facility was designated a Conditional Use in the Estate Zoning District prior to the April 28, 2022, LMC Amendments specific to Pickleball Courts.
 10. Prior to the April 28, 2022, LMC Amendments, Private Recreation Facilities were defined by LMC § 15-15-1 as, "Recreation facilities operated on private property and not open to the general public. Including Recreation Facilities typically associated with a homeowner or Condominium association, such as pools, tennis courts, playgrounds, spas, picnic Areas, similar facilities for the Use by Owners and guests".
 11. The Planning Commission determined the Applicant's request for a Private Recreation Facility at 1115 Aerie Drive was not compatible with the surrounding Structures in Use, scale, and circulation, and that reasonable conditions cannot be proposed to mitigate the anticipated detrimental effects because:
 - a. The subject property contains Steep Slopes and Very Steep Slopes, which have been disturbed and terraced to accommodate the Recreation Facility.
 - b. The submitted slope map and the vegetative cover map are reflective of post-development conditions and do not interpolate the prior conditions before the work is done in 2021. Because of this, staff is unable to verify to

what extent Significant Vegetative may have been removed, or in what areas development was placed within 50' of Very Steep Slopes. Based on the post-conditions slope map, it appears that most of the new development is currently within 50' of Very Steep Slopes. Based on satellite imagery from September 2020, prior to the recent development, it appears that some amount of significant vegetation was removed, but exact counts cannot be determined.

- c. The proposed resized sports court adds approximately 2,085 square feet of impervious surfaces to the site. This is not adequately mitigated in the applicant's proposal, as they have only shown new proposed vegetation uphill of the court and proposed to retain a hardscape flagstone patio and artificial turf lawn downhill of the court.
 - d. The amount of disturbed and landscaped areas outside of the Building Pad is not consistent with other properties in the Overlook at Old Town subdivision.
12. The as-built conditions, including the placement of Structures like the sports court outside of the Building Pad, do not appear to comply with the original plat restrictions. In the Notice of City Council Action letter dated August 19, 1993, the City Council approved the Nielsen Korthoff Properties MPD with twelve conditions of approval. Condition of approval 3 states:
- a. The plat shall contain notes regarding stormwater requirements and considerations, wintertime travel restrictions (one-way road), and limits of disturbance as specified at the time of final plat approval.
13. The Land Management Code at the time of subdivision contained the following definitions:
- a. **Building Pad Line.** The building pad line denotes the area in which the entire new structure must lie. The area of construction disturbance attributable to the structure (as opposed to utility installation) may not extend beyond ten (10) feet from the building pad line.
 - b. **Limits of Disturbance.** The limits of the disturbance line indicates the area in which construction activity must be contained. Construction disturbance must not extend beyond the limits of disturbance line as indicated on the Planning Department plat of the Master Plan unless the Community Development Director has amended the limit as per sections 10.9(k)3 or 15.4.2(d)3.
 - c. **Structure.** Anything constructed, the use of which requires a fixed location on or in the ground, or attached to something having a fixed location upon the ground and which imposes an impervious material on or above the ground; definition includes "building". All structures must maintain the minimum setbacks for the district in which they are located, both above and below the ground.

14. The current proposal is to allow for 1115 Aerie Drive (Lot 8) to retain development located outside of the existing 90-foot by 90-foot Building Pads, which accommodates extensive landscaping, regrading, and a concrete sports court that was constructed outside of the scope of the Grading/Landscaping Permit #21-122.
 - a. The current LMC definition of Limits of Disturbance is, “the designated Area in which all Construction Activity must be contained”.
 - b. The development that occurred on the site in 2021 was inconsistent with the prior approvals, including the approved MPD and final plat, the latter of which did not include separate Limits of Disturbance for landscaping.

15. The Planning Commission determined that the application does not meet Land Management Code, Section 15-1-10, Conditional Use Review Process, due to a lack of information submitted regarding screening and landscaping, compatibility with surrounding structures, potential noise, lighting, environmentally sensitive lands, steep slopes, and appropriateness of the proposed Structure to the existing topography of the Site. The following Conditional Use Permit review criteria have not been sufficiently addressed:
 - a. LMC §15-1-10(E)(7), Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
 - b. LMC §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;
 - c. LMC §15-1-10(E)(11), physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;
 - d. LMC §15-1-10(E)(12), noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site; and
 - e. LMC §15-1-10(E)(15), within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, and Park Planning Department City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site.

16. The proposal is not consistent with the General Plan, as it allows for disturbance of Sensitive Lands without adequate mitigation.
 - a. The property is located in the Masonic Hill neighborhood of the General Plan. The property is noted as having slopes that exceed 30 degrees. The General Plan identifies Masonic Hill as a “natural conservation neighborhood”, with it also denoted as a "Critical Area for Protection and Conservation". The General Plan stresses that "the aesthetic of the Masonic Hill Neighborhood should be preserved”.

- b. These elements are described in Goal 4 of the General Plan, Open Space, and Objective 4D emphasizes minimizing further land disturbance and conservation or remaining undisturbed land areas to development to minimize the effects on neighborhoods.
17. Staff posted a notice to the property and mailed notice to property owners within 300 feet on June 28, 2022. On July 13, 2022, the Planning Commission conducted a public hearing and denied the application.

Conclusions of Law

1. The Conditional Use Permit is not consistent with the Land Management Code, Section 15-1-10, Conditional Use Review Process, and reasonable conditions cannot be proposed to mitigate the anticipated detrimental effects of the proposed Use.
2. The Conditional Use Permit is not compatible with surrounding Structures in Use, scale, mass, and circulation, as required by LMC Section 15-1-10(D), Standards for Review.

Commissioner Suesser seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall confirmed that she deferred to the other Commissioners and voted in favor of the motion.

- F. Founders Place (Parcel 00-0021-01977 in Wasatch County; 3267 West Deer Hollow Road) - Development Agreement Ratification - On January 12, 2022, the Planning Commission Approved a Modification to a Master Planned Development and Conditional Use Permit for Founders Place, a 354,264-Square-Foot Ski-in Ski-out Village in the Deer Crest Area. The Planning Commission Will Review and May Ratify the Development Agreement Outlining the Requirements of the Development.**

Director Milliken confirmed that the above item would be continued to July 27, 2022.

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

MOTION: Commissioner Van Dine moved to CONTINUE Founders Place Administrative Development Agreement Ratification, to July 27, 2022. Commissioner Johnson seconded the motion.

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

6. ADJOURN

MOTION: Commissioner Van Dine moved to adjourn.

The meeting adjourned at approximately 7:50 p.m.

STAG LODGE CONDOMINIUM AMENDMENTS

Units 7 and 50

Planning Commission July 13, 2022

Proposal

Units 7 and 50 are proposing Condominium Plat Amendments to increase the private ownership of their respective Condominiums.

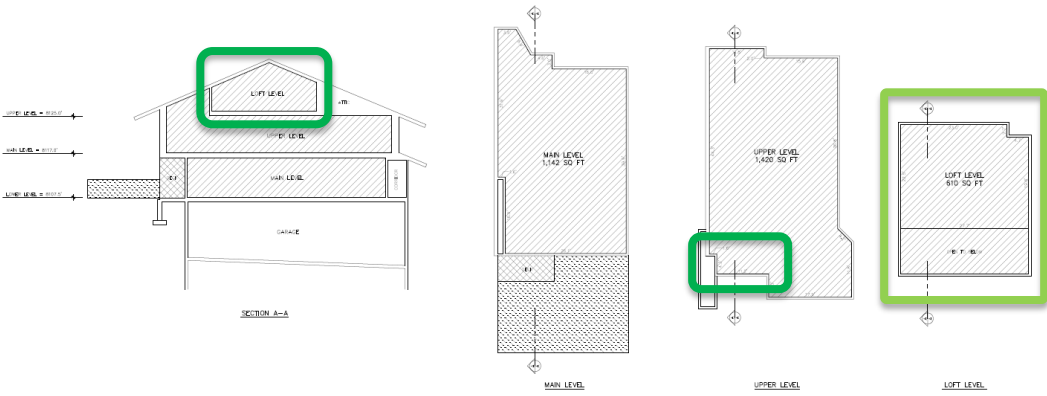
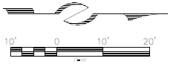
Stag Lodge Phase 1 was recorded in 1985 and the plat has been amended three times.

Stag Lodge Phase 4 was recorded in 1992 and has also been amended three times.

Both with similar amendments to increase private area or to combine units.



SURVEYOR'S CERTIFICATE
 I, Michael Dankowski, do hereby certify that I am a Professional Land Surveyor and that I hold License No. 4657364 as provided by the laws of the State of Utah. I further certify that by attachment of the herein filed plat to a survey of Unit 7, I have amended said plat in show. In accordance with the provisions of the Utah Condominium Ownership Act, hereafter to be known as **STAG LODGE PHASE I CONDORMINIUM FOURTH AMENDED AMENDING UNIT 7.**



LEGAL DESCRIPTION

PARCEL 1
 Unit 7, Stag Lodge Condominiums, a unit-eligible condominium project, together with an attached apartment, including all interest in and to the common areas and utilities of the project as the same are described and established in the Record of Survey Map recorded March 4, 1995, as Entry No. 231328 and the Subdivision of Condominiums for Stag Lodge recorded March 4, 1995, as Entry No. 231329 in Book 335 of Page 430; the Amendment to Subdivision of Condominiums for Stag Lodge recorded January 17, 1999, as Entry No. 303349 in Book 479 of Page 216; the Record of Survey Map for Stag Lodge Phase II recorded January 17, 1999, as Entry No. 303348 and the Second Amendment to Subdivision of Condominiums for Stag Lodge recorded January 17, 1999, as Entry No. 303348 in Book 479 of Page 216; the Record of Survey Map for Stag Lodge recorded January 17, 1999, as Entry No. 303348 and the Second Amendment to Subdivision of Condominiums for Stag Lodge recorded January 17, 1999, as Entry No. 303348 in Book 479 of Page 216 and the Second Amendment Sheet 2 of 4 Record of Survey Map recorded January 5, 1999, as Entry No. 302470 and the First Amendment to Subdivision of Condominiums for Stag Lodge recorded January 5, 1999, as Entry No. 302471 in Book 440 of Page 765 and the Record of Survey Map for Stag Lodge Phase II recorded December 3, 1990, as Entry No. 333684 and the Fourth Amendment to Subdivision of Condominiums for Stag Lodge recorded December 3, 1990, as Entry No. 333685 in Book 349 of Page 308 and the Second Amendment Sheet 2 of 4 Record of Survey Map recorded January 5, 1999, as Entry No. 302470 and the First Amendment to Subdivision of Condominiums for Stag Lodge recorded January 5, 1999, as Entry No. 302471 in Book 440 of Page 765 and the Record of Survey Map for Stag Lodge Phase II recorded July 20, 1993, as Entry No. 363096 in Book 676 of Page 214 and the First Amended Sheet 2 of 4 Record of Survey Map recorded January 17, 2003, as Entry No. 645002 and the Amendment to Subdivision of Condominiums for Stag Lodge recorded January 17, 2003, as Entry No. 645002 in Book 1024 of Page 184; and the Second Amended Page 2, 4 and 5 Record of Survey Map recorded July 20, 2006, as Entry No. 840403, of the official records in the office of the Summit County Recorder.

PARCEL 2
 Together with a 25 foot wide Private Roadway and non-exclusive public utility easement as set forth on said Record of Survey Map for Stag Lodge Phase II recorded January 17, 1999, as Entry No. 303348 and the Record of Survey Map for Stag Lodge Phase II recorded March 15, 1995, as Entry No. 303348.

OWNER'S CONSENT TO RECORD

KNOW ALL BY THESE PRESENTS that the undersigned, Michael Dankowski, as Surveyor, with the Best Approval and Consent of the undersigned, Peter M. Thomas, as Trustee, dated August 29, 2011, hereby certify that the plat attached hereto was made and lawfully consent to the recording of this plat as shown.

I, whose address is: _____ dated: _____
 Michael Dankowski, Surveyor
 Peter M. Thomas, Trustee

ACKNOWLEDGMENT

Date of _____ at _____
 County of _____
 On the _____ day of _____, 2011, Michael Dankowski, Surveyor, personally appeared before me, whose identity is personally known to me or proven to the best of my knowledge, and who, by me duly sworn, affirmed that she is a Trustee of the Stag Lodge Phase II Condominiums, that she is duly qualified to execute and acknowledge the foregoing plat and that she is duly sworn by authority of the State and she acknowledged to me that she executed the LODGE PHASE I FOURTH AMENDED AMENDING UNIT 7.

A Notary Public commissioned in _____
 Notary Name: _____
 My commission expires: _____
 Commission No.: _____

ACKNOWLEDGMENT

Date of _____ at _____
 County of _____
 On the _____ day of _____, 2011, Peter M. Thomas personally appeared before me, whose identity is personally known to me or proven to the best of my knowledge, and who, by me duly sworn, affirmed that she is a Trustee of the Stag Lodge Phase II Condominiums, that she is duly qualified to execute and acknowledge the foregoing plat and that she is duly sworn by authority of the State and she acknowledged to me that she executed the LODGE PHASE I FOURTH AMENDED AMENDING UNIT 7.

A Notary Public commissioned in _____
 Notary Name: _____
 My commission expires: _____
 Commission No.: _____

OWNERSHIP DESIGNATIONS

	TRUSTEE OWNERSHIP AREA of _____
	COMMON OWNERSHIP
	LOFT LEVEL COMMON OWNERSHIP
	TRUSTEE OWNERSHIP AREA of _____

SQUARE FOOTAGE TABLE

LOFT LEVEL	810 SQ. FT.
UPPER LEVEL	1,430 SQ. FT.
LOFT LEVEL	810 SQ. FT.
TOTAL	3,072 SQ. FT.

STAG LODGE PHASE I FOURTH AMENDED AMENDING UNIT 7

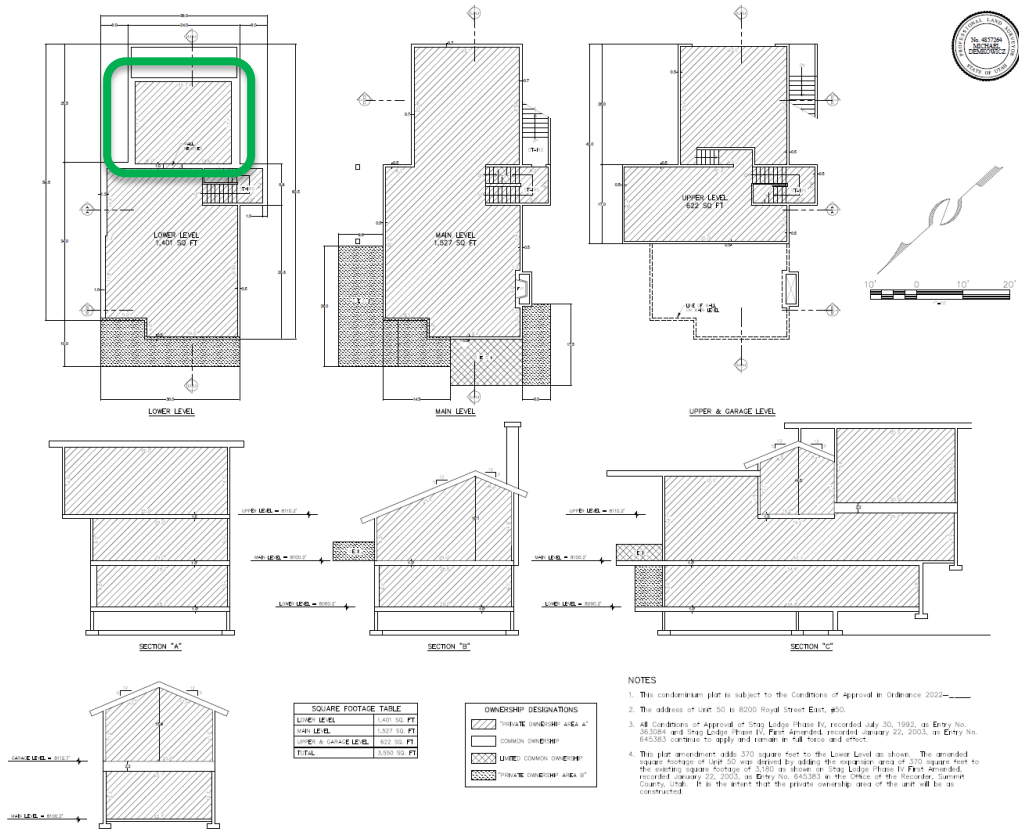
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22
 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
 PARK CITY, SUMMIT COUNTY, UTAH

FILED UNDER LICENSE 2011-027 FILED 2011-08-29 10:58 AM BY MICHAEL DANKOWSKI, SURVEYOR

SHEET 1 OF 1



STAVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO STAVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2011. BY: _____ ENGINEERING DEPARTMENT	PLANNING COMMISSION RECOMMENDED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2011. BY: _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2011. BY: _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2011. BY: _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVED AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2011. BY: _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS PLAT WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2011. BY: _____ PARK CITY RECORDER	PUBLIC SAFETY ANSWERING POINT APPROVAL APPROVED THIS _____ DAY OF _____, 2011. BY: _____ SUMMIT COUNTY GIS COORDINATOR	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ FOR _____ THE _____ DATE _____ ENTRY NO. _____
---	--	--	--	--	--	---	--



I, Michael Denkowski, do hereby certify that I am a Professional Land Surveyor and that I hold License No. 4557264 as prescribed by the Board of Land Surveyors of the State of Utah. I am duly sworn and qualified in the practice of my profession. I have made a survey of Unit 50, and I have recorded said unit as shown hereon, in accordance with the provisions of the Utah Condominium Ownership Act, Chapter 10 to be known as STAG LODGE PHASE IV CONDOMINIUM THIRD AMENDED, AMENDING UNIT 50.

LEGAL DESCRIPTION

Unit No. 50, contained within the First Amended Stag Lodge Condominium Phase IV, a condominium project in the name as identified in the Record of Survey Map recorded on March 4, 1993 in Summit County, as Entry No. 263294, (as said Record of Survey Map may have hereinafter been amended or supplemented) and in the Ordinance recorded in Summit County, as Entry No. 231529 in Book 333 or Page 433 (as said Ordinance may have hereinafter been amended or supplemented).

Together with the apartment indicated therein in said project's common areas as established in said Ordinance and allowed for public use, whether both in the enjoyment of said indicated interest and in the enjoyment of the common areas and facilities to which said interest relates.

Together with a 25-foot wide private roadway and non-exclusive public utility easement as set forth on said Record of Survey Map for Stag Lodge Phase IV recorded January 27, 1999 as Entry No. 263286 and the Record of Survey Map for Stag Lodge Phase II recorded March 1, 1990 as Entry No. 231285.

OWNER'S CONSENT TO RECORD

FOR ALL OF THESE SHEETS: that, since owner Michael Denkowski and Rose Middle Warren, Trustees of the Base and Upper Warren Land Trust dated 03/20/2016 hereby certify that they have caused this plat to be made to be made and hereby consent to the recording of this plat.

I, Michael Denkowski, do hereby consent to the recording of this plat.

I, Rose Middle Warren, Trustee, do hereby consent to the recording of this plat.

ACKNOWLEDGMENT

I, the _____ day of _____, 2022, being owner Michael Denkowski and Rose Middle Warren, Trustee of the Base and Upper Warren Land Trust, do hereby certify that the above described plat is a true and correct copy of the original as shown to me and that I am duly sworn and qualified in the practice of my profession. I have made a survey of Unit 50, and I have recorded said unit as shown hereon, in accordance with the provisions of the Utah Condominium Ownership Act, Chapter 10 to be known as STAG LODGE PHASE IV CONDOMINIUM THIRD AMENDED, AMENDING UNIT 50.

ACKNOWLEDGMENT

I, the _____ day of _____, 2022, being owner Michael Denkowski and Rose Middle Warren, Trustee of the Base and Upper Warren Land Trust, do hereby certify that the above described plat is a true and correct copy of the original as shown to me and that I am duly sworn and qualified in the practice of my profession. I have made a survey of Unit 50, and I have recorded said unit as shown hereon, in accordance with the provisions of the Utah Condominium Ownership Act, Chapter 10 to be known as STAG LODGE PHASE IV CONDOMINIUM THIRD AMENDED, AMENDING UNIT 50.

ASSOCIATION CONSENT TO RECORD

FOR ALL OF THESE SHEETS: that, since owner Michael Denkowski and Rose Middle Warren, Trustees of the Base and Upper Warren Land Trust dated 03/20/2016 hereby certify that they have caused this plat to be made to be made and hereby consent to the recording of this plat.

I, Michael Denkowski, do hereby consent to the recording of this plat.

I, Rose Middle Warren, Trustee, do hereby consent to the recording of this plat.

ACKNOWLEDGMENT

I, the _____ day of _____, 2022, being owner Michael Denkowski and Rose Middle Warren, Trustee of the Base and Upper Warren Land Trust, do hereby certify that the above described plat is a true and correct copy of the original as shown to me and that I am duly sworn and qualified in the practice of my profession. I have made a survey of Unit 50, and I have recorded said unit as shown hereon, in accordance with the provisions of the Utah Condominium Ownership Act, Chapter 10 to be known as STAG LODGE PHASE IV CONDOMINIUM THIRD AMENDED, AMENDING UNIT 50.

SQUARE FOOTAGE TABLE	
LOWER LEVEL	1,407 SQ. FT.
MAIN LEVEL	1,227 SQ. FT.
UPPER & GARAGE LEVEL	452 SQ. FT.
TOTAL	3,086 SQ. FT.

OWNERSHIP DESIGNATIONS	
	TRUSTEE OWNERSHIP AREA
	COMMON OWNERSHIP
	UNITED COMMON OWNERSHIP
	TRUSTEE OWNERSHIP AREA

- NOTES**
- This condominium plat is subject to the conditions of approval in Ordinance 2022-____.
 - The address of Unit 50 is 8200 Royal Street East, #50.
 - All Conditions of Approval of Stag Lodge Phase IV, recorded July 30, 1992, as Entry No. 263286 and Stag Lodge Phase II, First Amended, recorded January 22, 2004, as Entry No. 645383 continue to apply and remain in full force and effect.
 - This plat amendment adds 370 square feet to the Lower Level as shown. The amended square footage on page 50 was derived by adding the composite area of 320 square feet to the existing square footage of 250 as shown on Stag Lodge Phase IV First Amended, recorded January 22, 2004, as Entry No. 645383 at the Office of the Recorder, Summit County, Utah. It is the intent that the private ownership area of the unit will be as constructed.

STAG LODGE PHASE IV THIRD AMENDED AMENDING UNIT 50

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH



<p>REVIEWED FOR CONFORMANCE TO SNIENVILLE BASIN WATER RECLAMATION DISTRICT REGULATIONS ESTABLISHED ON THIS _____ DAY OF _____, 2022</p> <p>BY: <u>ENGINEER/PLANNING</u></p>	<p>PLANNING COMMISSION</p> <p>RECOMMENDED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2022</p> <p>BY: <u>PLANNING</u></p>	<p>ENGINEER'S CERTIFICATE</p> <p>I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE BY MY OFFICE THIS _____ DAY OF _____, 2022</p> <p>BY: <u>PARK CITY ENGINEER</u></p>	<p>APPROVAL AS TO FORM THIS _____ DAY OF _____, 2022</p> <p>BY: <u>PARK CITY ATTORNEY</u></p>	<p>COUNCIL APPROVAL AND ACCEPTANCE</p> <p>APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2022</p> <p>BY: <u>MAYOR</u></p>	<p>CERTIFICATE OF ATTEST</p> <p>I CERTIFY THIS PLAT WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2022</p> <p>BY: <u>PARK CITY RECORDER</u></p>	<p>PUBLIC SAFETY ANSWERING POINT APPROVAL</p> <p>APPROVED THIS _____ DAY OF _____, 2022</p> <p>BY: <u>SUMMIT COUNTY GIS COORDINATOR</u></p>	<p>RECORDED</p> <p>STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____</p> <p>FEE _____</p> <p>DATE _____</p> <p>ENTRY NO. _____</p>
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Analysis

Proposals comply with the Residential Development (RD) Zoning District, the Deer Valley MPD, the Stag Lodge Condominiums COAs, and have been approved by the HOA.

Both units have 2-car garages which meets the parking requirements, and no new spaces are required as a result of the amendments.

Good Cause

The Planning Department finds Good Cause for the proposed Condominium Plat Amendments as the changes do not change the footprint of the buildings and therefore have no impacts on Setbacks or Open Space, will have no negative impacts to the public, do not create any non-conformities, and are consistent with previously approved Condominium Plat Amendments for the Stag Lodge Condominiums.

No public input has been received to date.



Analysis

The Planning Department recommends the Planning Commission hold public hearings; and consider forwarding positive recommendations for City Council's consideration on September 1, 2022, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinances.

Ordinance No. 2022-08

AN ORDINANCE AMENDING LAND MANAGEMENT CODE SECTIONS § 15-2.1-2, § 15-2.2-2, § 15-2.3-2, § 15-2.4-2, § 15-2.5-2, § 15-2.6-2, § 15-2.7-2, § 15-2.9-2, § 15-2.10-2, § 15-2.11-2, § 15-2.12-2, § 15-2.13-2, § 15-2.14-2, § 15-2.15-2, § 15-2.16-2, § 15-2.17-2, § 15-2.18-2, § 15-2.19-2, § 15-2.23-2, FOR ZONING DISTRICT USE TABLES, § 15-15-1 *DEFINITIONS*, AND ENACTING A NEW §15-4-22, *OUTDOOR PICKLEBALL COURTS IN RESIDENTIAL AREAS*

WHEREAS, Goal 1 of the Park City General Plan, is to protect undeveloped lands, discourage sprawl, and direct growth inward to strengthen existing neighborhoods;

WHEREAS, Objective 1A of the General Plan is to direct complimentary land use and development into existing neighborhoods that have available infrastructure and resource capacity;

WHEREAS, Goal 4 of the Park City General Plan, is to conserve a connected, health network of open space for continued access and respect for the *Natural Setting*;

WHEREAS, Objective 4C of the General Plan is to minimize further land disturbance and conversation of remaining undisturbed land areas to development to minimize the effects of neighborhoods;

WHEREAS, Goal 9 of the General Plan is for Park City to continue to provide unparalleled parks and recreation opportunities for residents and visitors;

WHEREAS, Objective 9B of the General Plan is to locate recreation options within close vicinity to existing neighborhoods and transit for accessibility and to decrease vehicle miles driven, and to group facilities within recreational campuses to decrease trips;

WHEREAS, Goal 14 of the General Plan is to live within limits to foster innovated sustainable development, protect the community vision, and prevent negative impacts to the region;

WHEREAS, Objective 14B of the General Plan is to manage growth to protect the quality of life and preserve the unique *Park City Experience* by recognizing limits to growth and adopting responsible policies that are consistent with those limits;

WHEREAS, the Land Management Code implements the goals and policies of the General Plan in part to promote the health, safety, and welfare of the present and future inhabitants, to protect and enhance the vitality of the overall quality of life, to

protect and preserve peace and good order, comfort, convenience, and aesthetics of the city;

WHEREAS, Pickleball Courts are Private Recreation Facilities the proposed amendments are crafted to ensure pickleball courts are appropriately located and integrated into residential neighborhoods;

WHEREAS, the Planning Commission conducted a duly noticed public hearing on February 23, 2022;

WHEREAS, the Planning Commission conducted a duly noticed public hearing on March 23, 2022, and voted 5-1 to forward a positive recommendation for City Council's consideration on proposed amendments;

WHEREAS, the City Council conducted a duly noticed public hearing on April 7, 2022.

WHEREAS, the City Council conducted a duly noticed public hearing on April 28, 2022.

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

SECTION 1. AMEND MUNICIPAL CODE OF PARK CITY LAND MANAGEMENT CODE TITLE 15. The recitals are incorporated herein as findings of fact. Municipal Code of Park City Title 15 Land Management Code § 15-2.1-2, § 15-2.2-2, § 15-2.3-2, § 15-2.4-2, § 15-2.5-2, § 15-2.6-2, § 15-2.7-2, § 15-2.9-2, § 15-2.10-2, § 15-2.11-2, § 15-2.12-2, § 15-2.13-2, § 15-2.14-2, § 15-2.15-2, § 15-2.16-2, § 15-2.17-2, § 15-2.18-2, § 15-2.19-2, § 15-2.23-2, and § 15-15-1 are hereby amended and § 15-4-22 enacted as outlined in Attachment 1.

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

PASSED AND ADOPTED this 28th day of April 2022.

PARK CITY MUNICIPAL CORPORATION

DocuSigned by:
Nann Worel
57775BCB46414F6...

Nann Worel, Mayor

Attest:



DocuSigned by:
Michelle Kellogg
E5F905BB533F431...

City Recorder

Approved as to form:

DocuSigned by:
Mark Harrington
B7478B7734C7490...

City Attorney's Office

Attachment 1

1 **15-2.1-2 Uses**

2 Uses in the HRL District are limited to the following:

3 **A. ALLOWED USES.**

- 4 1. Single Family Dwelling
- 5 2. Home Occupation
- 6 3. Child Care, In-Home Babysitting
- 7 4. Child Care, Family¹
- 8 5. Child Care, Family Group¹
- 9 6. Accessory Building and Use
- 10 7. Conservation Activity
- 11 8. Agriculture
- 12 9. Residential Parking Area or Structure with four (4) or fewer spaces
- 13 10. Internal Accessory Dwelling Unit⁹
- 14 11. Accessory Apartment³

15 **B. CONDITIONAL USES.**

- 16 1. Nightly Rentals²
- 17 2. Lockout Unit
- 18 3. Child Care Center¹
- 19 4. Essential Municipal and Public Utility Use, Facility, Service and Structure
- 20 5. Telecommunication Antenna⁴
- 21 6. Satellite dish greater than thirty-nine inches (39") in diameter⁵
- 22 7. Residential Parking Area or Structure five (5) or more spaces
- 23 8. Temporary Improvement⁶

- 24 9. Passenger Tramway Station and Ski Base Facility⁷
- 25 10. Ski Tow Rope, Ski Lift, Ski Run, and Ski Bridge⁶
- 26 11. Recreation Facility, Private¹⁰
- 27 12. Fences greater than six feet (6') in height from Final Grade^{5,8}

28 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional
29 Use is a prohibited Use.

30 ¹See Section 15-4-9, Child Care and Child Care Facilities.

31 ²No more than twelve (12) Conditional Use Permits shall be allowed only in the West sub-neighborhood
32 located south of platted 2nd Avenue, west of Upper Norfolk and Daly Avenues, and east of King Road.
33 No Nightly Rentals are allowed elsewhere in this Zoning District. In addition to the Conditional Use Permit
34 criteria in LMC § 15-1-10(E), the Planning Commission shall consider whether or not the proposed Nightly
35 Rental mitigates the impacts of and addresses the following items: (a) all rental agreements for Nightly
36 Rental shall include language that limits the vehicles allowed to the number of on-site Parking Spaces; (b)
37 all rental agreements shall include language indicating that all-wheel drive vehicles are required during
38 the winter season; (c) all rental agreements shall provide Nightly Renters with information regarding
39 walkable access to skiing, to Park City's Historic Main Street, to Old Town, and to Park City's free transit
40 service; and (d) property management contact information shall be displayed in a prominent location
41 inside the Nightly Rental.

42 ³Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

43 ⁴See Section 15-4-14, Telecommunications Facilities.

44 ⁵See Section 15-4-13, Placement of Satellite Receiving Antennas.

45 ⁶Subject to Administrative or Administrative Conditional Use permit, see LMC Chapter 15-4.

46 ⁷See Section 15-4-18, Passenger Tramways and Ski-Base Facilities.

47 ⁸See Section 15-4-2, Fences and Retaining Walls.

48 ⁹See Section 15-4-7.1, Internal Accessory Dwelling Units. Single-Family Dwellings designated Significant
49 or Landmark Historic Sites on the Park City Historic Sites Inventory are subject to an Administrative
50 Conditional Use Permit.

51 [¹⁰See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

52 HISTORY

53 *Adopted by Ord. [00-15](#) on 3/2/2000*

54 *Amended by Ord. [06-56](#) on 7/27/2006*

55 *Amended by Ord. [09-10](#) on 3/5/2009*

56 *Amended by Ord. [15-35](#) on 10/12/2015*

57 *Amended by Ord. [15-44](#) on 11/5/2015*

58 *Amended by Ord. [2020-37](#) on 7/30/2020*

59 *Amended by Ord. [2020-42](#) on 9/17/2020*

60 *Amended by Ord. [2021-38](#) on 9/23/2021*

61 *Amended by Ord. [2021-51](#) on 12/16/2021*

62

63 **15-2.2-2 Uses**

64 Uses in the HR-1 District are limited to the following:

65 **A. ALLOWED USES.**

66 1. Single Family Dwelling

67 2. Lockout Unit¹

68 3. Nightly Rental¹

69 4. Home Occupation

70 5. Child Care, In-Home Babysitting²

71 6. Child Care, Family²

72 7. Child Care, Family Group²

73 8. Accessory Building and Use

74 9. Conservation Activity

75 10. Agriculture

76 11. Residential Parking Area or Structure, with four (4) or fewer spaces

77 12. Internal Accessory Dwelling Unit¹⁰

78 13. Accessory Apartment³

79 **B. CONDITIONAL USES.**

80 1. Duplex Dwelling

81 2. Guest House on Lots one (1) acre or greater

82 3. Secondary Living Quarters

83 4. Group Care Facility

84 5. Child Care Center

85 6. Public and Quasi-Public Institution, church and school

86 7. Essential Municipal and Public Utility Use, Facility, Service, and Structure

87 8. Telecommunication Antenna⁴

88 9. Satellite Dish, greater than thirty-nine inches (39") diameter⁵

89 10. Bed and Breakfast Inn⁶

90 11. Boarding House, hostel⁶

91 12. Hotel, Minor, (fewer than sixteen (16) rooms)⁶

92 13. Residential Parking Area or Structure with five (5) or more spaces.

93 14. Temporary Improvement⁷

94 15. Passenger Tramway Station and Ski Base Facility⁸

95 16. Ski Tow, Ski Lift, Ski Run, and Ski Bridge⁸

96 17. Recreation Facility, Private¹¹

97 18. Fences greater than six feet (6') in height from Final Grade^{7,9}

98 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
99 is a prohibited Use.

100 ¹Nightly Rental of a Lockout Unit requires a Conditional Use permit.

101 ²See Section 15-4-9, Child Care and Childcare Facilities.

102 ³Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

103 ⁴See Section 15-4-14, Telecommunication Facilities.

104 ⁵See Section 15-4-13, Placement of Satellite Receiving Antennas.

105 ⁶In Historic Buildings and/or Structures only. Parking requirements of Chapter 15-3 shall apply.

106 ⁷Subject to Administrative or Administrative Conditional Use permit.

107 ⁸See Section 15-4-18, Passenger Tramways and Ski-Base Facilities.

108 ⁹See Section 15-4-2, Fences and Retaining Walls.

109 ¹⁰See Section 15-4-7.1, Internal Accessory Dwelling Units. Single-Family Dwellings designated Significant
110 or Landmark Historic Sites on the Park City Historic Sites Inventory are subject to an Administrative
111 Conditional Use Permit.

112 ¹¹ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

113 HISTORY

114 Adopted by Ord. 00-15 on 3/2/2000

115 Amended by Ord. 06-56 on 7/27/2006

116 Amended by Ord. 07-25 on 4/19/2007

117 Amended by Ord. 09-10 on 3/5/2009

118 Amended by Ord. 15-35 on 10/12/2015

119 Amended by Ord. 2020-42 on 9/17/2020

120 Amended by Ord. 2021-38 on 9/23/2021

121 Amended by Ord. 2021-51 on 12/16/2021

122

123 **15-2.3-2 Uses**

124 Uses in the HR-2 District are limited to the following:

125 **A. ALLOWED USES.**

- 126 1. Single Family Dwelling
- 127 2. Lockout Unit¹
- 128 3. Nightly Rental²
- 129 4. Home Occupation
- 130 5. Child Care, In-Home Babysitting³
- 131 6. Child Care, Family³
- 132 7. Child Care, Family Group³
- 133 8. Accessory Building and Use
- 134 9. Conservation Activity
- 135 10. Agriculture
- 136 11. Residential Parking Area or Structure with four (4) or fewer spaces
- 137 ~~12. Recreation Facility, Private~~
- 138 13. Internal Accessory Dwelling Unit¹²
- 139 14. Accessory Apartment⁴

140 **B. CONDITIONAL USES.**

- 141 1. Duplex Dwelling
- 142 2. Secondary Living Quarters
- 143 3. Group Care Facility
- 144 4. Child Care Center
- 145 5. Public or Quasi-Public institution, church or school
- 146 6. Essential municipal and public utility Use, facility, service, and Structure
- 147 7. Telecommunication Antenna⁵

- 148 8. Satellite Dish Antenna greater than thirty-nine inches (39") in diameter⁶
- 149 9. Bed and Breakfast Inn⁷
- 150 10. Boarding House, Hostel⁷
- 151 11. Hotel, Minor, fewer than sixteen (16) rooms⁷
- 152 12. Office, General⁸
- 153 13. Office, Moderate Intensive⁸
- 154 14. Office and Clinic, Medical⁸
- 155 15. Retail and Service Commercial, Minor⁸
- 156 16. Retail and Service Commercial, personal improvement⁸
- 157 17. Cafe or Deli⁸
- 158 18. Restaurant, General⁸
- 159 19. Restaurant, Outdoor Dining⁸
- 160 20. Outdoor Events
- 161 21. Residential Parking Area or Structure with five (5) or more spaces, associated
- 162 with a residential Building on the same Lot
- 163 22. Temporary Improvement
- 164 23. Passenger Tramway Station and Ski Base Facility¹⁰
- 165 24. Ski tow rope, ski lift, ski run, and ski bridge¹⁰
- 166 25. Recreation Facility, Private¹³
- 167 26. Fences greater than six feet (6') in height from Final Grade¹¹
- 168 27. Limited Commercial expansion necessary for compliance with Building/ Fire
- 169 Code egress and Accessibility requirements and support Uses associated
- 170 with HCB Commercial Use

171 28. Bar⁸

172 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
173 is a prohibited Use.

174 ¹Nightly Rental of Lockout Units requires a Conditional Use Permit.

175 ²Nightly Rental does not include the use of dwellings for Commercial Uses.

176 ³See Section 15-4-9 Child Care And Child Care Facilities.

177 ⁴Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

178 ⁵See Section 15-4-14, Telecommunication Facilities.

179 ⁶See Section 15-4-13, Placement Of Satellite Receiving Antennas.

180 ⁷In Historic Buildings and/or Structures only.

181 ⁸In Historic Buildings and/or Structures and within Sub-Zones A and B subject to compliance with all
182 criteria and requirements of Section 15-2.3-8 for Sub-Zone A and Section 15-2.3-9 for Sub-Zone B.

183 ⁹Subject to an Administrative Conditional Use Permit, and permitted in Sub-Zone B only, subject to
184 requirements in Section 15-2.3-9.

185 ¹⁰See Section 15-4-18, Passenger Tramways And Ski-Base Facilities.

186 ¹¹See Section 15-4-2, Fences And Retaining Walls.

187 ¹²See Section 15-4-7.1, Internal Accessory Dwelling Units. Single-Family Dwellings designated Significant
188 or Landmark Historic Sites on the Park City Historic Sites Inventory are subject to an Administrative
189 Conditional Use Permit.

190 ¹³ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

191 HISTORY

192 Adopted by Ord. 00-51 on 9/21/2000

193 Amended by Ord. 04-08 on 3/4/2004

194 Amended by Ord. 06-56 on 7/27/2006

195 Amended by Ord. 09-10 on 3/5/2009

196 Amended by Ord. 10-14 on 4/15/2010

197 Amended by Ord. 12-37 on 12/20/2012

198 Amended by Ord. 15-35 on 10/12/2015

199 Amended by Ord. 2020-36 on 7/30/2020

200 Amended by Ord. 2020-42 on 9/17/2020

201 Amended by Ord. 2021-38 on 9/23/2021

202 Amended by Ord. 2021-51 on 12/16/2021

203

204 **15-2.4-2 Uses**

205 Uses in the HRM District are limited to the following:

206 **A. ALLOWED USES.**

- 207 1. Single Family Dwelling
- 208 2. Duplex Dwelling
- 209 3. Secondary Living Quarters
- 210 4. Lockout Unit¹
- 211 5. Accessory Apartment²
- 212 6. Nightly Rental³
- 213 7. Home Occupation
- 214 8. Child Care, In-Home Babysitting
- 215 9. Child Care, Family⁴
- 216 10. Child Care, Family Group⁴
- 217 11. Accessory Building and Use
- 218 12. Conservation Activity
- 219 13. Agriculture
- 220 14. Parking Area or Structure with four (4) or fewer spaces
- 221 15. Internal Accessory Dwelling Unit¹¹

222 **B. CONDITIONAL USES.**

- 223 1. Triplex Dwelling
- 224 2. Multi-Unit Dwelling
- 225 3. Group Care Facility
- 226 4. Child Care Center⁴
- 227 5. Public and Quasi-Public Institution, Church, and School
- 228 6. Essential Municipal and Public Utility Use, Facility Service, and Structure
- 229 7. Telecommunication Antenna⁵
- 230 8. Satellite Dish, greater than thirty-nine inches (39") in diameter⁶
- 231 9. Bed and Breakfast Inn⁷
- 232 10. Boarding House, Hostel⁷
- 233 11. Hotel, Minor⁷
- 234 12. Office, General⁸
- 235 13. Retail and Service Commercial, Minor⁸
- 236 14. Retail and Service Commercial, personal improvement⁸
- 237 15. Neighborhood Market, without gasoline sales⁸
- 238 16. Cafe, Deli⁸
- 239 17. Café, Outdoor Dining⁹
- 240 18. Parking Area or Structure with five (5) or more spaces
- 241 19. Temporary Improvement¹⁰
- 242 20. Recreation Facility, Public
- 243 21. Recreation Facility, Private¹²
- 244 22. Outdoor Events¹⁰
- 245 23. Fences greater than six feet (6') in height from Final Grade¹⁰

246 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
247 is a prohibited Use.

248 ¹Nightly rental of Lockout Units requires a Conditional Use permit.

249 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

250 ³Nightly Rentals do not include the Use of dwellings for Commercial Uses.

251 ⁴See Section 15-4-9 Child Care and Child Care Facilities.

252 ⁵See Section 15-4-14, Telecommunications Facilities.

253 ⁶See Section 15-4-13, Placement of Satellite Receiving Antennas.

254 ⁷Allowed only in Historic Buildings and/or Structures or historically Compatible Structures.

255 ⁸Allowed only in Historic Buildings and/or Structures.

256 ⁹Requires an Administrative Conditional Use permit. Allowed in association with a Café or Deli.

257 ¹⁰Requires an Administrative or Administrative Conditional Use permit, see Chapter 15-4.

258 ¹¹See Section 15-4-7.1, Internal Accessory Dwelling Units. Single-Family Dwellings designated Significant
259 or Landmark Historic Sites on the Park City Historic Sites Inventory are subject to an Administrative
260 Conditional Use Permit.

261 ¹²[See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

262 HISTORY

263 Adopted by Ord. 00-51 on 9/21/2000

264 Amended by Ord. 06-69 on 10/19/2006

265 Amended by Ord. 09-10 on 3/5/2009

266 Amended by Ord. 15-35 on 10/12/2015

267 Amended by Ord. 2020-42 on 9/17/2020

268 Amended by Ord. 2021-38 on 9/23/2021

269 Amended by Ord. 2021-51 on 12/16/2021

270

271 **15-2.5-2 Uses**

272 Uses in the HRC are limited to the following:

273 A. **ALLOWED USES.**¹⁰

- 274 1. Single Family Dwelling⁵
- 275 2. Duplex Dwelling⁵
- 276 3. Secondary Living Quarters⁵
- 277 4. Lockout Unit^{1,5}
- 278 5. Accessory Apartment^{2,5}
- 279 6. Nightly Rental⁵
- 280 7. Home Occupation⁵
- 281 8. Child Care, In-Home Babysitting
- 282 9. Child Care, Family³
- 283 10. Child Care, Family Group³
- 284 11. Child Care Center³
- 285 12. Accessory Building and Use
- 286 13. Conservation Activity
- 287 14. Agriculture
- 288 15. Bed and Breakfast Inn^{4,5}
- 289 16. Boarding House, hostel⁵
- 290 17. Hotel, Minor, fewer than sixteen (16) rooms⁵
- 291 18. Office, General⁵
- 292 19. Parking Area or Structure, with four (4) or fewer spaces⁵
- 293 20. Food Truck Location¹¹

294 B. **CONDITIONAL USES.**^{9, 10}

- 295 1. Triplex Dwelling⁵

- 296 2. Multi-Unit Dwelling⁵
- 297 3. Guest House, on Lots one (1) acre⁵
- 298 4. Group Care Facility⁵
- 299 5. Public and Quasi-Public institution, church, or school
- 300 6. Essential Municipal public utility Use, facility, service, and Structure
- 301 7. Telecommunication Antenna⁶
- 302 8. Satellite dish, greater than thirty-nine inches (39") in diameter⁷
- 303 9. Plant and Nursery stock products and sales
- 304 10. Hotel, Major⁵
- 305 11. Timeshare Projects and Conversions⁵
- 306 12. Private Residence Club Project and Conversion^{4,5}
- 307 13. Office, Intensive⁵
- 308 14. Office and clinic, Medical⁵
- 309 15. Financial institution, without drive-up window⁸
- 310 16. Commercial Retail and Service, Minor⁸
- 311 17. Commercial Retail and Service, Personal Improvement⁸
- 312 18. Neighborhood Convenience Commercial, without gasoline sales
- 313 19. Café or Deli⁸
- 314 20. Restaurant, General⁸
- 315 21. Restaurant and Café, outdoor dining⁴
- 316 22. Outdoor Events and Uses⁴
- 317 23. Bar
- 318 24. Parking Area or Structure, with five (5) or more spaces⁵

- 319 25. Temporary Improvement⁴
- 320 26. Passenger Tramway station and ski base facility
- 321 27. Ski tow, ski lift, ski run, and ski bridge
- 322 28. Recreation Facility, Commercial, Public, and Private¹²
- 323 29. Entertainment Facility, Indoor
- 324 30. Fences greater than six feet (6') in height from Final Grade⁴
- 325 31. Private Residence Club, Off-Site⁵
- 326 32. Private Event Facility⁵

327 C. **PROHIBITED USES**. Unless otherwise allowed herein, any Use not listed above
328 as an Allowed or Conditional Use is a prohibited Use.

329 ¹Nightly rental of Lockout Units requires a Conditional Use permit.

330 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

331 ³See Section 15-4-9, Child Care And Child Care Facilities.

332 ⁴Requires an Administrative or Administrative Conditional Use permit, see Chapter 15-4.

333 ⁵Prohibited in HRC Zoned Storefront Property adjacent to Main Street, Heber Avenue and Park Avenue,
334 excluding those HRC Zoned Properties on the west side of Park Avenue and also excluding those HRC
335 Zoned Properties with the following addresses: 702 Main Street, 710 Main Street, 738 Main Street (for the
336 plaza side storefronts), 780 Main Street, 804 Main Street (for the plaza side storefronts), 875 Main Street,
337 890 Main Street, 900 Main Street, and 820 Park Avenue. Hotel rooms shall not be located within
338 Storefront Property; however access, circulation, and lobby areas are permitted within Storefront
339 Property.

340 ⁶See Section 15-4-14, Telecommunication Facilities.

341 ⁷See Section 15-4-13, Placement Of Satellite Receiving Antennas.

342 ⁸If Gross Floor Area is less than 2,000 sq. ft., the Use shall be considered an Allowed Use.

343 ⁹No community locations as defined by Utah Code 32B-1-102 (Alcoholic Beverage Control Act) are
344 permitted within 200 feet of Main Street unless a variance is permitted for an outlet, as defined by Utah
345 Code 32B-1-202, to obtain a liquor license.

346 ¹⁰Within the HRC Zoning District, no more than seven (7) Conventional Chain Businesses are permitted in
347 Storefront Properties.

348 ¹¹The Planning Director, or his or her designee shall, upon finding a Food Truck Location in compliance
349 with Municipal Code 4-5-6, issue the property owner a Food Truck Location administrative approval letter.

350 ¹²[See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

351 HISTORY

352 Adopted by Ord. 00-51 on 9/21/2000

353 Amended by Ord. 04-39 on 3/18/2004

354 Amended by Ord. 06-69 on 10/19/2006

355 Amended by Ord. 07-55 on 8/30/2007

356 Amended by Ord. 09-10 on 3/5/2009

357 Amended by Ord. 12-37 on 12/20/2012

358 Amended by Ord. 16-02 on 1/7/2016

359 Amended by Ord. 2017-45 on 8/17/2017

360 Amended by Ord. 2018-55 on 10/23/2018

361 Amended by Ord. 2020-36 on 7/30/2020

362 Amended by Ord. 2020-42 on 9/17/2020

363 Amended by Ord. 2021-51 on 12/16/2021

364

365 **15-2.6-2 Uses**

366 Uses in the Historic Commercial Business (HCB) District are limited to the following:

367 A. **ALLOWED USES**.¹¹

368 1. Single Family Dwelling¹

369 2. Multi-Unit Dwelling¹

- 370 3. Secondary Living Quarters¹
- 371 4. Lockout Unit^{1,2}
- 372 5. Accessory Apartment^{1,3}
- 373 6. Nightly Rental⁴
- 374 7. Home Occupation¹
- 375 8. Child Care, In-Home Babysitting¹
- 376 9. Child Care, Family^{1,5}
- 377 10. Child Care, Family Group^{1,5}
- 378 11. Child Care Center^{1,5}
- 379 12. Accessory Building and Use¹
- 380 13. Conservation Activity
- 381 14. Agriculture
- 382 15. Bed and Breakfast Inn^{1, 6}
- 383 16. Boarding House, hostel¹
- 384 17. Hotel, Minor, fewer than 16 rooms¹
- 385 18. Office, General¹
- 386 19. Office, Moderate Intensive¹
- 387 20. Office and clinic, Medical¹
- 388 21. Financial institution, without drive-up window
- 389 22. Commercial Retail and Service, Minor
- 390 23. Commercial Retail and Service, Personal Improvement
- 391 24. Commercial Neighborhood Convenience, without gasoline sales
- 392 25. Restaurant, Cafe or Deli

- 393 26. Restaurant, General
- 394 27. Bar
- 395 28. Parking Lot, Public or Private with four (4) or fewer spaces
- 396 29. Entertainment Facility, Indoor
- 397 30. Salt Lake City 2002 Winter Olympic Games Legacy Displays⁷
- 398 31. Temporary winter Balcony enclosures
- 399 32. Food Truck Location¹²

400 B. **CONDITIONAL USES.**^{10, 11}

- 401 1. Group Care Facility¹
- 402 2. Public and Quasi-Public institution, church, or school
- 403 3. Essential municipal public utility Use, facility, service, and Structure
- 404 4. Telecommunication Antenna⁸
- 405 5. Satellite dish, greater than thirty-nine inches (39") in diameter⁹
- 406 6. Plant and Nursery stock products and sales
- 407 7. Hotel, Major¹
- 408 8. Timeshare Projects and Conversions¹
- 409 9. Timeshare Sales Office, Off-Site within an enclosed Building¹
- 410 10. Private Residence Club Project and Conversion^{1,6}
- 411 11. Commercial Retail and Service, Major
- 412 12. Office, Intensive¹
- 413 13. Restaurant, outdoor dining⁶
- 414 14. Outdoor Events and Uses⁶
- 415 15. Hospital, Limited Care Facility¹

- 416 16. Parking Area or Structure for five (5) or more cars¹
- 417 17. Temporary Improvement⁶
- 418 18. Passenger Tramway station and ski base facility
- 419 19. Ski tow, ski lift, ski run, and ski bridge
- 420 20. Recreation Facility, Public [~~or Private~~]
- 421 21. Recreation Facility Private¹³
- 422 22. Recreation Facility, Commercial
- 423 23. Fences greater than six feet (6') in height from Final Grade⁶
- 424 24. Private Residence Club, Off-Site¹
- 425 25. Private Event Facility¹

426 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
427 is a prohibited Use.

428 ¹Prohibited in HCB Zoned Storefront Property adjacent to Main Street, Heber Avenue, Grant Avenue, and
429 Swede Alley. Hotel rooms shall not be located within Storefront Property; however access, circulation and
430 lobby areas are permitted within Storefront Property.

431 ²Nightly Rental of Lock Units requires a Conditional Use permit.

432 ³Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

433 ⁴Nightly Rental of residential dwellings does not include the Use of dwellings for Commercial Uses.

434 ⁵See Section 15-4-9, Child Care And Child Care Facilities.

435 ⁶Requires an Administrative or Administrative Conditional Use permit.

436 ⁷Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City
437 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed
438 on the original Property set forth in the services Agreement and/or Master Festival License. Requires an
439 Administrative Permit.

440 ⁸See Section 15-4-14, Telecommunication Facilities.

441 ⁹See Section 15-4-13, Placement Of Satellite Receiving Antennas.

442 ¹⁰No community locations as defined by Utah Code 32B-1-102 (Alcoholic Beverage Control Act) are
443 permitted within 200 feet of Main Street unless a variance is permitted for an outlet, as defined by Utah
444 Code 32B-1-202, to obtain a liquor license.

445 ¹¹Within the HCB Zoning District, no more than seventeen (17) Conventional Chain Businesses are
446 permitted in Storefront Properties.

447 ¹²The Planning Director or his or her designee shall, upon finding a Food Truck Location in compliance
448 with Municipal Code 4-5-6, issue the property owner a Food Truck Location administrative approval letter.

449 ¹³ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

450 HISTORY

451 *Adopted by Ord. [00-51](#) on 9/21/2000*

452 *Amended by Ord. [02-38](#) on 9/12/2002*

453 *Amended by Ord. [04-39](#) on 3/18/2004*

454 *Amended by Ord. [06-69](#) on 10/19/2006*

455 *Amended by Ord. [07-55](#) on 8/30/2007*

456 *Amended by Ord. [09-10](#) on 3/5/2009*

457 *Amended by Ord. [12-37](#) on 12/20/2012*

458 *Amended by Ord. [16-02](#) on 1/7/2016*

459 *Amended by Ord. [16-01](#) on 1/7/2016*

460 *Amended by Ord. [2017-45](#) on 8/17/2017*

461 *Amended by Ord. [2018-55](#) on 10/23/2018*

462 *Amended by Ord. [2020-36](#) on 7/30/2020*

463 *Amended by Ord. [2020-42](#) on 9/17/2020*

464 *Amended by Ord. [2021-51](#) on 12/16/2021*

465

466 **15-2.7-2 Uses**

467 Uses in the ROS District are limited to the following:

468 **A. ALLOWED USES.**

469 1. Conservation Activity

470 2. Food Truck Locations⁴

471 **B. ADMINISTRATIVE CONDITIONAL USES¹.**

472 1. Trail and Trailhead Improvement

473 2. Outdoor Recreation Equipment

474 3. Essential Municipal Public Utility Use, Service, or Structure, less than 600 sq.
475 ft.

476 4. Accessory Building, less than 600 sq. ft.

477 5. Ski-related Accessory Building, less than 600 sq. ft.

478 6. Parking Area or Structure with four (4) or fewer spaces

479 7. Outdoor Event, Outdoor Music

480 8. Temporary Construction Improvement

481 9. Raising, grazing of horses

482 10. Raising, grazing of livestock

483 11. Anemometer and Anemometer Towers

484 **C. CONDITIONAL USES.**

485 1. Agriculture

486 2. Recreational Outdoor and Trail Lighting

487 3. Recreation Facility, Private⁵

488 4. Recreation Facility, Public

489 5. Recreation Facility, Commercial

490 6. Golf Course

491 7. Passenger Tramway Station and Ski Base Facility

- 492 8. Ski Tow Rope, Ski Lift, Ski Run and Ski Bridge
- 493 9. Recreational Sports Field
- 494 10. Skating Rink
- 495 11. Skateboard Park
- 496 12. Public and Quasi-Public Institution, Church, and School, Park, Plaza,
- 497 Structure for Public Assembly, greater than 600 sq. ft.
- 498 13. Essential Municipal Public Utility Use, Facility, Service, and Structure, greater
- 499 than 600 sq. ft.
- 500 14. Accessory Building, greater than 600 sq. ft.
- 501 15. Ski-Related Accessory Building, greater than 600 sq. ft.
- 502 16. Child Care Center
- 503 17. Commercial Stable, Riding Academy
- 504 18. Vehicle Control Gates²
- 505 19. Resort Support, Commercial
- 506 20. Cemetery
- 507 21. Parking Area or Structure with five (5) or more spaces
- 508 22. Telecommunications Antenna³
- 509 23. Mines and Mine Exploration
- 510 24. Plant and Nursery stock products and sales
- 511 25. Fences greater than six feet (6') in height from Final Grade.
- 512 26. Small Wind Energy Systems
- 513 D. **PROHIBITED USES.** Any use not listed above as an Allowed or Conditional Use
- 514 is a prohibited Use.

515 ¹Subject to an Administrative Conditional Use permit and/or Master Festival license review process.
516 Master Festivals are temporary in nature. All related temporary Structures are restricted to specific time
517 frames and shall be removed at the expiration of the Master Festival permit.

518 ²See Section 15-4-19 for specific review criteria for gates

519 ³Subject to LMC Chapter 15-4-14, Telecommunications

520 ⁴The Planning Director, or his designee shall, upon finding a Food Truck Location in compliance with
521 Municipal Code 4-5-6, issue the property owner a Food Truck Location administrative approval letter.

522 ⁵ See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas

523 HISTORY

524 Adopted by Ord. 00-51 on 9/21/2000

525 Amended by Ord. 04-08 on 3/4/2004

526 Amended by Ord. 09-10 on 3/5/2009

527 Amended by Ord. 2018-55 on 10/23/2018

528

529 **15-2.9-2 Uses**

530 Uses in the E-40 District are limited to the following:

531 **A. ALLOWED USES.**

- 532 1. Single Family Dwelling
- 533 2. Secondary Living Quarters
- 534 3. Lockout Unit¹
- 535 4. Accessory Apartment²
- 536 5. Nightly Rental³
- 537 6. Home Occupation
- 538 7. Child Care, In-Home Babysitting
- 539 8. Child Care, Family⁴
- 540 9. Child Care, Family Group⁴

- 541 10. Accessory Building and Use
- 542 11. Conservation Activity
- 543 12. Agriculture
- 544 13. Raising, grazing of horses
- 545 14. Residential Parking Area or Structure, with four (4) or fewer spaces
- 546 15. Internal Accessory Dwelling Unit⁹

547 **B. CONDITIONAL USES.**

- 548 1. Guest House
- 549 2. Group Care Facility
- 550 3. Child Care Center⁴
- 551 4. Public and Quasi-Public Institution, Church and School
- 552 5. Essential Municipal Public Utility Use, Facility, Service, and Structure
- 553 6. Telecommunication Antenna⁶
- 554 7. Satellite Dish, greater than thirty-nine inches (39") diameter⁶
- 555 8. Plant and Nursery Stock Production and Sales
- 556 9. Raising, grazing of livestock
- 557 10. Cemetery
- 558 11. Bed and Breakfast Inn
- 559 12. Parking Lot or Structure with five (5) or more space
- 560 13. Temporary Improvement⁷
- 561 14. Passenger Tramway Station and Ski Base Facility
- 562 15. Ski Rope Tow, Ski Lift, Ski Run, and Ski Bridge
- 563 16. Outdoor Event⁷

564 17. Recreation Facility, Public and Private¹⁰

565 18. Recreation Facility, Commercial

566 19. Commercial Stables, Riding Academy

567 20. Mines and Mine Exploration

568 21. Fences greater than six feet (6') in height from Final Grade⁷

569 22. Vehicle Control Gates⁸

570 C. **PROHIBITED USES**. Any Use not listed above as an Allowed or Conditional Use
571 is a prohibited Use.

572 ¹Nightly Rental of Lockout Units requires a Conditional Use permit

573 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments

574 ³Nightly Rentals do not include the Use of dwellings for Commercial Uses

575 ⁴See LMC Chapter 15-4-9 for Child Care Regulations

576 ⁵See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

577 ⁶See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

578 ⁷Requires an Administrative Conditional Use permit.

579 ⁸See Section 15-4-19 for specific review criteria for gates.

580 ⁹See Section 15-4-7.1, Internal Accessory Dwelling Units.

581 ¹⁰ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

582 HISTORY

583 Adopted by Ord. 00-51 on 9/21/2000

584 Amended by Ord. 04-08 on 3/4/2004

585 Amended by Ord. 06-69 on 10/19/2006

586 Amended by Ord. 2021-38 on 9/23/2021

587 Amended by Ord. 2021-51 on 12/16/2021

588

589 **15-2.10-2 Uses**

590 Uses in the Estate (E) District are limited to the following:

591 **A. ALLOWED USES.**

- 592 1. Single Family Dwelling
- 593 2. Duplex Dwelling
- 594 3. Secondary Living Quarters
- 595 4. Lockout Unit¹
- 596 5. Accessory Apartment²
- 597 6. Nightly Rental^{1,3}
- 598 7. Home Occupation
- 599 8. Child Care, In-Home Babysitting⁴
- 600 9. Child Care, Family⁴
- 601 10. Child Care, Family Group⁴
- 602 11. Accessory Buildings and Uses
- 603 12. Conservation Activity
- 604 13. Agriculture
- 605 14. Raising, grazing of horses
- 606 15. Parking Area or Structure with four (4) or fewer spaces
- 607 16. Internal Accessory Dwelling Unit¹²

608 **B. CONDITIONAL USES.**

- 609 1. Guest House
- 610 2. Group Care Facility
- 611 3. Child Care Center⁴
- 612 4. Public and Quasi-Public Institution, Church and School

- 613 5. Essential Municipal Public Utility Use, Facility, Services, and Structure
- 614 6. Telecommunication Antenna⁵
- 615 7. Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁶
- 616 8. Plant and Nursery stock products and sales
- 617 9. Raising, grazing of livestock
- 618 10. Cemetery
- 619 11. Bed and Breakfast Inn
- 620 12. Hotel, Minor⁷
- 621 13. Hotel, Major⁷
- 622 14. Parking Area or Structure with five (5) or more spaces
- 623 15. Temporary Improvement⁸
- 624 16. Passenger Tramway Station and Base Facility⁹
- 625 17. Ski Tow Rope, Ski Run, Ski Lift, and Ski Bridge
- 626 18. Outdoor Event⁷
- 627 19. Recreation Facility, Public and Private¹³
- 628 20. Recreation Facility, Commercial
- 629 21. Commercial Stables, Riding Academy
- 630 22. Mines and Mine Exploration
- 631 23. Vehicle Control Gates¹⁰
- 632 24. Fences greater than six feet (6') in height from Final Grade⁸
- 633 25. Support Retail and Minor Service Commercial¹¹
- 634 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
- 635 is a prohibited Use.

636 ¹Nightly rental of Lockout Units requires a Conditional Use permit

637 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

638 ³Nightly Rentals do not include the Use of dwellings for Commercial Uses.

639 ⁴See Section 15-4-9 Child Care and Child Care Facilities

640 ⁵See Section 15-4-14, Telecommunication Facilities

641 ⁶See Section 15-4-13, Placement of Satellite Receiving Antennas

642 ⁷Subject to regulations of Chapter 15-6, Master Planned Developments

643 ⁸Requires an Administrative Conditional Use permit

644 ⁹See Section 15-4-18 Passenger Tramways and Ski Base Facilities

645 ¹⁰See Section 15-4-19 Review Criteria for Vehicle Control Gates

646 ¹¹Subject to a Master Planned Development approval. See Chapter 15-6

647 ¹²See Section 15-4-7.1, Internal Accessory Dwelling Units.

648 ¹³[See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

649 HISTORY

650 Adopted by Ord. 00-51 on 9/21/2000

651 Amended by Ord. 04-08 on 3/4/2004

652 Amended by Ord. 06-69 on 10/19/2006

653 Amended by Ord. 2020-45 on 10/1/2020

654 Amended by Ord. 2021-38 on 9/23/2021

655 Amended by Ord. 2021-51 on 12/16/2021

656

657 **15-2.11-2 Uses**

658 Uses in the SF District are limited to the following:

659 **A. ALLOWED USES.**

660 1. Single Family Dwelling

661 2. Duplex Dwelling¹

662 3. Secondary Living Quarters²

663 4. Accessory Apartment³

- 664 5. Nightly Rental⁴
- 665 6. Home Occupation
- 666 7. Child Care, In-Home Babysitting⁵
- 667 8. Child Care, Family⁵
- 668 9. Child Care, Family Group⁵
- 669 10. Accessory Building and Use
- 670 11. Conservation Activity
- 671 12. Agriculture
- 672 13. Parking Area or Structure with four (4) or fewer spaces
- 673 14. Internal Accessory Dwelling Unit¹⁰

674 **B. CONDITIONAL USES.**

- 675 1. Guest House⁶
- 676 2. Group Care Facility
- 677 3. Child Care Center⁵
- 678 4. Public and Quasi-Public Institution, Church, and School
- 679 5. Essential Municipal Public Utility Use, Facility, Service, and Structure
- 680 6. Telecommunication Antenna⁷
- 681 7. Satellite Dish, greater than thirty-nine inches (39") diameter⁸
- 682 8. Raising, grazing of horses
- 683 9. Bed and Breakfast Inn
- 684 10. Parking Area or Structure with five (5) or more spaces⁹
- 685 11. Temporary Improvements⁹
- 686 12. Outdoor Event⁹

687 13. Recreation Facility, Public or Private¹¹

688 14. Fences greater than six feet (6') in height from Final Grade⁹

689 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
690 is a prohibited Use.

691 ¹Permitted only on Lots designated for Duplexes on the official Subdivision Plat.

692 ²Detached Guest Houses and detached Secondary Living Quarters are not allowed as a Conditional or
693 Allowed Use within Holiday Ranchettes Subdivision.

694 ³Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments. Accessory Apartments in
695 detached Structures are not allowed within Holiday Ranchettes Subdivision.

696 ⁴Allowed only within Prospector Village Subdivision. Commercial Uses are not allowed within Nightly
697 Rental units.

698 ⁵See Section 15-4-9 Child Care and Child Care Facilities.

699 ⁶Detached Guest Houses and detached Secondary Living Quarters are not allowed as a Conditional or
700 Allowed Use within Holiday Ranchettes Subdivision.

701 ⁷See Section 15-4-14, Telecommunication Facilities

702 ⁸See Section 15-4-13, Placement of Satellite Receiving Antennas

703 ⁹Requires an Administrative Conditional Use permit.

704 ¹⁰See Section 15-4-7.1, Internal Accessory Dwelling Units.

705 ¹¹ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

706 HISTORY

707 Adopted by Ord. 00-51 on 9/21/2000

708 Amended by Ord. 06-76 on 11/9/2006

709 Amended by Ord. 2020-45 on 10/1/2020

710 Amended by Ord. 2021-38 on 9/23/2021

711 Amended by Ord. 2021-51 on 12/16/2021

712

713 **15-2.12-2 Uses**

714 Uses in the R-1 District are limited to the following:

715 **A. ALLOWED USES.**

- 716 1. Single Family Dwelling
- 717 2. Duplex Dwelling
- 718 3. Secondary Living Quarters
- 719 4. Lockout Unit¹
- 720 5. Accessory Apartment²
- 721 6. Nightly Rental³
- 722 7. Home Occupation
- 723 8. Child Care, In-Home Babysitting⁴
- 724 9. Child Care, Family⁴
- 725 10. Child Care, Family Group⁴
- 726 11. Accessory Building and Use
- 727 12. Conservation Activity
- 728 13. Agriculture
- 729 14. Parking Area or Structure with four (4) or fewer spaces
- 730 15. Internal Accessory Dwelling Unit¹¹

731 **B. CONDITIONAL USES.**

- 732 1. Triplex Dwelling⁵
- 733 2. Guest House, on Lots one (1) acre or larger
- 734 3. Group Care Facility
- 735 4. Child Care Center⁴
- 736 5. Public or Quasi-Public Institution, Church, and School

- 737 6. Essential Municipal Public Utility Use, Facility, Service, and Structure
- 738 7. Telecommunication Antenna⁶
- 739 8. Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁷
- 740 9. Bed and Breakfast Inn
- 741 10. Temporary Improvement⁸
- 742 11. Ski tow rope, ski lift, ski run, and ski bridge⁹
- 743 12. Outdoor Event⁸
- 744 13. Recreation Facility, Private¹²
- 745 14. Fences and walls greater than six feet (6') in height from Final Grade⁸
- 746 15. Residential and transient lodging Uses¹⁰

747 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
748 is a prohibited Use.

749 ¹Nightly rental of Lockout Units requires a Conditional Use permit

750 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments

751 ³Commercial Uses are not allowed within Nightly Rental Units

752 ⁴See Section 15-4-9 Child Care and Child Care Facilities

753 ⁵Must comply with special parking requirements, see Chapter 15-3.

754 ⁶See Section 15-4-14, Telecommunications Facilities

755 ⁷See Section 15-4-13, Placement of Satellite Receiving Antennas

756 ⁸Subject to an Administrative Conditional Use permit.

757 ⁹As part of an approved Ski Area Master Plan. See Section 15-4-18, Passenger Tramways and Ski Base
758 Facilities

759 ¹⁰Subject to Master Planned Development approval. See Chapter 15-6

760 ¹¹See Section 15-4-7.1, Internal Accessory Dwelling Units.

761 ¹²[See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

762 HISTORY

- 763 Adopted by Ord. 00-51 on 9/21/2000
- 764 Amended by Ord. 06-76 on 11/9/2006
- 765 Amended by Ord. 2020-45 on 10/1/2020
- 766 Amended by Ord. 2021-38 on 9/23/2021
- 767 Amended by Ord. 2021-51 on 12/16/2021
- 768

769 **15-2.13-2 Uses**

770 Uses in the RD District are limited to the following:

771 A. **ALLOWED USES.**

- 772 1. Single-Family Dwelling
- 773 2. Duplex Dwelling
- 774 3. Secondary Living Quarters
- 775 4. Lockout Unit¹
- 776 5. Accessory Apartment²
- 777 6. Nightly Rental³
- 778 7. Home Occupation
- 779 8. Child Care, In-Home Babysitting⁴
- 780 9. Child Care, Family⁴
- 781 10. Child Care, Family Group⁴
- 782 11. Accessory Building and Use
- 783 12. Conservation Activity Agriculture
- 784 13. Parking Area or Structure with four (4) or fewer spaces
- 785 14. ~~Recreation Facility, Private~~
- 786 15. Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays⁵

787 16. Food Truck Location¹⁶

788 17. Internal Accessory Dwelling Unit¹⁷

789 **B. CONDITIONAL USES.**

790 1. Triplex Dwelling⁶

791 2. Multi-Unit Dwelling⁶

792 3. Guest House

793 4. Group Care Facility

794 5. Child Care Center⁴

795 6. Public and Quasi-Public Institution, Church, and School

796 7. Essential Municipal Public Utility Use, Facility, Service, and Structure

797 8. Telecommunication Antenna⁷

798 9. Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁸

799 10. Raising, grazing of horses

800 11. Cemetery

801 12. Bed and Breakfast Inn

802 13. Hotel, Minor⁶

803 14. Hotel, Major⁶

804 15. Private Residence Club Project and Conversion¹⁰

805 16. Office, General^{6,9}

806 17. Office, Moderate Intensive^{6,9}

807 18. Office, Medical^{6,9}

808 19. Financial Institution without drive-up window^{6,9}

809 20. Commercial Retail and Service, Minor^{6,9}

- 810 21. Commercial Retail and Service, personal improvement^{6,9}
- 811 22. Commercial, Resort Support^{6,9}
- 812 23. Café or Deli^{6,9}
- 813 24. Restaurant, Standard^{6,9}
- 814 25. Restaurant, Outdoor Dining¹⁰
- 815 26. Outdoor Event¹⁰
- 816 27. Bar^{6,9}
- 817 28. Hospital, Limited Care Facility^{6,9}
- 818 29. Parking Area or Structure with five (5) or more spaces
- 819 30. Temporary Improvement¹⁰
- 820 31. Passenger Tramway Station and Ski Base Facility¹¹
- 821 32. Ski Tow, Ski Lift, Ski Run, and Ski Bridge¹¹
- 822 33. Recreation Facility, Public
- 823 34. Recreation Facility, Commercial⁶
- 824 35. Recreation Facility, Private¹⁸
- 825 36. Entertainment Facility, Indoor^{6,9}
- 826 37. Commercial Stables, Riding Academy¹²
- 827 38. Heliport¹²
- 828 39. Vehicle Control Gate¹³
- 829 40. Fences and walls greater than six feet (6') in height from Final Grade¹⁰
- 830 41. Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays¹⁴
- 831 42. Amenities Club
- 832 43. Club, Private Residence Off-Site¹⁵

833 C. **PROHIBITED USES**. Any Use not listed above as an Allowed or Conditional Use
834 is a prohibited Use.

835 ¹Nightly rental of Lockout Units requires a Conditional Use permit

836 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments

837 ³Nightly Rentals do not include the Use of dwellings for Commercial Uses and Nightly Rentals are not

838 permitted in the April Mountain, Mellow Mountain Estates Subdivisions, Meadows Estates Subdivision

839 Phases #1A and #1B, Fairway Meadows Subdivision, and Hidden Oaks at Deer Valley Phases 2 and 3.

840 ⁴See Section 15-4-9 Child Care and Child Care Facilities

841 ⁵Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City

842 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed

843 on the original Property set forth in the services agreement and/or Master Festival License

844 ⁶Subject to provisions of LMC Chapter 15-6, Master Planned Development

845 ⁷See Section 15-4-14, Telecommunications Facilities

846 ⁸See Section 15-4-13, Placement of Satellite Receiving Antennas

847 ⁹Allowed only as a secondary or support Use to the primary Development or Use and intended as a

848 convenience for residents or occupants of adjacent or adjoining residential Developments.

849 ¹⁰Requires an Administrative Conditional Use permit.

850 ¹¹As part of an approved Ski Area Master Plan. See Section 15-4-18 Passenger Tramways and Ski Base

851 Facilities.

852 ¹²Omitted.

853 ¹³See Section 15-4-19, Review Criteria For Control Vehicle Gates.

854 ¹⁴Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City

855 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed

856 in an Area other than the original location set forth in the services agreement and/or Master Festival

857 License.

858 ¹⁵Only allowed within a Master Planned Development. Requires an Administrative Conditional Use permit.
859 Is permitted only in approved existing Commercial spaces or developments that have ten (10) or more
860 units with approved Support Commercial space. A Parking Plan shall be submitted to determine site
861 specific parking requirements.

862 ¹⁶The Planning Director or their designee shall, upon finding a Food Truck Location in compliance with
863 Municipal Code 4-5-6, issue the property owner a Food Truck Location administrative approval letter.

864 ¹⁷See Section 15-4-7.1, Internal Accessory Dwelling Units.

865 ¹⁸ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

866 HISTORY

867 *Adopted by Ord. [00-51](#) on 9/21/2000*

868 *Amended by Ord. [02-38](#) on 9/12/2002*

869 *Amended by Ord. [04-08](#) on 3/4/2004*

870 *Amended by Ord. [05-39](#) on 6/30/2005*

871 *Amended by Ord. [06-76](#) on 11/9/2006*

872 *Amended by Ord. [11-05](#) on 1/27/2011*

873 *Amended by Ord. [14-35](#) on 6/26/2014*

874 *Amended by Ord. [2018-23](#) on 5/17/2018*

875 *Amended by Ord. [2018-55](#) on 10/23/2018*

876 *Amended by Ord. [2020-38](#) on 7/30/2020*

877 *Amended by Ord. [2020-45](#) on 10/1/2020*

878 *Amended by Ord. [2021-16](#) on 4/15/2021*

879 *Amended by Ord. [2021-38](#) on 9/23/2021*

880 *Amended by Ord. [2021-52](#) on 12/16/2021*

881 *Amended by Ord. [2021-51](#) on 12/16/2021*

882 . . .

883 **15-2.14-2 Uses**

884 Uses in the RDM District are limited to the following:

885 A. **ALLOWED USES.**

- 886 1. Single Family Dwelling
- 887 2. Duplex Dwelling
- 888 3. Triplex Dwelling
- 889 4. Secondary Living Quarters
- 890 5. Lockout Unit¹
- 891 6. Accessory Apartment²
- 892 7. Nightly Rental³
- 893 8. Home Occupation
- 894 9. Child Care, In Home Babysitting⁴
- 895 10. Child Care, Family⁴
- 896 11. Child Care, Family Group⁴
- 897 12. Accessory Building and Use
- 898 13. Conservation Activity
- 899 14. Agriculture
- 900 15. Parking Area or Structure with four (4) or fewer spaces
- 901 16. ~~Recreation Facility, Private~~
- 902 17. Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays⁵
- 903 18. Food Truck Location¹⁴
- 904 19. Internal Accessory Dwelling Unit¹⁵

905 B. **CONDITIONAL USES.**

- 906 1. Multi Unit Dwelling⁶

- 907 2. Guest House
- 908 3. Group Care Facility
- 909 4. Child Care Center
- 910 5. Public and Quasi Public Institution, Church, and School
- 911 6. Essential Municipal Public Utility Use, Facility, Service, and Structure
- 912 7. Telecommunication Antenna⁷
- 913 8. Satellite Dish, greater than thirty nine inches (39") in diameter⁸
- 914 9. Raising grazing of horses
- 915 10. Cemetery
- 916 11. Bed and Breakfast Inn
- 917 12. Boarding House, Hotel
- 918 13. Hotel, Minor⁶
- 919 14. Hotel, Major⁶
- 920 15. Private Residence Club Project and Conversion¹¹
- 921 16. Office, General⁶
- 922 17. Office, Moderate Intensive^{6,9}
- 923 18. Office and Clinic, Medical^{6,10}
- 924 19. Financial Institution, without drive up window^{6,10}
- 925 20. Commercial Retail and Service, Minor^{6,10}
- 926 21. Commercial Retail and Service, personal improvement^{6,10}
- 927 22. Commercial, Resort Support^{6,10}
- 928 23. Cafe or Deli^{6,10}
- 929 24. Restaurant, Standard^{6,10}

- 930 25. Restaurant, Outdoor Dining¹¹
- 931 26. Outdoor Event¹¹
- 932 27. Bar^{6,10}
- 933 28. Hospital, Limited Care Facility^{6,9}
- 934 29. Parking Area or Structure with five (5) or fewer spaces
- 935 30. Temporary Improvement¹¹
- 936 31. Passenger Tramway Station and Ski Base Facility¹²
- 937 32. Ski Tow, Ski Lift, Ski Run, and Ski Bridge¹²
- 938 33. Recreation Facility, Public
- 939 34. Recreation Facility, Commercial⁶
- 940 35. Recreation Facility, Private¹⁶
- 941 36. Entertainment Facility, Indoor^{6,9}
- 942 37. Commercial Stables, Riding Academy^{6,10}
- 943 38. Fences greater than six feet (6') in height from Final Grade
- 944 39. Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays¹³

945 C. **PROHIBITED USES**. Any Use not listed above as an Allowed or Conditional Use
946 is a prohibited Use.

947 ¹Nightly Rental of Lockout Units requires a Conditional Use permit.

948 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

949 ³Nightly Rentals do not include the Use of Dwellings for Commercial Use.

950 ⁴See Section 15-4-9, Child Care and Child Care Facilities

951 ⁵Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City
952 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed
953 on the original Property set forth in the services agreement and/or Master Festival License

954 ⁶Subject to Master Planned Development approval. See Chapter 15-6.

955 ⁷See Section 15-4-14, Telecommunication Facilities.

956 ⁸See Section 15-4-13, Placement of Satellite Receiving Antennas.

957 ⁹General Offices are only permitted with an approved Master Planned Development and may only be
958 approved as the redevelopment of an existing Building or Property. In addition to meeting the necessary
959 criteria in the Chapter 15-6 Master Planned Developments, the Planning Commission must find that: a)
960 the redevelopment of an existing Building or Property to a General Office use will substantially advance
961 the objectives of Economic Element of the General Plan or other more specific neighborhood plans; b) it
962 has minimized/eliminated any potential detrimental impact on the resort and/or resort-residential
963 character of the RDM District and the Frontage Protection Zone through careful planning and conditions
964 of approval; c) it will not result in an intensification of use incompatible with neighboring developments;
965 and d) it will not result in substantial increase in the existing trip generations for services and deliveries.

966 ¹⁰Allowed only as a secondary or support Use to the primary Development or Use and intended as a
967 convenience for residents or occupants of adjacent or adjoining residential Development.

968 ¹¹Requires an administrative Conditional Use permit.

969 ¹²As part of an approved Ski Area Master Plan. See Section 15-4-18, Passenger Tramways and Ski Base
970 Facilities

971 ¹³Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City
972 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed
973 in an Area other than the original location set forth in the services agreement and/or Master Festival
974 License.

975 ¹⁴The Planning Director or their designee shall, upon finding a Food Truck Location in compliance with
976 Municipal Code Section 4-5-6, issue the property owner a Food Truck Location administrative approval
977 letter.

978 ¹⁵See Section 15-4-7.1, Internal Accessory Dwelling Units.

979 ¹⁶ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

980 HISTORY

981 *Adopted by Ord. [00-51](#) on 9/21/2000*

982 *Amended by Ord. [02-24](#) on 6/27/2002*

983 *Amended by Ord. [02-38](#) on 9/12/2002*

984 *Amended by Ord. [04-39](#) on 3/18/2004*

985 *Amended by Ord. [06-76](#) on 11/9/2006*

986 *Amended by Ord. [2018-55](#) on 10/23/2018*

987 *Amended by Ord. [2018-55](#) on 10/23/2018*

988 *Amended by Ord. [2020-45](#) on 10/1/2020*

989 *Amended by Ord. [2021-38](#) on 9/23/2021*

990 *Amended by Ord. [2021-51](#) on 12/16/2021*

991 . . .

992 **15-2.15-2 Uses**

993 Uses in the RM District are limited to the following:

994 **A. ALLOWED USES.**

995 1. Single Family Dwelling

996 2. Duplex Dwelling

997 3. Triplex Dwelling

998 4. Secondary Living Quarters

999 5. Lockout Unit¹

1000 6. Accessory Apartment²

1001 7. Nightly Rental³

1002 8. Home Occupation

1003 9. Child Care, In-Home Babysitting⁴

1004 10. Child Care, Family⁴

- 1005 11. Child Care, Family Group⁴
- 1006 12. Accessory Building and Use
- 1007 13. Conservation Activity
- 1008 14. Agriculture
- 1009 15. Bed and Breakfast Inn
- 1010 16. Parking Area or Structure with four (4) or fewer spaces
- 1011 17. Internal Accessory Dwelling Unit⁹

1012 **B. CONDITIONAL USES.**

- 1013 1. Multi-Unit Dwelling
- 1014 2. Guest House, on Lot greater than one (1) acre
- 1015 3. Group Care Facility
- 1016 4. Child Care Center⁴
- 1017 5. Public and Quasi-Public Institution, Church, and School
- 1018 6. Essential Municipal Public Utility Use, Facility, Service, and Structure
- 1019 7. Telecommunication Antenna⁵
- 1020 8. Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁶
- 1021 9. Boarding House, Hostel
- 1022 10. Hotel, Minor⁷
- 1023 11. Outdoor Event⁸
- 1024 12. Parking Area or Structure with five (5) or more spaces
- 1025 13. Temporary Improvement⁸
- 1026 14. Recreation Facility, Public and Private¹⁰
- 1027 15. Fences greater than six feet in Height from Final Grade⁸

1028 16. Residential and transient lodging Uses⁷

1029 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use

1030 is a prohibited Use.

1031 ¹Nightly rental of Lockout Units requires a Conditional Use permit.

1032 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

1033 ³Nightly Rentals do not include the Use of dwellings for Commercial Uses.

1034 ⁴See Section 15-4-9, Child Care and Child Care Facilities.

1035 ⁵See Section 15-4-14, Telecommunications Facilities.

1036 ⁶See Section 15-4-13, Placement of Satellite Receiving Antennas.

1037 ⁷Subject to Master Planned Development approval. See Chapter 15-6.

1038 ⁸Requires an Administrative Conditional Use permit.

1039 ⁹See Section 15-4-7.1, Internal Accessory Dwelling Units.

1040 ¹⁰[See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

1041 HISTORY

1042 Adopted by Ord. 00-51 on 9/21/2000

1043 Amended by Ord. 2020-45 on 10/1/2020

1044 Amended by Ord. 2021-38 on 9/23/2021

1045 Amended by Ord. 2021-51 on 12/16/2021

1046

1047 **15-2.16-2 Uses**

1048 Uses in the RC District are limited to the following:

1049 **A. ALLOWED USES.**

1050 1. Single Family Dwelling

1051 2. Duplex Dwelling

1052 3. Triplex Dwelling

1053 4. Secondary Living Quarters

- 1054 5. Lockout Unit¹
- 1055 6. Accessory Apartment²
- 1056 7. Nightly Rental³
- 1057 8. Home Occupation
- 1058 9. Child Care, In-Home Babysitting⁴
- 1059 10. Child Care, Family⁴
- 1060 11. Child Care, Family Group⁴
- 1061 12. Child Care Center⁴
- 1062 13. Accessory Building and Use
- 1063 14. Conservation Activity
- 1064 15. Agriculture
- 1065 16. Bed and Breakfast Inn
- 1066 17. Boarding House, Hostel
- 1067 18. Hotel, Minor
- 1068 19. Parking Area or Structure with four (4) or fewer spaces
- 1069 20. Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays⁵
- 1070 21. Food Truck Location¹²

1071 **B. CONDITIONAL USES.**

- 1072 1. Multi-Unit Dwelling
- 1073 2. Group Care Facility
- 1074 3. Public and Quasi-Public institution, church, and school
- 1075 4. Essential municipal and public utility Use, facility, service, and Structure
- 1076 5. Telecommunications Antenna⁶

- 1077 6. Satellite dish Antenna, greater than thirty-nine inches (39") in diameter⁷
- 1078 7. Raising, grazing of horses
- 1079 8. Cemetery
- 1080 9. Hotel, Major
- 1081 10. Timeshare Project and Conversion
- 1082 11. Timeshare Sales Office
- 1083 12. Private Residence Club Project and Conversion⁹
- 1084 13. Office, General⁸
- 1085 14. Office, Moderate⁸
- 1086 15. Office and clinic, Medical⁸
- 1087 16. Financial institution without drive-up window⁸
- 1088 17. Minor Retail and Service Commercial⁸
- 1089 18. Retail and Service Commercial, Personal Improvement⁸
- 1090 19. Transportation Service⁸
- 1091 20. Neighborhood Market, without gasoline sales⁸
- 1092 21. Café or Deli⁸
- 1093 22. Restaurant, General⁸
- 1094 23. Restaurant, outdoor dining^{8,9}
- 1095 24. Bar⁸
- 1096 25. Hospital, Limited Care Facility⁸
- 1097 26. Parking Area or Structure with five (5) or more spaces
- 1098 27. Temporary Improvement⁹
- 1099 28. Passenger Tramway station and ski base facility¹⁰

- 1100 29. Ski tow rope, ski lift, ski run, and ski bridge¹⁰
- 1101 30. Outdoor Events and Uses⁹
- 1102 31. Recreation Facility, Public and Private^{8, 13}
- 1103 32. Recreation Facility, Commercial⁸
- 1104 33. Entertainment Facility, Indoor⁸
- 1105 34. Commercial Riding Stable(s), riding academy⁸
- 1106 35. Heliport⁸
- 1107 36. Amenities Club
- 1108 37. Club, Private Residence Off-Site¹¹
- 1109 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
- 1110 is a prohibited Use.

- 1111 ¹Nightly Rental of Lockout Units requires a Conditional Use permit
- 1112 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments
- 1113 ³Nightly Rentals do not include the Use of dwellings for Commercial Uses
- 1114 ⁴See Section 15-4-9, Child Care And Child Care Facilities
- 1115 ⁵Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City
- 1116 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed
- 1117 on the original Property set forth in the services agreement and/or Master Festival License. Requires an
- 1118 Administrative Permit.
- 1119 ⁶See Section 15-4-14, Telecommunication Facilities
- 1120 ⁷See Section 15-4-13, Placement Of Satellite Receiving Antennas
- 1121 ⁸As support Use to primary Development or Use, subject to provisions of LMC Chapter 15-6, Master
- 1122 Planned Developments
- 1123 ⁹Requires an Administrative or Administrative Conditional Use permit, see Chapter 15-4
- 1124 ¹⁰As part of an approved Ski Area Master Plan

1125 ¹¹Requires an Administrative Conditional Use permit. Is permitted only in approved existing Commercial
1126 spaces or Developments that have ten (10) or more units with approved Support Commercial space. A
1127 Parking Plan shall be submitted to determine site specific parking requirements.

1128 ¹²The Planning Director or their designee shall, upon finding a Food Truck Location in compliance with
1129 Municipal Code Section 4-5-6, issue the property owner a Food Truck Location administrative approval
1130 letter.

1131 [¹³ See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

1132 HISTORY

1133 Adopted by Ord. 00-51 on 9/21/2000

1134 Amended by Ord. 02-38 on 9/12/2002

1135 Amended by Ord. 04-39 on 3/18/2004

1136 Amended by Ord. 06-76 on 11/9/2006

1137 Amended by Ord. 09-10 on 3/5/2009

1138 Amended by Ord. 11-05 on 1/27/2011

1139 Amended by Ord. 15-35 on 10/12/2015

1140 Amended by Ord. 2018-23 on 5/17/2018

1141 Amended by Ord. 2018-55 on 10/23/2018

1142 Amended by Ord. 2020-36 on 7/30/2020

1143 Amended by Ord. 2020-45 on 10/1/2020

1144 Amended by Ord. 2021-51 on 12/16/2021

1145

1146 **15-2.17-2 Uses**

1147 Uses in the RCO District are limited to the following:

1148 **A. ALLOWED USES.**

1149 1. Secondary Living Quarters

1150 2. Lockout Unit¹

1151 3. Accessory Apartment²

- 1152 4. Nightly Rental
- 1153 5. Home Occupation
- 1154 6. Child Care, In-Home Babysitting³
- 1155 7. Child Care, Family³
- 1156 8. Child Care, Family Group³
- 1157 9. Accessory Building and Use
- 1158 10. Conservation Activity
- 1159 11. Agriculture
- 1160 12. Parking Area or Structure with four (4) or fewer spaces
- 1161 13. Recreation Facility, Private¹²
- 1162 14. Allowed Uses in the Underlying Zoning District
- 1163 15. Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays⁴
- 1164 16. Food Truck Location¹¹
- 1165 **B. CONDITIONAL USES.**
- 1166 1. Multi-Unit Dwelling⁵
- 1167 2. Group Care Facility⁵
- 1168 3. Child Care Center^{3,5}
- 1169 4. Public and Quasi-Public Institution, Church and School⁵
- 1170 5. Essential Municipal Public Utility Use, Facility, Service, and Structure⁵
- 1171 6. Telecommunication Antenna⁶
- 1172 7. Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁷
- 1173 8. Plant and Nursery stock products and sales⁵
- 1174 9. Bed and Breakfast Inn⁵

- 1175 10. Boarding House, Hostel⁵
- 1176 11. Hotel, Minor⁵
- 1177 12. Hotel, Major⁵
- 1178 13. Private Residence Club Project and Conversion⁹
- 1179 14. Timeshare Sales Office, off-site⁵
- 1180 15. Office, General⁵
- 1181 16. Office, Moderate Intensive⁵
- 1182 17. Office, Intensive⁵
- 1183 18. Office and Clinic, Medical⁵
- 1184 19. Financial Institution, with and without drive-up window^{5,8}
- 1185 20. Retail and Service Commercial, Minor⁵
- 1186 21. Retail and Service Commercial, personal improvement⁵
- 1187 22. Retail and Service Commercial, Major⁵
- 1188 23. Transportation Service⁵
- 1189 24. Retail Drive-Up Window⁸
- 1190 25. Neighborhood Convenience Commercial⁵
- 1191 26. Commercial, Resort Support⁵
- 1192 27. Gasoline Service Station⁵
- 1193 28. Cafe, Deli⁵
- 1194 29. Restaurant, General⁵
- 1195 30. Restaurant, Outdoor Dining⁹
- 1196 31. Outdoor Event⁹
- 1197 32. Restaurant, Drive-up window⁸

- 1198 33. Bar⁵
- 1199 34. Hospital, Limited Care Facility⁵
- 1200 35. Hospital, General⁵
- 1201 36. Parking Area or Garage with five (5) or more spaces⁸
- 1202 37. Temporary Improvement⁹
- 1203 38. Passenger Tramway Station and Ski Base Facility⁵
- 1204 39. Ski tow rope, ski lift, ski run, and ski bridge⁵
- 1205 40. Recreation Facility, Public⁵
- 1206 41. Recreation Facility, Commercial⁵
- 1207 42. Entertainment, Indoor⁵
- 1208 43. Heliport⁵
- 1209 44. Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays¹⁰
- 1210 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
- 1211 is a prohibited Use.

1212 ¹Nightly Rental of Lockout Units requires a Conditional Use permit.

1213 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

1214 ³See Section 15-4-9, Child Care and Child Care Facilities.

1215 ⁴Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City
1216 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed
1217 on the original Property set forth in the services agreement and/or Master Festival License.

1218 ⁵Subject to Master Planned Development approval. See Chapter 15-6.

1219 ⁶See Section 15-4-14, Telecommunication Facilities.

1220 ⁷See Section 15-4-13, Placement of Satellite Receiving Antennas.

1221 ⁸See Section 15-2.18-5 criteria for drive-up windows.

1222 ⁹Requires an administrative Conditional Use permit.

1223 ¹⁰Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City
1224 Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed
1225 in an Area other than the original location set forth in the services agreement and/or Master Festival
1226 License.

1227 ¹¹The Planning Director or their designee shall, upon finding a Food Truck Location in compliance with
1228 Municipal Code Section 4-5-6, issue the property owner a Food Truck Location administrative approval
1229 letter.

1230 [¹² See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

1231 HISTORY

1232 Adopted by Ord. 00-51 on 9/21/2000

1233 Amended by Ord. 02-38 on 9/12/2002

1234 Amended by Ord. 04-39 on 9/23/2004

1235 Amended by Ord. 06-76 on 11/9/2006

1236 Amended by Ord. 2018-55 on 10/23/2018

1237 Amended by Ord. 2018-55 on 10/23/2018

1238 Amended by Ord. 2020-45 on 10/1/2020

1239 Amended by Ord. 2021-51 on 12/16/2021

1240

1241 **15-2.18-2 Uses**

1242 Uses in the GC District are limited to the following:

1243 **A. ALLOWED USES.**

1244 1. Secondary Living Quarters

1245 2. Lockout Unit¹

1246 3. Accessory Apartment²

1247 4. Nightly Rental

1248 5. Home Occupation

- 1249 6. Child Care, In-Home Babysitting³
- 1250 7. Child Care, Family³
- 1251 8. Child Care, Family Group³
- 1252 9. Child Care Center³
- 1253 10. Accessory Building and Use
- 1254 11. Conservation Activity
- 1255 12. Agriculture
- 1256 13. Plant and Nursery Stock production and sales
- 1257 14. Bed and Breakfast Inn
- 1258 15. Boarding House, Hostel
- 1259 16. Hotel, Minor
- 1260 17. Hotel, Major
- 1261 18. Office, General
- 1262 19. Office, Moderate Intensive
- 1263 20. Office, Intensive
- 1264 21. Office and Clinic, Medical and Veterinary Clinic
- 1265 22. Financial Institution without a drive-up window
- 1266 23. Commercial, Resort Support
- 1267 24. Retail and Service Commercial, Minor
- 1268 25. Retail and Service Commercial, Personal Improvement
- 1269 26. Retail and Service Commercial, Major
- 1270 27. Cafe or Deli
- 1271 28. Restaurant, General

- 1272 29. Hospital, Limited Care Facility
- 1273 30. Parking Area or Structure with four (4) or fewer spaces
- 1274 31. Parking Area or Structure with five (5) or more spaces
- 1275 32. ~~Recreation Facility, Private~~
- 1276 33. Food Truck Location¹⁰

1277 **B. CONDITIONAL USES.**

- 1278 1. Single Family Dwelling
- 1279 2. Duplex Dwelling
- 1280 3. Triplex Dwelling
- 1281 4. Multi-Unit Dwelling
- 1282 5. Group Care Facility
- 1283 6. Public and Quasi-Public Institution, Church, and School
- 1284 7. Essential Municipal Public Utility Use, Facility, Service, and Structure
- 1285 8. Telecommunication Antenna⁴
- 1286 9. Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁵
- 1287 10. Timeshare Project and Conversion
- 1288 11. Timeshare Sales Office, off-site within an enclosed Building
- 1289 12. Private Residence Club Project and Conversion⁸
- 1290 13. Financial Institution with a Drive-up Window⁶
- 1291 14. Retail and Service Commercial with Outdoor Storage
- 1292 15. Retail and Service Commercial, Auto Related
- 1293 16. Transportation Service
- 1294 17. Retail Drive-Up Window⁶

- 1295 18. Gasoline Service Station
- 1296 19. Restaurant and Cafe, Outdoor Dining⁷
- 1297 20. Restaurant, Drive-up Window⁶
- 1298 21. Outdoor Event⁷
- 1299 22. Bar
- 1300 23. Sexually Oriented Businesses⁸
- 1301 24. Hospital, General
- 1302 25. Light Industrial Manufacturing and Assembly
- 1303 26. Temporary Improvement⁷
- 1304 27. Passenger Tramway and Ski Base Facility
- 1305 28. Ski tow rope, ski lift, ski run, and ski bridge
- 1306 29. Commercial Parking Lot or Structure
- 1307 30. Recreation Facility, Public
- 1308 31. Recreation Facility, Commercial
- 1309 32. Recreation Facility, Private⁹
- 1310 33. Indoor Entertainment Facility
- 1311 34. Heliport
- 1312 35. Temporary Sales Trailer in conjunction with an active Building permit for the
- 1313 Site.⁸
- 1314 36. Fences greater than six feet (6') in height from Final Grade⁷
- 1315 37. Household Pet, Boarding⁷
- 1316 38. Household Pet, Daycare⁷
- 1317 39. Household Pet, Grooming⁷

1318 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
1319 is a prohibited Use.

1320 ¹Nightly rental of Lockout Units requires Conditional Use permit.

1321 ²Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

1322 ³See Section 15-4-9, Child Care and Child Care Facilities.

1323 ⁴See Section 15-4-14, Telecommunication Facilities.

1324 ⁵See Section 15-4-13, Placement of Satellite Receiving Antennas.

1325 ⁶See Section 15-2.18-6 for Drive-Up Window review.

1326 ⁷Requires an Administrative Conditional Use permit.

1327 ⁸See Section 15-4-16 for additional criteria.

1328 ⁹ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

1329 ¹⁰The Planning Director or their designee shall, upon finding a Food Truck Location in compliance with
1330 Municipal Code Section 4-5-6, issue the property owner a Food Truck Location administrative approval
1331 letter.

1332 HISTORY

1333 Adopted by Ord. 00-51 on 9/21/2000

1334 Amended by Ord. 04-39 on 9/23/2004

1335 Amended by Ord. 06-76 on 11/9/2006

1336 Amended by Ord. 14-57 on 11/20/2014

1337 Amended by Ord. 2018-55 on 10/23/2018

1338 Amended by Ord. 2018-55 on 10/23/2018

1339 Amended by Ord. 2020-45 on 10/1/2020

1340 Amended by Ord. 2021-51 on 12/16/2021

1341

1342 **15-2.19-2 Uses**

1343 Uses in the LI District are limited to the following:

1344 A. **ALLOWED USES.**

- 1345 1. Secondary Living Quarters
- 1346 2. Accessory Apartment¹
- 1347 3. Nightly Rental
- 1348 4. Home Occupation
- 1349 5. Child Care, In-Home Babysitting²
- 1350 6. Child Care, Family²
- 1351 7. Child Care, Family Group²
- 1352 8. Child Care Center²
- 1353 9. Agriculture
- 1354 10. Plant and Nursery Stock
- 1355 11. Office, General
- 1356 12. Office, Moderate Intensive
- 1357 13. Office, Intensive
- 1358 14. Financial Institution without drive-up window
- 1359 15. Retail and Service Commercial, Minor
- 1360 16. Retail and Service Commercial, Personal Improvement
- 1361 17. Retail and Service Commercial, Major
- 1362 18. Commercial, Resort Support
- 1363 19. Hospital, Limited Care
- 1364 20. Parking Area or Structure with four (4) or fewer spaces
- 1365 21. ~~Recreation Facility, Private~~
- 1366 22. Food Truck Location⁸
- 1367 **B. CONDITIONAL USES.**

- 1368 1. Multi-Unit Dwelling
- 1369 2. Group Care Facility
- 1370 3. Child Care Center²
- 1371 4. Public and Quasi-Public Institution, Church, and School
- 1372 5. Essential Municipal Public Utility Use, Facility, Service, and Structure
- 1373 6. Telecommunication Antenna³
- 1374 7. Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁴
- 1375 8. Accessory Building and Use
- 1376 9. Raising, grazing of horses
- 1377 10. Bed and Breakfast Inn
- 1378 11. Boarding House, Hostel
- 1379 12. Hotel, Minor
- 1380 13. Private Residence Club Project and Conversion⁶
- 1381 14. Office and Clinic, Medical and Veterinary Clinic
- 1382 15. Financial Institutions with Drive-Up Window⁵
- 1383 16. Retail and Service Commercial with Outdoor Storage
- 1384 17. Retail and Service Commercial, Auto-Related
- 1385 18. Transportation Services
- 1386 19. Retail Drive-Up Window⁵
- 1387 20. Gasoline Service Station
- 1388 21. Café or Deli
- 1389 22. Restaurant, General
- 1390 23. Restaurant, Outdoor Dining

- 1391 24. Restaurant, Drive-Up Window⁵
- 1392 25. Outdoor Event⁶
- 1393 26. Bar
- 1394 27. Hospital, General
- 1395 28. Light Industrial Manufacturing and Assembly Facility
- 1396 29. Parking Area or Structure with five (5) or more spaces
- 1397 30. Temporary Improvement⁶
- 1398 31. Passenger Tramway Station and Ski Base Facility
- 1399 32. Ski Tow Rope, Ski Lift, Ski Run, and Ski Bridge
- 1400 33. Recreation Facility, Public
- 1401 34. Recreation Facility, Commercial
- 1402 35. Recreation Facility, Private⁷
- 1403 36. Entertainment Facility, Indoor
- 1404 37. Commercial Stables, Riding Academy
- 1405 38. Heliports
- 1406 39. Commercial Parking Lot or Structure
- 1407 40. Temporary Sales Office, in conjunction with an active Building permit.
- 1408 41. Fences and Walls greater than six feet (6') in height from Final Grade⁶
- 1409 42. Household Pet, Boarding⁶
- 1410 43. Household Pet, Daycare⁶
- 1411 44. Household Pet, Grooming⁶
- 1412 C. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
- 1413 is a prohibited Use.

1414 ¹Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments.

1415 ²See Section 15-4-9, Child Care and Child Care Facilities.

1416 ³See Section 15-4-14, Telecommunication Facilities.

1417 ⁴See Section 15-4-13, Placement of Satellite Receiving Antennas.

1418 ⁵See Section 15-2.19-8, Criteria for Drive-Up Windows.

1419 ⁶Subject to an Administrative Conditional Use permit.

1420 ⁷[See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

1421 ⁸The Planning Director or their designee shall, upon finding a Food Truck Location in compliance with
1422 Municipal Code Section 4-5-6, issue the property owner a Food Truck Location administrative approval
1423 letter.

1424 HISTORY

1425 Adopted by Ord. 00-51 on 9/21/2000

1426 Amended by Ord. 04-39 on 9/23/2004

1427 Amended by Ord. 06-76 on 11/9/2006

1428 Amended by Ord. 14-57 on 11/20/2014

1429 Amended by Ord. 2018-55 on 10/23/2018

1430 Amended by Ord. 2018-55 on 10/23/2018

1431 Amended by Ord. 2020-45 on 10/1/2020

1432 Amended by Ord. 2021-51 on 12/16/2021

1433

1434 **15-2.23-2 Uses**

1435 Uses in the Community Transition District are limited to the following:

1436 **A. ALLOWED USES.**

1437 1. Conservation Activities

1438 2. Home Occupation

1439 3. In-Home Babysitting

1440 4. Family Child Care

1441 5. Secondary Living Quarters

1442 6. Agriculture

1443 7. Food Truck Location²

1444 8. Accessory Apartments³

1445 **B. ADMINISTRATIVE CONDITIONAL USES.**

1446 1. Trails and trailhead improvements

1447 2. Outdoor Recreation Equipment

1448 3. Essential public utility Use, service, or Structure less than 600 sq. ft.

1449 4. Accessory Buildings less than 600 sq. ft.

1450 5. Parking Areas with four (4) or fewer spaces

1451 6. Outdoor Events and Outdoor Music, see Section 15-4

1452 7. Temporary Improvement

1453 8. Outdoor dining and support retail associated with support Uses with an MPD

1454 9. Fences and walls, see Section 15-4-2

1455 10. Anemometer and Anemometer Towers

1456 **C. CONDITIONAL USES.**

1457 1. Public, Quasi-Public, civic, municipal Uses

1458 2. General acute Hospital

1459 3. Alternative professional health-related services

1460 4. Athletic training and testing Offices and facilities

1461 5. Athletic program administrative Offices

1462 6. Support short-term athlete housing or lodging associated with an approved

1463 Recreation Facility (within an approved MPD)

- 1464 7. Accredited physician Office space
- 1465 8. Accredited Medical and dental clinics
- 1466 9. Medical Heliport
- 1467 10. Group Care Facility
- 1468 11. Ancillary Support Commercial (within an approved MPD)
- 1469 12. Gift shop
- 1470 13. Dispensing pharmacy
- 1471 14. Medical supply
- 1472 15. Restaurant
- 1473 16. Deli
- 1474 17. Outdoor grills/ beverage service stations
- 1475 18. Child Care Center
- 1476 19. Recreation Facility, Public [~~and Private~~]
- 1477 20. Recreation Facility, Private⁴
- 1478 21. Recreation Facility, Commercial
- 1479 22. Park and ride Lot
- 1480 23. Municipal/institutional Accessory Building and Use
- 1481 24. Parking Lot, Public
- 1482 25. Public utility or essential services
- 1483 26. Single Family Dwelling (with an approved MPD1)
- 1484 27. Duplex Dwelling (with an approved MPD1)
- 1485 28. Multi-Unit Dwelling (with an approved MPD1)
- 1486 29. Telecommunication Antenna

- 1487 30. Transit facilities
- 1488 31. Parking Areas, Lots, and Structures with more than five (5) Parking Spaces
- 1489 32. Raising, grazing of horses
- 1490 33. Commercial Riding Stable(s)
- 1491 34. Small Energy Wind Systems

1492 D. **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use
 1493 is a prohibited Use.

1494 ¹Residential Uses cannot exceed one (1) unit/acre.

1495 ²The Planning Director or their designee shall, upon finding a Food Truck Location in compliance with
 1496 Municipal Code Section 4-5-6, issue the property owner a Food Truck Location administrative approval
 1497 letter.

1498 ³Requires an Administrative Permit. See Section 15-4-7, Accessory Apartments

1499 ⁴ [See Section 15-4-22, Outdoor Pickleball Courts in Residential Areas](#)

1500 HISTORY

1501 Adopted by Ord. 06-48 on 6/29/2006

1502 Amended by Ord. 07-25 on 4/19/2007

1503 Amended by Ord. 09-10 on 3/5/2009

1504 Amended by Ord. 2018-55 on 10/23/2018

1505 Amended by Ord. 2020-36 on 7/30/2020

1506 Amended by Ord. 2020-45 on 10/1/2020

1507 Amended by Ord. 2021-51 on 12/16/2021

1508

1509 **15-4-22 Outdoor Pickleball Courts in Residential Areas**

1510 In addition to the criteria outlined in Section 15-1-10 for Conditional Use Permit review,
 1511 the Planning Commission shall also consider the criteria of this Section 15-4-22. Prior to
 1512 the issuance of a Conditional Use Permit for an outdoor Pickleball Court on a residential

1513 Lot adjacent to residential Lots, the Planning Commission shall make findings and the

1514 Applicant must meet the following requirements:

1515 A. PRE-APPLICATION CONFERENCE. An Applicant may request an optional pre-
1516 Application conference with Planning and Engineering Department staff to
1517 become acquainted with Pickleball Court regulations on residential Lots.

1518 B. APPLICATION. A complete Application must be submitted to the Planning
1519 Department including the following:

1520 1. GENERAL DESCRIPTION. An overview of the proposed outdoor Pickleball
1521 Court, including hours of operation, anticipated use, evidence of sufficient
1522 required off-street parking, and other applicable information.

1523 2. SITE PLAN. The site plan shall be to scale not to exceed one inch to 100 feet
1524 indicating in detail how the proposal will comply with the International Building
1525 Code and this Section. The site plan shall indicate the location of the outdoor
1526 Pickleball Court on the Property and clearly show distances from all Property
1527 Lines and Structures. The site plan shall include elevation contours, adjacent
1528 neighboring properties, and neighboring residences. The site plan shall
1529 include a grading and drainage plan with stormwater runoff calculations.

1530 3. NOISE STUDY. The noise study shall be prepared by a certified professional
1531 and shall simulate through engineering models, field noise level data
1532 collection, computer generation, or similar techniques, the impact of the
1533 proposed outdoor Pickleball Court. The noise study shall indicate the noise
1534 impact from at least five (5) locations around and within 150 feet of the
1535 proposed outdoor Pickleball Court, in addition to the noise impact measured

1536 at all property boundaries. The noise study must also show what alternatives
1537 have been considered for the mitigation of noise with the pre- and post-
1538 development noise levels. The noise study shall demonstrate that the outdoor
1539 Pickleball Court will be constructed and used in compliance with Municipal
1540 Code Chapter 6-3, Noise.

1541 4. ADDITIONAL STUDIES. The Applicant shall pay for the third-party review of
1542 the submitted noise study, as directed by the City Engineer. The Planning
1543 Commission may require Applicants to submit and fund additional studies,
1544 including a visual analysis of the proposed outdoor Pickleball Court. If the
1545 Planning Commission requires the Applicant to submit additional studies, the
1546 Planning Department and City Engineer may recommend the scope and
1547 method of study.

1548 5. FEES. The Applicant shall pay all fees outlined in the adopted Park City Fee
1549 Schedule, including fees for public notice mailings.

1550 6. NOTICE. Staff shall mail courtesy notice pursuant to Sections 15-1-12 and
1551 15-1-21.

1552 C. SETBACKS.

1553 a. The minimum Setback is 600 feet from lot lines of adjacent residential
1554 property lines.

1555 b. The Planning Commission may reduce the minimum Setback to no less
1556 than 150 feet when:

- 1557 i. The Applicant submits a noise study prepared by a certified
1558 professional that demonstrates compliance with Municipal Code of
1559 Park City Chapter 6-3, Noise.
- 1560 ii. The approval is conditioned upon construction and completion of
1561 the noise mitigating features included in the noise study.
- 1562 iii. The Planning Commission may require additional landscaping for
1563 noise mitigating measures.
- 1564 c. In the instance of a conflict in Setback requirements, the more restrictive
1565 Setback shall apply.
- 1566 d. In considering a reduction in Setbacks, the Planning Commission may
1567 consider whether a homeowner association (HOA) registered with the City
1568 pursuant to Section 15-1-12(F) approves or objects to the proposed use
1569 and mitigation. However, applicant failure to obtain such approvals shall
1570 not be the sole basis for Planning Commission denial.
- 1571 D. HOURS OF OPERATION. Unless otherwise established by Planning
1572 Commission, the Use of outdoor Pickleball Courts on residential Lots shall be
1573 limited to 8 AM to 8 PM. The Planning Commission may establish more
1574 restrictive hours of operations upon findings that corroborate the appropriateness
1575 of alternative times of use.
- 1576 E. OUTDOOR LIGHTING PROHIBITED. Artificial lighting of outdoor Pickleball
1577 Courts in residential areas is prohibited.

1578 F. PARKING. The Applicant shall demonstrate compliance with Section 15-3-6,
1579 Parking Ratio Requirements For Specific Land Use Categories. It is required that
1580 guest parking shall be provided on site.

1581 G. OWNER ASSOCIATION NOTIFICATION. For properties within a homeowner
1582 association, the Applicant must submit with the Conditional Use Permit
1583 application evidence of notification to the appropriate Owner association
1584 registered with the City, pursuant to Section 15-1-12 (F), Owner Association
1585 Registration and Notification.

1586 H. FEES PROHIBITED. No fee may be charged for use of the outdoor pickleball
1587 court. Commercial Use of the outdoor pickleball court is prohibited.

1588 I. PERMIT REVOCATION. The Private Recreation Facility permit may be revoked
1589 by the Planning Department for non-compliance with the criteria of this Section.
1590 The permittee may appeal the determination to the Board of Adjustment, which
1591 will evaluate the Planning Department's determination of permit non-compliance
1592 and decide if permit revocation should occur.

1593 . . .

1594 **15-15-1 Definitions**

1595

1596 **Recreation Facilities, Private.** Recreation facilities operated on private Property and
1597 not open to the general public,[-] including Recreation Facilities [~~typically associated~~
1598 ~~with a homeowner or Condominium association,~~] such as swimming pools, tennis
1599 courts, outdoor Pickleball Courts playgrounds, spas, picnic Areas, and similar facilities
1600 for the Use by Owners and guests.

1601 **Pickleball Court.** Recreation Facilities for an indoor or outdoor game that is played on
1602 a level court measuring approximately 20 feet by 44 feet, but no greater than 30 feet by
1603 60 feet, with short-handled paddles and a perforated plastic ball volleyed over a low net
1604 by two single players or two pairs of players (4 players).
1605



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

UTAH DEPARTMENT OF COMMERCE

Office of the Property Rights Ombudsman

MARGARET W. BUSSE
Executive Director

JORDAN S. CULLIMORE
Division Director, Office of the Property Rights Ombudsman

ADVISORY OPINION

Advisory Opinion Requested By: Wade Budge, Attorney for 1115 Aerie, LLC

Local Government Entity: Park City

Applicant for Land Use Approval: 1115 Aerie LLC

Type of Property: Residential

Date of this Advisory Opinion: November 16, 2023

Opinion Authored By: Richard Plehn, Attorney
Office of the Property Rights Ombudsman

ISSUES

Was 1115 Aerie entitled to approval of the Conditional Use Permit Application it submitted to the Park City Planning Commission for a sports court as a “Private Recreation Facility”?

SUMMARY OF ADVISORY OPINION

The applicant’s residential property is a lot in a master planned development subdivision located in the city’s Estate district and subject to the sensitive lands overlay. The applicant is seeking to legalize certain prior land disturbance and development activity that had initially commenced without proper permits, and applied for conditional use approval of a sports court.

Final action on conditional use applications must include findings according to conditional use standards and must be supported by substantial evidence. It is incumbent on the city to use the substantive review process to obtain all information necessary before considering a matter for final decision. Unless the applicant demands final action, “insufficient information” is not a valid basis for denial where the application could be continued to obtain information necessary for required findings. Conditional uses, like any land use application, must also comply with the objective requirements of land use regulations, development standards, and applicable land use decisions, including plat restrictions. Plats are interpreted to discern the meaning of the parties at the time the

plat is created, and ambiguity is appropriately resolved by the extrinsic evidence of subdivision approval documents and the land use ordinances in effect at the time of approval.

The city wrongfully interpreted platted building pad lines as proscribing any development activity beyond the existing home's footprint, which was not the intent of the plat according to the master planned development approval and ordinances in effect at that time. The city also concluded that it had insufficient information about the lot's pre-development condition in order to determine compliance with standards for steep slopes and vegetation protection. Despite the applicant's preference to continue the matter to provide the necessary information, the city wrongfully denied the application for "lack of information" and for noncompliance with original plat restrictions, which was erroneous.

The city should reconsider the application without regard to any plat restrictions, and only after it has received whatever information it feels is necessary to determine compliance with steep slope regulations and to make required findings under its conditional use standards of reasonably anticipated detrimental effects, and the potential mitigation of those effects by condition. It must then approve the conditional use permit if it determines the application, as conditioned, achieves compliance with its standards, or else deny the permit if it determines objective requirements are not met or that reasonable conditions cannot substantially mitigate identified detrimental effects.

EVIDENCE

The Ombudsman's Office reviewed the following relevant documents and information prior to completing this Advisory Opinion:

1. Request for Advisory Opinion submitted by Wade Budge, Attorney for 1115 Aerie, LLC, received on August 2, 2022.
2. Response Letter from Park City, received on February 13, 2023.
3. Reply letter from Wade Budge, received on March 8, 2023.
4. Park City's Response to March 8, 2023 reply, received March 13, 2023.
5. Wade Budge reply to City's March 13, 2023 response, received on March 17, 2023.
6. Letter from Wade Budge re: Supplemental Information, dated July 20, 2023.

BACKGROUND

1115 Aerie Drive, in Park City, is owned by an LLC of the same name, 1115 Aerie, LLC (Aerie). The property is a residential lot within a subdivision originally approved as a 12-lot Master Planned Development in 1993. The subdivision plat depicts on each lot a 90' x 90' area noted as "building pad." A home was later built in 1998 which utilized the lot area noted as building pad.

Aerie hired a landscaping contractor to landscape, retain, and build improvements on the Property, including a large sports court. The contractor represented to Aerie that it had obtained all necessary permits for the work. Unfortunately, the contractor had not, in fact, done so. While the contractor

did apply for a grading/landscaping permit in January of 2021 to replace three retaining walls, the remainder of the work, including the sports court, had not been permitted by Park City (City).

In September 2021, after much work had been performed, the City notified Aerie that the work had exceeded the scope of the issued permit and violated provisions of Park City's Land Management Code (Code). Once Aerie learned that its contractor had failed to obtain the correct permits, it began working with the City to obtain necessary approvals and attempt to modify the contractor's work to bring it in compliance with Code requirements.

On December 20, 2021, Aerie submitted a Conditional Use Permit Application (CUP) proposing to legalize the already constructed sports court by modifying the facility and seeking approval of the facility as a "Private Recreation Facility," which is a conditionally permitted use in the applicable Estate Zoning District under the Code. The application proposed to significantly modify the sports court to accommodate setback requirements, reduce the overall size of the court to minimize disturbance, and increase the amount of vegetative screening to minimize the court's impacts on neighbors and the community. Aerie also submitted a separate Administrative CUP application for retaining walls greater than six feet in height. On June 17, 2022, Aerie formally requested final action pursuant to Utah Code Section 10-9a-509.5(2)(b) on the Administrative CUP. Planning staff recommended that because the proposed relocated retaining wall is located directly adjacent to the sports court pad, the Planning Commission should review the Private Facility CUP for the sports court use and provide input before the administrative hearing on the retaining wall CUP.

When the private recreation facility CUP was scheduled to come before the planning commission, the staff report that accompanied the application concluded that the building pad lines depicted on the plat were intended as the limit on disturbance for the lot, and that developing outside of the building pad area violated restrictions in the plat. The report noted that the information submitted regarding lot conditions were all post-development, and that information regarding the pre-development conditions were necessary. The report referenced several pieces of information that staff felt was missing in order to determine compliance with the City's conditional use standards, and ultimately recommended denial of the CUP "due to a lack of submitted information to date." The report continued:

If the applicant wishes to withdraw and resubmit, the following information should be provided:

- *Additional analysis of pre-development conditions, including identifying areas of Steep Slopes, Very Steep Slopes, and Significant Vegetation*
- *An explanation and proposed management for the use of the sports court*
- *A lighting and noise mitigation plan for the court and site*

On July 13, 2022, the Planning Commission reviewed the CUP application in a public hearing. Before and during the hearing, neighbors to the Property expressed concerns that lighting and noise associated with the sports court would negatively impact them. City staff raised issues related to steep slopes and noncompliance with prior approvals and the applicable subdivision plat.

The applicant provided an explanation of the proposed use of the sports court as well as lighting, and stated that the owner would accept certain conditions regarding use and lighting that he felt would mitigate anticipated detrimental impacts and address comments made by neighbors.

In regards to the pre-development conditions for steep slope and vegetation issues, the applicant repeatedly offered to provide more information as needed. When one commissioner expressed support for denying the permit until the applicant worked more with staff and provided more information, the applicant responded that “the applicant would be happy to provide the additional information and rather than going through the process of handling a denial, they would like to provide that information to the Commission. [Applicant] suggested a continuance would be preferable.”

Despite the request for more time to provide information that the Commission felt it was lacking, Planning Staff expressed its opinion that while more information could be helpful, even with additional information, Staff would likely still recommend denial. This appears to be, in part, due to the conclusion that the plat restricted any development outside of the building pad area, but also due to questions of whether the applicant could adequately mitigate the loss of vegetation and issues of drainage due to the amount of impervious surface and other landscaping added.

The Planning Commission therefore moved forward with denying the application. A July 20, 2022 denial letter issued by the Planning Commission listed 17 findings of fact to support its conclusions that the conditional use permit was not consistent with the conditional use standards in the Code.

These findings are distilled into two primary reasons for denial: (1) that the as-built conditions, including placement of structures like the sports court outside of the building pad area depicted on the plat violated original plat restrictions, and could not therefore be brought into compliance, and (2) the application does not meet the Code’s conditional use review process “due to a lack of information submitted regarding screening and landscaping, compatibility with surrounding structures, potential noise, lighting, environmentally sensitive lands, steep slopes, and appropriateness of the proposed Structure to the existing topography of the Site.”

Aerie contends that the City’s provided reasons for denial are legally insufficient, and that the Planning Commission therefore unlawfully denied Aerie’s conditional use permit application. Accordingly, Aerie has submitted a Request for Advisory Opinion to this Office asking us to determine whether the denial was lawful.

ANALYSIS

Utah’s Land Use, Development, and Management Act (LUDMA), as applied to municipalities, provides that a court “shall presume that a final land use decision of a land use authority or an appeal authority is valid unless the land use decision is . . . arbitrary and capricious; or . . . illegal.” UTAH CODE § 10-9a-801(3)(b).

In its Request for Advisory Opinion, Aerie asserts the City’s land use authority—the Planning Commission—erred in denying Aerie’s conditional use permit application for four primary

reasons. Namely, Aerie alleges, first, that the Commission improperly denied the application “for a lack of information,” instead of identifying detrimental effects and determining whether the effects could be mitigated. Second, Aerie alleges that the Commission was legally wrong in concluding that subdivision plat prohibits development of the proposed sports court outside of the platted building pad lines. Third, Aerie argues that the Commission incorrectly determined the sports court was constructed within fifty feet of a Very Steep Slope. Fourth, and finally, Aerie argues that the Commission improperly relied on aspirational or subjective provisions of the City’s general plan to deny the application.

We will address each concern, but as discussed below, we conclude that the Planning Commission erred in its interpretation that the plat restricted the proposed development, and that the development activity violated steep slope standards. Without these two reasons as independent bases for denial, the Commission likewise erred in taking final action to deny the conditional use application without the information it felt it needed to make required findings under its conditional use standards. We conclude that the reasons stated as the basis for denial in the City’s final action letter were affected by unknowns that the City acknowledges could be cleared up by additional information by the application. The Commission therefore should have continued the matter, as was preferred by the applicant, before attempting to conclude that the application did not conform to applicable standards.

I. Aerie’s Proposed Development Activity Does Not Violate Internal Lot Restrictions

A land use application is entitled to substantive review under the land use regulations in effect at the time of application. UTAH CODE § 10-9a-509(1)(a). However, an application must also comply with applicable land use decisions and development standards, *see id.*, which may include “internal lot restrictions,” defined as a “platted note, platted demarcation, or platted designation that . . . runs with the land; and creates a restriction . . . [or] designates a development condition that is enclosed within the perimeter of a lot described on the plat.” *Id.* § 10-9a-103(27).

Here, the 1993 Hearthstone Subdivision plat that created the Aerie lot depicts, on each lot of the subdivision, a designated area labeled “90’ x 90’ BUILDING PAD”.

Relevant for our purposes, the City’s current version of the Code defines the following terms:

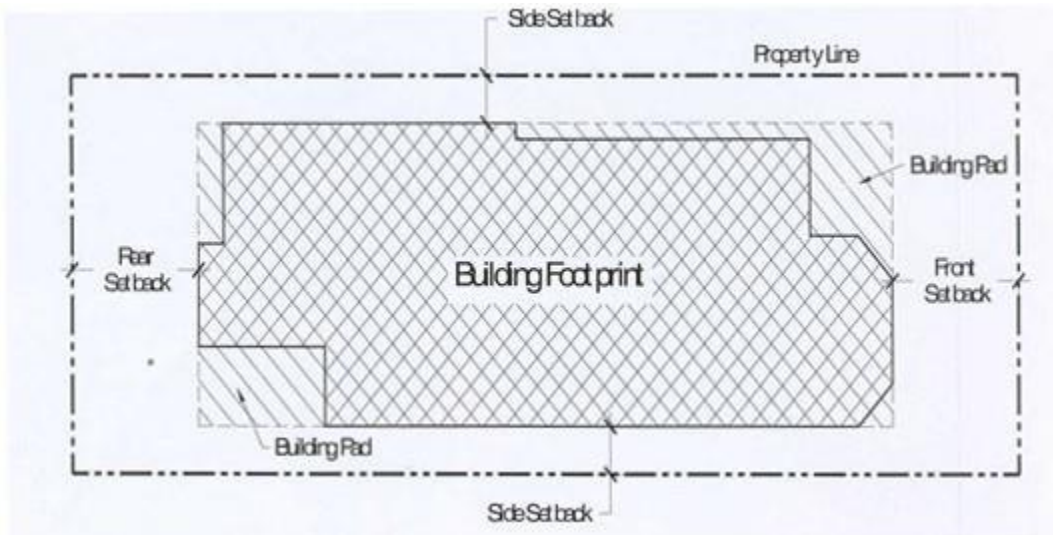
STRUCTURE. Anything constructed, the Use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground; definition includes “Building”.

BUILDING ENVELOPE. The Building Pad, Building Footprint, and Height restrictions that defines the maximum Building Envelope in which all Development must occur.

BUILDING FOOTPRINT. The total Area of the foundation of the Structure, or the furthest exterior wall of the Structure projected to Natural Grade, not including exterior stairs, patios, decks and Accessory Buildings listed on the Park

City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building.

BUILDING PAD. The exclusive Area, as defined by the Setbacks, in which the entire Building Footprint may be located. See the following example; also see Limits of Disturbance.



LIMITS OF DISTURBANCE. The designated Area in which all Construction Activity must be contained.

CONSTRUCTION ACTIVITY. All Grading, excavation, construction, Grubbing, mining, or other Development Activity which disturbs or changes the natural vegetation, Grade, or any existing Structure, or the act of adding an addition to an existing Structure, or the erection of a new principal or Accessory Structure on a Lot or Property.

LAND MANAGEMENT CODE (LMC) § 15-15-1.

The City concludes that the proposed sports court is a “structure” under the Code, and that demarcation of “building pad” on the subdivision plat, consistent with that term’s meaning and other related terms as currently defined in the Code, is intended to effectively act as the lot’s definitive building envelope, meaning that the plat restricts any type of development activity outside of the depicted building pad area, and since the Aerie lot has been improved with a primary structure that effectively utilized the entirety of this building pad area, the City concludes that the plat prospectively prohibits any further development of a structure on the Aerie lot, including the proposed sports court. Aerie concludes, to the contrary, that the building pad plat restriction applies only to the primary structure, and does not proscribe other development activity on the lot.

Our Office is not aware of any Utah appellate decision that directly addresses the proper interpretation of plat notes, specifically. However, Utah recognizes the basic legal concept that when “lands are granted according to an official plat of a survey, the plat itself, with all its notes, lines, descriptions and landmarks, becomes as much a part of the grant or deed by which they are

conveyed, and controls so far as limits are concerned, as if such descriptive features were written out on the face of the deed or grant itself.” *Barbizon of Utah v. Gen. Oil Co.*, 24 Utah 2d 321, 323, 471 P.2d 148 (Utah 1970).

As such, Utah Courts construe deeds “like other written instruments, and . . . employ all appropriate tools of construction to arrive at the best interpretation of its language . . . [to] determine the parties’ intent from the plain language of the four corners of the deed.” *Keith v. Mt. Resorts Dev., L.L.C.*, 2014 UT 32, ¶ 21. However, a deed is ambiguous “if the parties have both advanced a tenable interpretation of the language,” in which case extrinsic evidence may be used “to illuminate the intent of the parties.” *RHN Corp. v. Veibell*, 2004 UT 60, ¶ 40. Beyond this, any remaining doubts regarding “uncertain or ambiguous restrictions” are to be resolved “in favor of the free and unrestricted use of property.” *Freeman v. Gee*, 18 Utah 2d 339, 345, 423 P.2d 155 (Utah 1967).

Here, other than the depicted building pad areas, the plat does not otherwise contain any notes defining building pad and/or limits of disturbance. Therefore, both parties advance tenable interpretations of the subdivision plat’s depiction of “building pad” on the Aerie lot, in that it either means a limitation on all development activity for the lot, or else reflects a limitation on the primary structure only. To resolve this ambiguity, then, both parties urge us to look at the legislative history of the master planned development approval. We agree with this approach that the “legislative history” of the plat—meaning the stated conditions of the master planned development approval itself as well as the applicable land use ordinances in effect at the time—would be appropriate extrinsic evidence to illuminate the intent of the parties to the plat.

The City approved the master planned development on June 17, 1993. A Sketch and Preliminary plat were approved on September 8, 1993, and the final subdivision plat for the Hearthstone Subdivision was later approved on October 7, 1993. A revised plat was later approved on April 21, 1994, which reduced the 12-lot subdivision to ten lots. The revised plat was approved and recorded in June of 1994, and the parties have proffered that the 1994 version of the Land Management Code reflects the relevant version of land use ordinances applicable to the approved subdivision plat that we should consider.

The master planned development conditions of approval stated that the “plat shall contain notes regarding . . . limits of disturbance as specified at the time of final plat approval.” It also stated that “Limitations on landscaping and irrigation shall be defined at the time of final plat,” and further provided that “Structures built in the [subdivision] shall be limited by a maximum house size of up to 6,000 square feet.”

Both parties acknowledge that the final plat approval and subsequently recorded plat did not address any separate limits of disturbance or limits on landscaping. The City concludes that this absence establishes that the “building pad” plat designation is intended as a restriction to limit construction activity on each lot to minimize impact to steep slopes and significant vegetation. Aerie alleges, however, that the master planned development approval contemplated a limit of disturbance to ensure each lot contained opens space, but that by the time of final plat approval, the “plan had changed so that the developer was going to dedicate an entire lot to open space thereby negating the need for open space on each individual lot,” which is alleged to be why the limitation of disturbance was not included on the plat.

We conclude that the building pad depiction on the plat was intended to regulate the construction activity of the primary structure, only, and not to serve as a prospective restriction on further development activity on the rest of the lot for other kinds of lot improvements such as the sports court in question. The applicable regulations at the time did provide a way to clearly impose the kind of prospective development restrictions the City has in mind, but would have employed platted definitions, easements, covenants to more clearly and effectively restrict the proscribed activity. Since these tools were not used, we decline to conclude any such prohibitions now exist.

The 1994 Code provided that “Building sites or envelopes shall be designed which minimize disturbance of existing vegetation. In designating building envelopes, consideration should be given to minimum separations between structures.” *Id.* § 15.4.2(b) (1994). While the 1994 Code does not have an enacted definition for “building sites” or “building envelope,” it is clear that the code nevertheless adheres to the traditional concept of building envelope and buildable area, in that required yard setbacks establish the total outer limits of where a building “site” or “area” may be built in relation to the lot’s respective property lines. *See*, “Setback,” *id.* (“The distance between a building and the street line or road right-of-way, or nearest property line thereto.”); *See also*, “Yard,” *id.* (“A required space on a lot other than a court, unoccupied and *unobstructed by buildings* from the ground upward . . .”) (emphasis added).

The City’s subdivision ordinances at the time provide, for all subdivisions, and not just master planned developments,¹ that “a separate plan which addresses limits of disturbance and vegetation protection *during construction* and revegetation of disturbed areas will be required.” *Id.* § 15.4.1(m) (1994) (emphasis added). However, this required disturbance plan does not appear to equate to requiring designations on the plat itself, unless “staff determines that there is significant vegetation on the site or if it is important to *clearly designate future building locations*,” in which case “Limits of disturbance or building pad lines shall be shown on the preliminary and final plats.” *Id.* § 15.4.2(d) (1994) (emphasis added). However, the code requires that “Limits of disturbance or building pad lines *with definitions as approved by the staff* must be reflected on the final plat.” *Id.* (1994) (emphasis added). Without any accompanying definitions that would have clearly acted as a prospective restriction on any development activity, according to the provisions cited above, we are left to conclude that the intention would have been nothing more than to designate the location of the “Main Building,” *See*, LMC § 2.1 (1994), in order to protect existing vegetation *during construction*. Should the intention have been to limit any future development activity beyond the building pad, including for landscaping and other lot improvements, the final subdivision plat requirements direct that any such self-imposed restrictions, reservations, easements, or covenants, should be clearly restricted on the plat. *See, id.* §§ 15.5.2, 15.5.3, 15.5.4 (1994).

In other words, the 1994 ordinances allowed the City to impose building pad lines as a plat restriction to define a specific building envelope within the total buildable area of the lot as defined by setbacks, if there was a specific need to protect significant vegetation or designate future building locations. Those plat restrictions could have included easements, reservations, covenants, or specific definitions had the intention been for the building pad to include permanent landscaping

¹ The code’s master plan development provisions simply repeat these same standards—applicable to all subdivisions—to master planned developments, without any significant alteration. *See*, LMC § 10.9(k) (1994).

or improvement restrictions. However, in absence of any specific definition on the plat or explanation of any reservation or easement, the ordinances at the time evidence that the parties' intention in depicting "building pad" on the 1993 subdivision lots was merely to designate where the principal residential structure should go, and would not have prohibited future development of other lot improvements. *See, id.* §§ 8.14, 8.15 (1994).

We therefore conclude that whereas no defined development restrictions are reflected on the plat, and in resolving doubts in favor of the free and unrestricted use of property, the "building pad" plat note does not restrict the development of a sports court on the lot areas outside of the building pad area.

II. The Commission's Finding that the as-built conditions Violated the City's Steep Slope Regulations is Not Supported by the Record.

The City's staff report identifies that the Aerie property is subject to the "Sensitive Land Overlay," or "SLO." The Code's "Sensitive Lands Regulations – Slope Protection" provisions state the following prohibition: "No Development is allowed on or within fifty feet (50'), map distance, of Very Steep Slopes." LMC § 15-2.21-4 (2007).²

This is an objective development standard for which noncompliance would be an independent basis for denial. However, we conclude that the Commission's finding that this provision is violated by the development activity is not supported by the record, as it actively conflicts with the Commission's other findings that slopes could not be determined without more information on the site's pre-development condition.

In the City's final action letter, the very first reason provided as basis for the Commission's denial is that "The subject property contains Steep Slopes and Very Steep Slopes, which have been disturbed and terraced to accommodate the Recreation Facility." However, the Commission also found that the submitted slope map and vegetative cover map were reflective of post-development conditions, and that because of this, "staff is unable to verify . . . in what areas development was placed within 50' of Very Steep Slopes." The Commission went on to conclude that, according to the post-development conditions slope map, much of the new development is currently within 50' of Very Steep Slopes.

The Commission's findings acknowledge that it is the *pre-development* conditions that would determine compliance with the Code's regulations on Very Steep Slopes. Indeed, the staff report suggested that the applicant could resubmit by providing additional analysis of pre-development conditions, including identifying areas of Steep Slopes, Very Steep Slopes, and Significant Vegetation. Therefore, the Commission's finding that Very Steep Slopes have been disturbed is undermined by its other finding that slopes could not be determined, and is therefore not supported by the record.

III. Final Action on Conditional Use Applications Must Be Supported by Substantial Evidence; The Substantive Review Process Allows for Obtaining Additional

² We note that since the time of Aerie's application, this section has more recently been amended. We therefore cite to the last version of this section of the LMC that was in effect at the time of application.

Necessary Information before Decision-making, and the City’s Code Suggests that the Planning Commission Should Have Continued the Matter per Aerie’s Request

Aerie alleges that the City erred in denying the conditional use permit by finding that it “lacked information to determine compliance with screening and landscaping, lighting, noise, sensitive lands, and steep slope requirements.” Aerie argues that state law requires that in order to deny a conditional use application, the City must (1) make findings of detrimental effects anticipated by the proposed use, and (2) find that the reasonably anticipated detrimental effects “cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards.” *See*, UTAH CODE § 10-9a-507(2)(c).

Aerie argues that in denying the application for insufficient information, the City effectively “dodged its duties” to make findings to support either an approval or denial of the conditional use application by substantial evidence.

We note, briefly, that had there been an independent objective basis for denial—such as the violation of plat restrictions on development or noncompliance with some other development standard such as the steep slope regulations—a decision denying the application would not have been in error even without required conditional use findings, because such development restrictions or code compliance issues are not something that can be “mitigated” by condition. However, because we have concluded that the plat imposed no development restriction, and the City’s finding regarding steep slope violations was not supported by the record, the City’s denial must otherwise stand on the basis of its review of the proposed conditional use according to its enacted standards.

Utah law has made clear that the approval or denial of a conditional use application is an administrative decision that must be supported by substantial evidence. *McElhaney v. City of Moab*, 2017 UT 65, ¶ 27. Substantial evidence requires findings of fact, and the failure to produce findings, generally, is a “fatal flaw” that renders a decision arbitrary and capricious. *N. Monticello All. LLC v. San Juan Cty.*, 2023 UT App 18, ¶ 17. The reason for requiring findings to support an administrative decision is “to permit meaningful appellate review” by “inform[ing] the parties of the basis of the administrative agency’s decision such that the parties knew why the agency ruled the way it did.” *Staker v. Town of Springdale*, 2020 UT App 174, ¶ 40 (cleaned up).

Here, the City’s denial was, in fact, memorialized in a written final action letter that listed a total of 17 findings of fact. The City’s enacted conditional use standards require the City to conclude that the “Application complies with all requirements of this LMC,” and that the “Use will be Compatible with surrounding Structures in Use, scale, mass, and circulation,” and that “the effects of any differences in Use or scale have been mitigated through careful planning.” LMC § 15-1-10(D). To reach this conclusion, the Code provides a list of 16 items which the City “must review . . . when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the [listed] items.” *Id.* § 15-1-10(E).

In the final action letter, the Planning Commission found that the application “does not meet Land Management Code, Section 15-1-10, *Conditional Use Review Process*, due to a lack of information submitted regarding screening and landscaping, compatibility with surrounding structures,

potential noise, lighting, environmentally sensitive lands, steep slopes, and appropriateness of the proposed Structure to existing topography of the Site.” (emphasis in original). The City cited to five of the 16 required review criteria it found as having “not been sufficiently addressed”—namely, Subsections (E)(7), (E)(8), (E)(11), (E)(12), and (E)(15). In substance, the Planning Commission is effectively saying: *we didn’t have enough information to make the findings we were required to*. This is an outcome that should not occur if LUDMA is followed correctly.

LUDMA anticipates that a municipality’s application process for land use approvals will entail “specific, objective, ordinance-based application requirement[s].” *See*, UTAH CODE § 10-9a-509.5(1). In which case, the applicant bears the initial burden to present a complete land use application according to the ordinance-based application requirements. However, once an application is submitted, as it is ultimately the land use authority that must support its administrative decision with substantial evidence in the record, the burden effectively shifts to the municipality to ensure it has all of the information needed before it moves that matter forward for decision. Namely, LUDMA explicitly requires a city, upon receiving an application to (1) “in a timely manner,” determine the application is complete, and then (2) substantively review a complete application and approve or deny “with reasonable diligence.” *Id.* § 10-9a-509.5(1)-(2).

This initial review as to form, and subsequent substantive review, is the process by which a city is able to ensure that there is enough evidence in the record from which to make findings to avoid arbitrary and capricious decisions. It is often the case that an application may be “red-lined” and returned to the applicant with requests for additional or clarifying information, before the application proceeds further. In the separate context of subdivision approval, this back-and-forth process was recently defined in LUDMA as a “review cycle,”³ in which case there may be several rounds.

Throughout the application process, after the application is submitted, it is generally the city who is at the helm as to whether the application is moving forward; in deeming it complete or sending back to the applicant, and then forwarding it on to the designated land use authority, and scheduling the application as an item on the public agenda for formal consideration and action. In that regard, we generally agree with Aerie’s proposition that a land use authority has not “work[ed] within the statutorily required framework” to the extent that *the land use authority has decided* to take final action on an application without sufficient information to make required findings.

However, LUDMA does provide a circumstance under which *the applicant* may take control of whether to move the application forward for final action. After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request final action on the application within 45 days from the request. *See*, UTAH CODE § 10-9a-509.5(2)(b). If the effect of the request is to cut short any routine review cycle that would otherwise have produced more information for the record, the request under Section 509.5(2)(b) might be appropriately

³ Section 10-9a-604.2 provides that, as used in that section: “‘Review cycle’ means the occurrence of:

- (i) the applicant's submittal of a complete subdivision land use application;
- (ii) the municipality's review of that subdivision land use application;
- (iii) the municipality's response to that subdivision land use application, in accordance with this section; and
- (iv) the applicant's reply to the municipality's response that addresses each of the municipality's required modifications or requests for additional information.”

characterized as “proceed at your own risk” when it comes to compelling the land use authority to take final action on an application with only the information submitted to that point. Under those circumstances, we agree that a “lack of information” necessary to support findings required by conditional use standards would be a valid basis for denial. However, we do not feel those circumstances are present here, as although the applicant made an initial demand for final decision, that demand was on a separate land use application and it was ultimately the City who moved forward with final action on this CUP despite the applicant’s request for a continuance.

The staff report for the Aerie application reflects that the applicant did, in fact, make a demand for final action under Section 509.5(2)(b), albeit for the specific Administrative CUP for proposed retaining walls, and not for the Private Recreation Facility CUP. Staff suggested, however, that a decision on the conditional use application for the sports court use was necessary before proceeding further with the other Administrative CUP. At the hearing, in response to a commissioner’s question as to why the retaining wall Administrative CUP would not be heard first, the applicant responded that they wanted it first, but were deferential.

Over the course of the hearing, the general lack of necessary information was discussed, and the applicant expressed its preference for a continuance to provide the information requested. However, the Planning Commission moved forward with its decision to deny.

The Code provides that a public hearing is required for a conditional use application. LMC § 15-1-10(C). The Code also addresses an applicant’s request for continuance for an item scheduled for public hearings, which gives staff the authority to continue if requested five days in advance, or, otherwise, the Planning Commission “will determine if there is a sufficient reason to continue the item on the scheduled date.” *Id.* § 15-1-12.5.

LUDMA requires a land use authority to make findings of detrimental effects according to its conditional use standards, as well as the potential mitigation of those identified effects by condition. The land use authority must “approve or deny” the application, *See* UTAH CODE § 10-9a-509.5(2)(a), and support the decision with substantial evidence in the record. A lack of sufficient information to evaluate the listed items the City “must review” under its conditional use standards, *see*, LMC § 15-1-10(E), is more than a “sufficient reason to continue” a conditional use matter to avoid arbitrary and capricious decision-making.

We recognize that, apart from insufficient information, the Planning Commission felt it had other independent bases for denial, which may have contributed to its decision not to continue the application for more information. But since we find the Commission’s conclusion regarding plat restrictions to have been in error, then taking final action on the basis of insufficient information, alone, was contrary to both state law and local ordinance that directed that the matter should have been continued.

IV. Remaining Findings According to the City’s Conditional Use Review Must be Revisited to Consider Proper Plat Interpretation and Additional Necessary Information.

Other than the Commission’s findings regarding plat note restrictions, steep slope noncompliance, and insufficient information for five of the 16 required conditional use review criteria, the Commission did make other affirmative findings under its conditional use review criteria to support its denial. For example, the Commission found as follows:

[11]c. The proposed resized sports court adds approximately 2,085 square feet of impervious surfaces to the site. This is not adequately mitigated in the applicant's proposal, as they have only shown new proposed vegetation uphill of the court and proposed to retain a hardscape flagstone patio and artificial turf lawn downhill of the court.

[11]d. The amount of disturbed and landscaped areas outside of the Building Pad is not consistent with other properties in the Overlook at Old Town subdivision.

...

16. The proposal is not consistent with the General Plan, as it allows for disturbance of Sensitive Lands without adequate mitigation.

- a. The property is located in the Masonic Hill neighborhood of the General Plan. The property is noted as having slopes that exceed 30 degrees. The General Plan identifies Masonic Hill as a "natural conservation neighborhood", with it also denoted as "Critical Area for Protection and Conservation". The General Plan stresses that, "the aesthetic of the Masonic Hill Neighborhood should be preserved".*
- b. These elements are described in Goal 4 of the General Plan, Open Space, and Objective 4D emphasizes to minimize further land disturbance and conservation or remaining undisturbed land areas to development to minimize the effects on neighborhoods.*

As to finding 16, we note that Aerie’s final contention had been that the Commission improperly relied on aspirational or subjective provisions of the City’s general plan to deny the application. While we ultimately conclude that the Commission’s findings must be revisited, we fundamentally disagree that the Commission’s finding number 16 regarding the general plan, above, is somehow irrelevant or that the Commission “relied” on this finding to support its denial.

The final item on the Code’s listed required review items for conditional use review states “reviewed for consistency with the goals and objectives of the Park City General Plan,” however, the Code itself qualifies this item by further stating that “such review for consistency shall not alone be binding.” LMC § 15-1-10(E)(16). It is clear, then, that this final required review item cannot be used as a sole item of noncompliance to support the denial of a conditional use permit under the Code. We find this to be consistent with state law in that the general plan, as typically expressing a statement of policy, may “provide guidance to the reader as to how the [zoning ordinance] should be enforced and interpreted, but [is not] not a substantive part of the statute.” *See, Price Development Co. v. Orem City*, 2000 UT 26, ¶ 6. We nevertheless find the review item relevant as framing the nature of the detrimental effects to be found under the Code’s other required review items, as well as providing guidance as to what conditions may or may not be considered reasonable to achieve compliance with the Code’s stated goals and requirements.

The problem here, however, is the relation of the Code’s required review items to the Commission’s findings that it had insufficient information to determine compliance. We find that each of these remaining findings, 11(c), 11(d), 16(a), and 16(b), all suffer, to some extent, on the erroneous findings discussed herein, or to the Commission’s other findings that it had insufficient information to determine compliance, and should be revisited on the premise that plat does not restrict development activity of a sports court outside of the building pad, and only after receiving additional information regarding the pre-development condition of the property in order to determine the actual impacts of the previous land disturbance and development activity, as proposed.

For example, 11(c) and 11(d)’s findings that the proposal adds additional impervious surface without adequate mitigation and that the amount of disturbed and landscaped areas outside of the Building Pad is inconsistent with other properties in the subdivision, both appear to relate to required review items that the Commission already found were lacking in information to determine compliance, such items (E)(8), “Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots,” item (E)(11), “physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing,” and item (E)(15), “within and adjoining the Site, Environmental 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.” LMC § 15-1-10(E). The same can also be said for the findings under 16(a) and 16(b).

In other words, these remaining findings—similar to the findings on steep slopes—are undermined by the Commission’s other findings that it had insufficient information to determine compliance. The Commission must make findings that are definitive and based upon adequate information. Therefore, the Commission should revisit its findings with the proper legal analysis and upon the additional information identified as necessary for determining compliance.

We note, finally, that the Staff had signaled to the Commission that, even with additional information, a denial might still be recommended due to questions of whether the applicant could adequately mitigate the loss of vegetation and issues of drainage due to the amount of impervious surface and other landscaping added. That may very well continue to be the case once the Commission reviews the application upon proper supporting information, however, the Commission must nevertheless make the attempt, and definitively support its findings upon proper information, which includes not only findings of detrimental effects according to its standards, but also specific findings as to whether “reasonable conditions are proposed, *or can be imposed*, to mitigate” those effects to achieve compliance. UTAH CODE § 10-9a-507(2)(a) (emphasis added).

CONCLUSION

The Planning Commission’s basis for denying Aerie’s conditional use application because it determined that the plat prohibited further development on the lot was in error. The Commission further erred by taking final action to deny the application due to lack of sufficient information when the applicant had requested a continuance to provide additional information requested by Staff and the Commission. The Planning Commission should reconsider the application in light of

a proper interpretation of the plat, and upon receiving the additional information identified as necessary in order to make required findings according to the City's conditional use review process. This must not only include findings of reasonably anticipated detrimental effects, but also findings as to whether those effects can be substantially mitigated by reasonable conditions to achieve compliance with the City's enacted standards.



Jordan S. Cullimore, Lead Attorney
Office of the Property Rights Ombudsman

NOTE:

This is an advisory opinion as defined in Section 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution. Additionally, a civil penalty may also be available if the court finds that the opposing party—if either a land use applicant or a government entity—knowingly and intentionally violated the law governing that cause of action.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees and civil penalty provisions, found in Section 13-43-206 of the Utah Code, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.

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March 22, 2024

Rebecca Ward
Planning Director
Park City Municipal Corporation
445 Marsac Avenue
Park City, UT 84060

Re: 1115 Aerie Dr. Sports Court CUP PL-21-05101

Dear Ms. Ward,

We appreciate the continued work with Park City and your department on the proposed sports court at 1115 Aerie Dr. (parcel # OOT-HSTONE-8). The sports court CUP application that was previously submitted included a: (i) landscape plan, and (ii) steep slopes plan. Attached to this letter you will find an: (i) updated steep slope analysis and (ii) conceptual drainage plan. These documents confirm that the sports court is not within fifty feet (50') of very steep slopes. Additionally, we are providing an analysis of the sixteen (16) items the planning commission is to review when considering a CUP application, found in Park City LMC § 15-1-10-E.

Park City's LMC requires the planning commission to consider sixteen (16) items when considering a CUP. *See* LMC § 15-1-10-E. Below is the list of those items and an analysis how this application for the sports court satisfies those items.

1. Size and location of the Site;
 - a. The project is located at 1115 Aerie Dr (parcel # OOT-HSTONE-8). This is a single-family lot that was approved/created when the Hearthstone Subdivision was recorded on 6-13-1994. The proposed sports court is for use as an accessory to the single-family home. It is not intended for public

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use. The sports court will be located within the setbacks of the lot and within the Building Pad¹, as defined by LMC § 15-15.

2. Traffic considerations including capacity of the existing Streets in the Area;
 - a. No change, as the proposed sports court is an accessory to the existing single-family home, no new traffic impacts are being created.
3. Utility capacity, including Storm Water run-off;
 - a. No new utilities are being proposed for the sports court because as a proposed condition of approval the sports court will not have any outdoor lighting. A drainage plan has been provided that shows the storm water will be managed on site.
4. Emergency vehicle Access;
 - a. No change, as no new access is being proposed for the sports court. The access off Aerie Dr. for the single-family home, which is adequate for emergency services will be maintained.
5. Location and amount of off-Street parking;
 - a. A private recreation facility generates a parking demand of 1 space per 4 persons. This in addition to the 2 spaces required for a single-family dwelling. Thus, the property requires 3 parking spaces. As shown on the submitted parking plan, the capacity of the existing garage is 3 vehicles, with additional parking space in the driveway, outside of the setbacks of 7 vehicles. The property has sufficient parking.
6. Internal vehicular and pedestrian circulation system.
 - a. There is no change to the existing circulation system.
7. Fencing, screening, and landscaping to separate the use from adjoining uses;
 - a. The provided landscape plan shows that the sports court will be extensively screened from view from Aerie Drive and the neighbors to the north and east. The landscape plan shows that at least thirty-nine (39) trees will be planted, but it is anticipated that up to sixty (60) trees will be planted, most of which are evergreens, which will provide year round

¹ LMC § 15-15: BUILDING PAD. The exclusive Area, as defined by the Setbacks, in which the entire Building Footprint may be located. This is different than the "Typical Building Pad" identified on the plat.

screening. A fence will be constructed around the court for safety, security, and noise reduction purposes of the facility.

8. Building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots;
 - a. The sports court will be within the setback and within the lot's building pad. Due to the grade of the site, the sports court will sit approximately ten feet (10') below the elevation of Aerie Drive. There will be a two foot (2') retaining wall on the north side of the sports court, then an approximately 4:1 slope from the retaining wall to Aerie Drive.
9. Usable Open Space;
 - a. The portion of the lot containing the sports court will continue to be Open Space, as defined by Park City Code². Thus, the proposed use does not change the existing open space.
10. Signs and lighting;
 - a. No signs or lighting are being proposed with the sports court.
11. Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;
 - a. The proposed sports court will be used solely for the residents and guests at the property. Thus, it is strictly for residential use, which is compatible with surrounding uses. The landscaping associated with the sports court will screen the use from Aerie Dr. The landscaping wall on the north of the sports court is being reduced in size from what is currently constructed to reduce visibility from adjoining uses.
12. Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;
 - a. The property owner is proposing conditions for the use of the sports court that will mitigate noise. These conditions include: a) compliance with Park City Noise Ordinance PCC §6-3, b) prohibiting the use of the court between the hours of 10 p.m. and 7 a.m., c) only the use of soft balls or

² LMC § 15-15: OPEN SPACE - Open Space, Landscaped. Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, recreation amenities, public landscaped and hard-scaped plazas, and public pedestrian amenities, but excluding Buildings or Structures.

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similar quite equipment, d) Sport Court SportGame PB Open cell court surface, and f) “AcoustiFence” soundproofing around the court.

13. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;
 - a. No changes are proposed or anticipated with regards to service vehicles
14. Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;
 - a. No change, as the property will maintain the current ownership. The sports court will not change the ownership or management composition of the property and will be used only by the property's residents and guests. There is no change affecting taxing entities.
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;
 - a. A steep slope analysis has been provided. The sports court will not be located within fifty feet (50') of very steep slopes. The property is not within the Soil ordinance boundary. Finally, the SLO is not applicable to the Nielson portion of the Neilsen/Korthoff MPD, as approved on June 14, 1993. (This property is in the Neilson portion of that MPD).
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.
 - a. The use is consistent with the Park City General Plan and is an allowed Conditional Use. There are specific elements of the general plan that this application supports:
 - i. Objective 1A - Direct complimentary land use and development into existing neighborhoods that have available infrastructure and resource capacity. (pg. 27)
 - ii. Objective 1C - Primary residential neighborhoods should encourage opportunities to enhance livability with access to daily needs, including: a mini market, a neighborhood park, trails, community gardens, walkability, bus access, home business, minor office space, and other uses that are programmed to meet the needs

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of residents within the neighborhood and complement the existing context of the built environment. (pg. 27)

- iii. The more Park City residents are able to take advantage of the benefits provided by parks and recreational facilities, the healthier our community will be. (pg. 99)

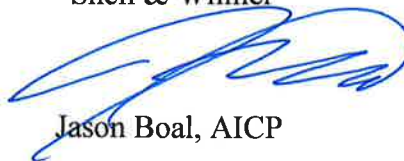
We appreciate the careful consideration of this application for a sports court. We look forward to meeting with the Planning Commission on April 10th. If you have any questions, please feel free to reach out.

Attachments:

- Exhibit A – updated steep slope analysis
- Exhibit B – conceptual drainage plan

Sincerely,

Snell & Wilmer



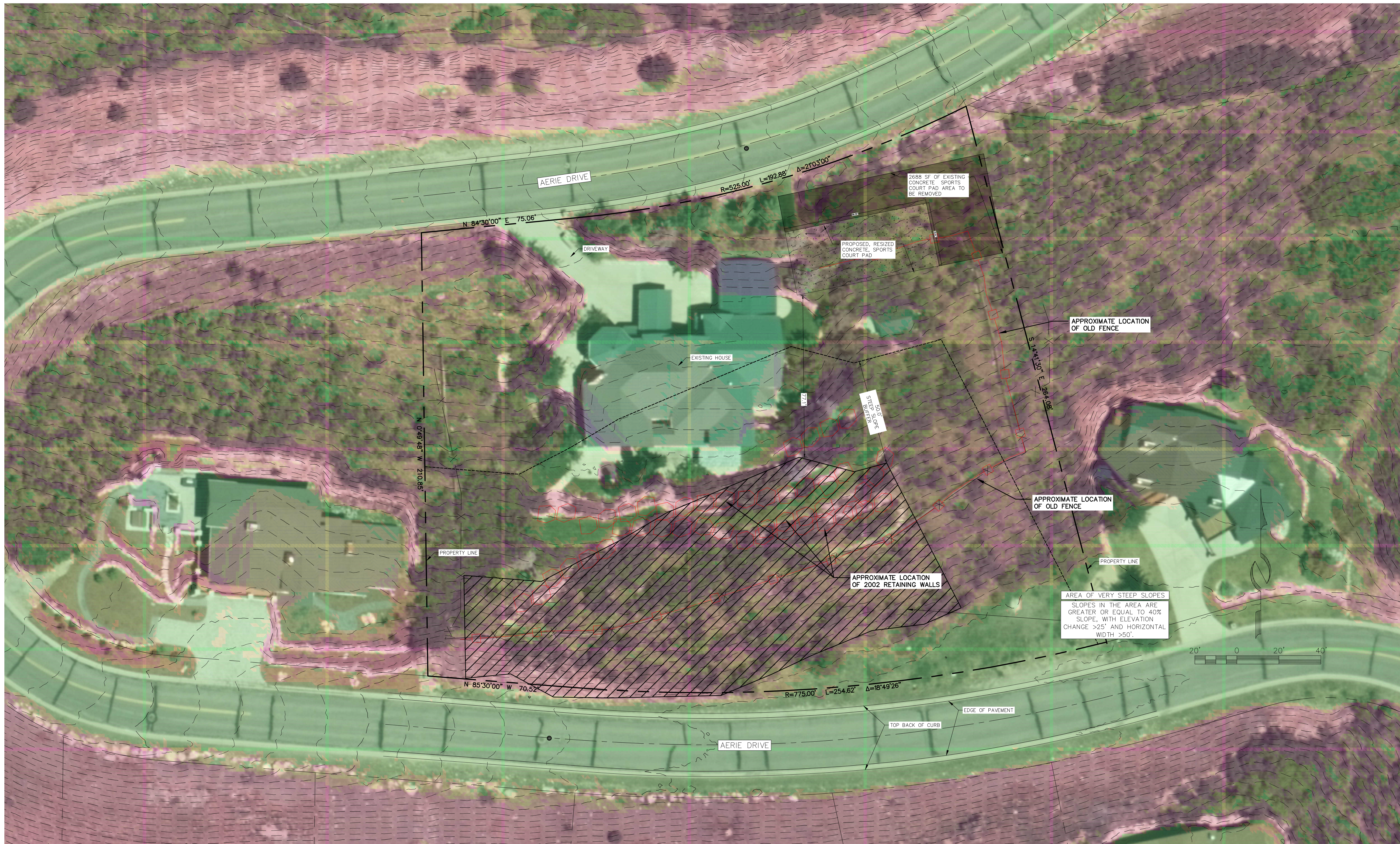
Jason Boal, AICP

Cc:

- Client
- Wade Budge, Snell & Wilmer

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Exhibit A – Existing Conditions Steep Slope Plan



- NOTES:**
1. SURFACE CONTOURS SHOWN WERE IMPORTED FROM A 0.5-METER RESOLUTION AERIAL LIDAR SCAN, GATHERED FROM USGS DATA DATED 2018. ANY DISCREPANCY BETWEEN GROUND SURVEYED TOPOGRAPHY AND THE AERIAL LIDAR SCAN ARE DUE TO POSSIBLE INACCURACIES IN LIDAR SCAN DATA.
 2. LOT LINES SHOWN ARE APPROXIMATE ONLY.

Slopes Table				
Number	Minimum Slope	Maximum Slope	Color	
1	0.00%	15.00%	Green	
2	15.00%	30.00%	Yellow	
3	30.00%	40.00%	Red	
4	40.00%	1000.00%	Pink	



STAFF:
CONNOR DINSMORE
IVANOE LOZANO

DATE: 03/19/2024

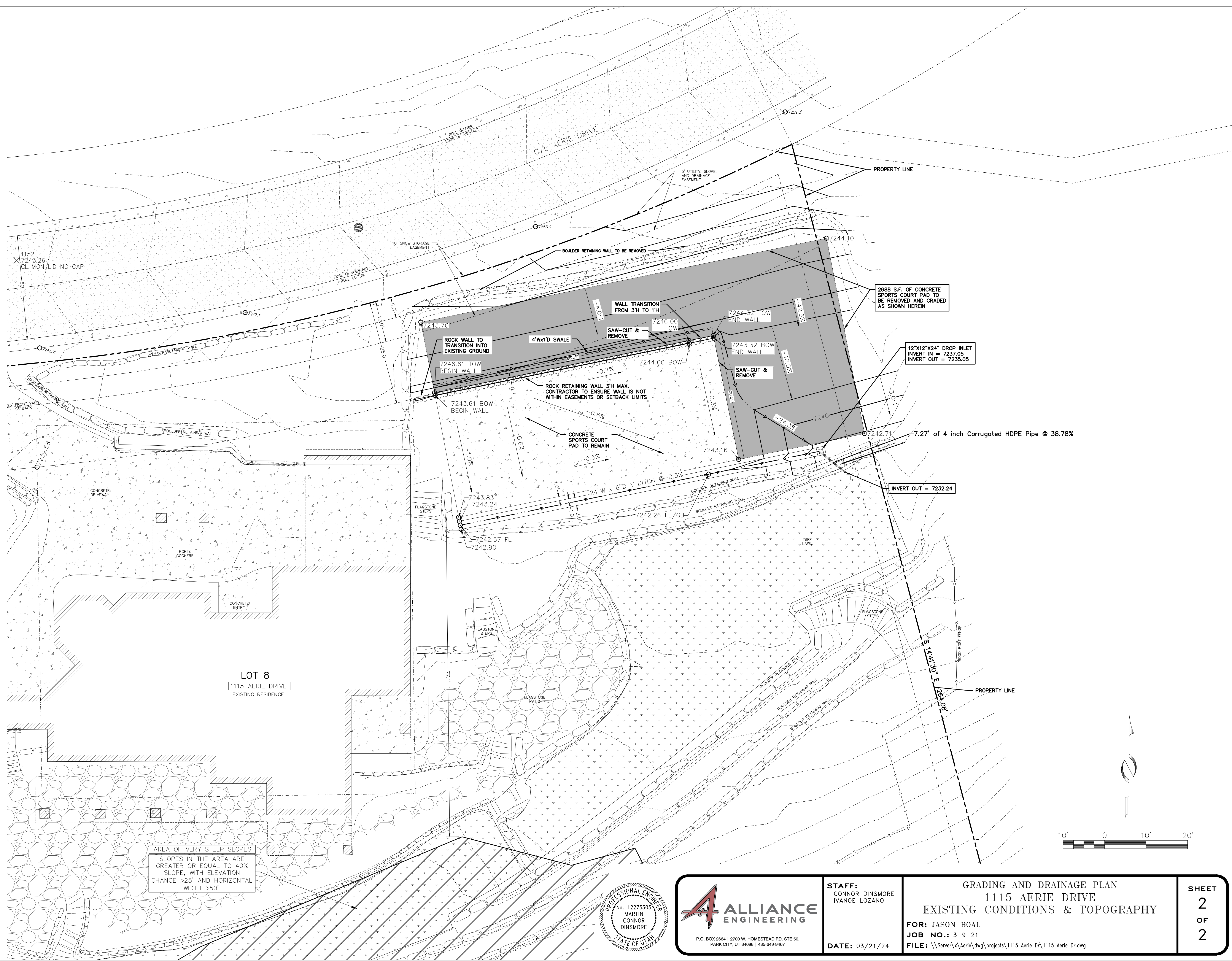
RETAINING WALL EXHIBIT
1115 AERIE DRIVE
EXISTING CONDITIONS & TOPOGRAPHY

FOR: JASON BOAL
JOB NO.: 3-9-21
FILE: \\Server\Aerie\dwg\projects\1115 Aerie Dr\1115 Aerie 1 OF 2.dwg

SHEET
1
OF
2

March 22, 2024
Page 7

Exhibit B – Conceptual Drainage Plan



1152
7243.26
CL MON/LID NO CAP

2688 S.F. OF CONCRETE
SPORTS COURT PAD TO
BE REMOVED AND GRADED
AS SHOWN HEREIN

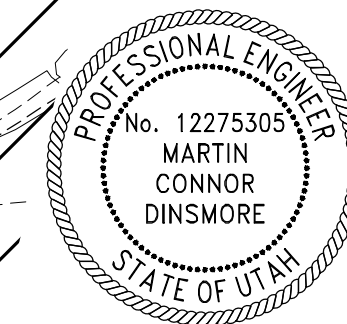
12"X12"X24" DROP INLET
INVERT IN = 7237.05
INVERT OUT = 7235.05

7.27' of 4 inch Corrugated HDPE Pipe @ 38.78%

INVERT OUT = 7232.24

LOT 8
1115 AERIE DRIVE
EXISTING RESIDENCE

AREA OF VERY STEEP SLOPES
SLOPES IN THE AREA ARE
GREATER OR EQUAL TO 40%
SLOPE, WITH ELEVATION
CHANGE >25' AND HORIZONTAL
WIDTH >50'.

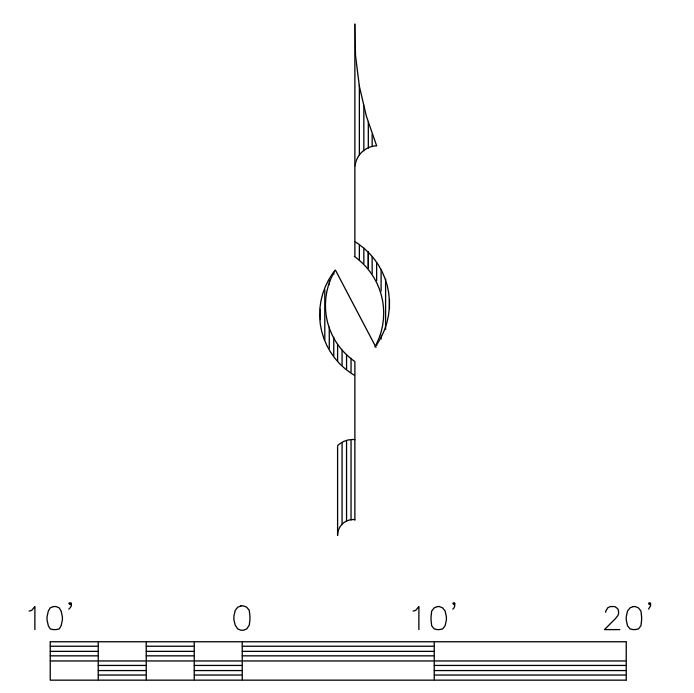


ALLIANCE ENGINEERING
P.O. BOX 2864 | 2700 W. HOMESTEAD RD. STE 50,
PARK CITY, UT 84098 | 435-649-9467

STAFF:
CONNOR DINSMORE
IVANOE LOZANO
DATE: 03/21/24

GRADING AND DRAINAGE PLAN
1115 AERIE DRIVE
EXISTING CONDITIONS & TOPOGRAPHY
FOR: JASON BOAL
JOB NO.: 3-9-21
FILE: \\Server\Aerie\dwg\projects\1115 Aerie Dr\1115 Aerie Dr.dwg

SHEET
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OF
2



Snell & Wilmer

15 WEST SOUTH TEMPLE
SUITE 1200
GATEWAY TOWER WEST
SALT LAKE CITY, UT 84101
801.257.1900 P
801.257.1800 F

Wade R. Budge, P.C.
wbudge@swlaw.com

December 20, 2021

Gretchen Milliken
Planning Director
Park City Municipal Corporation
445 Marsac Avenue
Park City, UT 84060

Re: Land Management Code Compliance – 1115 Aerie Dr.; Lot 8, The
Overlook at Old Town

Dear Ms. Milliken,

On behalf of 1115 Aerie, LLC, the property owner of Lot 8, the Overlook at Old Town, parcel number – OOOT-HSTONE - 8, we would like to submit the attached applications for: a) an administrative conditional use permit for the landscaping walls over six feet (6') and c) a conditional use permit for private recreation facilities, while simultaneously submitting the c) building permit for landscaping site work via the online portal (submitted via Don Sargent). These applications are being made in response to the letter the property owner received regarding work that was commenced without a permit and dated October 1, 2021 and Park City's Land Management Codes: a) § 15-4-2 (Building permit for landscaping/retaining walls), b) § 15-2.10-2.B (Administrative conditional use permit for retaining walls over 6'), and c) § 15-2.10-2.B (Conditional use permit for private recreation facilities).

We are seeking to bring the site work that was done at 1115 Aerie Drive into compliance with Park City regulations. Since receiving the letter identified above, we have negotiated and obtained an easement from the neighbor to the east, parcel OOOT-HSTONE - 9. This easement allows the retaining walls and landscaping features that encroach on their property to remain. We have also worked with city staff, engineers and landscape architects to revise the plans and scope of work to be completed. This includes, removing the previously installed sports court from the front setback, reducing the size of the sports court, and increasing the amount of vegetative cover/screening in the front of the house.

As stated above, our sole desire is to bring the improvements that were started into compliance. We hope the timeliness of our response and completeness of our application shows

Gretchen Milliken
December 20, 2021
Page 2

our willingness to work with the City. It is unfortunate that the property owner was provided false information, that the permits were obtained for the work and that the improvements met Park City regulations. However, the property owner takes responsibility for the oversight and has been diligent in resolving the issues identified by the City.

As required by Park City Land Management Code, we have included the following as attachments to this letter:

1. Completed application forms for the administrative conditional use permit, and the conditional use permit. (Exhibits A & B)
2. Verification of ownership and authority to act on behalf of Aerie Dr. LLC. (Exhibits C & D)
3. A detailed and dimensioned as-built site plan identifying the landscaping, private recreation facilities and retaining walls. Including, a sports court exhibit showing the proposed modification of the tennis court pad, relocation of the front boulder rock retaining wall and landscaping screening. (Exhibits E & G)
4. Engineering report of the rock wall installations. (Exhibits F)
5. A vegetative cover map. (Exhibits H)
6. A slope and topographic map. (Exhibits I)
7. Visual assessment showing the property and improvements from the identified vantage points. (Exhibits J)
8. The names and addresses of property owners within 300 feet of this parcel. (Exhibits K)

As you review the application materials you will note that, with the proposed modifications of the work that has been completed, the improvements meet the standards found in Park City LMC for conditional use permits, § 15-1-10.D. The improvements comply with the setback, applicable Sensitive Land Ordinance requirements and design requirements. The use, specifically recreation facilities including, a playground, sports court, hot tub (this replacing one that was already there), putting green and picnic area are all private residential uses that are compatible with the neighboring structures and uses. Additionally, the impacts of the development are being heavily mitigated through increased vegetative plantings and the modification of the installed improvements. We have provided a slope analysis that shows only the southwest corner of the lot would meet the “prohibitions” standard of the code for a very steep slope (an area with a rise of at least twenty-five feet (25') vertically and a run of at least fifty feet (50') horizontally) per Park City LMC § 15-2.21-3 (See Exhibit I). Finally, we have prepared a visual analysis that shows the proposed improvements on this lot are not visible from any of the Vantage Points identified in Park City LMC § 15-2.21-3.A.4.

In the letter dated October 1, 2021, there was a comment regarding the need for a plat amendment application. This was based on the belief that all site improvements, including landscaping and accessory buildings needed to happen within identified “building pad”. However, as we have reviewed the approval of the MPD (8/19/1993), approval of the

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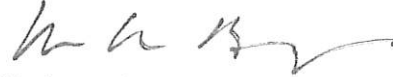
Gretchen Milliken
December 20, 2021
Page 3

preliminary plat (9/08/1993), approval of the final plat (10/4/1993), approval of the plat amendment (4/13/1994) and approval of the revised plat (4/21/1994), there was a clear indication that the “building pad” was intended to show the general location of the new homes and not be used as boundary for all improvements on the site. One example, in the staff report related to the Final Plat approval, dated October 4, 1993, it states – “Each lot reflects a building pad of approximately 8000 square feet, which designates the general location of the home.” The minutes and approvals continuously use this language and intent. As we process these applications we are willing to discuss the plat item, should the staff desire. It is with this understanding, that we are seeking review and approval of the building permit and conditional use permits.

We look forward to working with Park City Staff and Planning Commission as we continue through the application process. We welcome any opportunity to meet with staff or the Planning Commission in a work meeting in order discuss the details of our application, before holding the public hearing.

If you have any questions or concerns, please feel free to reach out to me or Jason Boal at 801-257-1917.

Very Truly Yours,
SNELL & WILMER



Wade Budge, P.C.

cc. Gary Sutton
Don Sargent

**BEFORE THE PARK CITY
APPEAL BOARD**

<p>CRAIG KIPP, ET. AL.,</p> <p style="text-align: center;">Appellants,</p> <p>v.</p> <p>1115 AERIE, LLC, a Utah limited liability company</p> <p style="text-align: center;">Appellee.</p>	<p style="text-align: center;">BRIEF IN OPPOSITION TO APPEAL</p> <p style="text-align: center;">Appeal of Approvals for Application No. PL-21-05101</p>
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1115 Aerie, LLC (“**Applicant**”) the land use applicant and owner of the real property located at 1115 Aerie Dr., Park City, Utah (the “**Property**”) respectfully requests that the Appeal Board deny the appeal of Craig Kipp, Kerrin Antonsson, and Ginny Schulman¹ (collectively, the “**Appellants**”) for the reasons discussed below.

I. Background

Applicant hired a landscaping contractor to landscape, retain, and build improvements on the Property. The contractor represented to 1115 Aerie that it had acquired all the necessary permitting to complete the project and constructed improvements, including a sports court (the “**Sports Court**”), on the Property. In September 2021, Park City notified 1115 Aerie that the contractor had exceeded the scope of the building permit the contractor had acquired and the contractor’s work violated various provisions of Park City’s Land Management Code (“**LMC**”). Park City immediately issued a stop work order.

In an effort to bring the Sports Court into compliance with the LMC, on December 20, 2021, Applicant submitted an application for a conditional use permit (“**Application**”) for the partially-constructed Sports Court, which was considered a “Private Recreation Facility” under the LMC in effect at the time. On July 13, 2022, the Park City Planning Commission (“**Planning Commission**”) held a public hearing on the Application. Prior to and at the hearing, adjoining landowners and the City’s staff raised several concerns about the Sports Court. In response to some of these concerns, the Applicant offered to self-impose a condition that the Sports Court would not

¹ Applicant notes that none of the Appellants here have standing as an adversely affected party under Utah Code §§ 10-9a-701 & 10-9a-703. That is, the Appellants are not adjoining property owners and they have not and cannot show that they are uniquely harmed by the Sports Court. In a separate appeal, however, the Appeal Board determined that standing at this stage is determined by LMC § 15-1-18.D and not Utah Code §§ 10-9a-701 & 10-9a-703. Applicant believes this prior decision violates Utah Code § 10-9a-104(2) and *Price Dev. Co., L.P. v. Orem City*, 2000 UT 26, ¶ 12, 995 P.2d 1237 because LMC § 15-1-18.D is preempted by state law. Given the Appeal Board’s prior determination on this issue, Applicant is raising this issue in a footnote to preserve the same for any subsequent appeal. By addressing the merits of the arguments herein, Appellant does not concede that the Appellants have standing for this appeal.

be used for pickleball. That proposed condition was rejected by the Planning Commission and the Planning Commission denied the Application.

The Applicant timely appealed the Application's denial and sought an opinion from the Utah Property Ombudsman. On November 16, 2023, the Ombudsman issued an advisory opinion and concluded that the Planning Commission wrongly denied the Application for several reasons. On March 4, 2024, this Appeal Board reversed and remanded the Application to the Planning Commission. Thereafter, the Applicant supplemented its Application with several items identified by the Appeal Board. On April 24, 2024, the Planning Commission unanimously approved the Application consistent with existing law. Thereafter on May 8, 2024, the City issued a final action letter ("**Final Action Letter**"), a copy of which is attached hereto as Exhibit A. Notably, the Planning Commission did not restrict the types of sports allowed on the Sports Court but did impose a sound mitigation condition related to pickleball.

On May 15, 2024, Appellants brought this appeal based on several reasons identified in three separate letters submitted with the appeal. None of the Appellants have identified how they will be uniquely harmed by the Sports Court.

II. **Standard of Review**

On appeal, the Appellants have "the burden of proving that the land use authority erred." LMC § 15-1-18.G; *see also* Utah Code § 10-9a-705. In making this determination, "[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." LMC § 15-1-18.G. In other words, the Appellants must show that the applicable land use regulations unambiguously support their arguments, and that the Planning Commission's interpretation was clearly wrong. The Appeal Board must review factual matters *de novo*, "without deference to the land use authority's determination of factual matters." LMC § 15-1-18.G.

III. **Analysis**

The Planning Commission's decision is presumed correct unless the Appellants can prove that the Planning Commission erred. *See* Utah Code § 10-9a-705; LMC § 15-1-18.G. The Appeal Board must "interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application." Utah Code § 10-9a-707(4)(b); LMC § 15-1-18.G. In other words, any ambiguities in interpreting the City's land use regulations must be resolved in the Applicant's favor. *See Ferre v. Salt Lake City, 2019 UT App 94, ¶ 17, 444 P.3d 567*. This is because land use regulations are "in derogation of a property owner's use of land . . . [and] any ordinance prohibiting a proposed use should be strictly construed in favor of allowing the use." *Carrier v. Salt Lake Cty., 2004 UT 98, ¶ 31, 104 P.3d 1208 (abrogated on other grounds by Outfront Media, LLC v. Salt Lake City Corp., 2017 UT 74, 416 P.3d 389)*.

Appellants appeal must be denied unless they can prove that the Planning Commission made a legal or factual error. Here, Appellants are wholly unable to prove an error or other legal defect. Instead, Appellants make several arguments that are inapplicable, inaccurate, and/or plainly

contradicted by well-established Utah law. Because all of the Appellants’ arguments are meritless, this appeal should be denied.

Argument 1: Applicant should be prohibited from using the Sports Court for pickleball because on July 13, 2022, the Applicant offered to self-impose a condition that the Sports Court would not be used for pickleball.

Response: At a hearing before the Planning Commission on July 13, 2022, the Applicant proposed a condition of approval that the Sports Court would not be used for pickleball. That proposed condition, however, was rejected by the Planning Commission when it originally denied the Application. After the Appeal Board determined that the July 13, 2022, denial was in error, the Applicant did not propose a similar condition at or immediately prior to May 8, 2024, hearing where the Application was approved. In fact, the Applicant self-imposed other conditions specifically targeted at mitigating any detrimental effect that pickleball and other activities may have on the neighbors. The Appellants make no argument that the imposed conditions will not adequately mitigate any detrimental effects caused by the Sports Court. Likewise, Appellants cite no law stating that an applicant is bound by all previously offered conditions that were rejected by a land use authority. Such a rule would be absurd. The Appeal Board’s review of the Planning Commission’s decision is limited to the May 8, 2024 approval, and potential conditions that were offered and rejected in July 2022 are wholly irrelevant to this appeal.

Argument 2: Applicant is required to comply with the City’s pickleball ordinance.

Response: Vested rights prevent the retroactive application of changes in zoning or land use law. *See Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388, 390–91 (Utah 1980). In Utah, development rights vest at the time an applicant submits a complete land use application. *See id.* at 396; *see also* Utah Code § 10-9a-509(1)(a)(ii) (“[a]n applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application”).

Here, Applicant submitted a complete Application and paid the required fee on December 20, 2021. Park City enacted its pickleball ordinance on April 28, 2022. The pickleball ordinance was not in effect when the Application vested on December 20, 2021, and thus the pickleball ordinance cannot be retroactively applied to the Application. The Planning Commission would have exposed the City to a takings claim had it retroactively applied the pickleball ordinance to the Application. Instead, the Planning Commission correctly recognized the Applicant’s vested rights and disregarded the pickleball ordinance.

Appellants recognize the Application vested prior to the pickleball ordinance's adoption. Nevertheless, Appellants argue that the Applicant's vested rights do not apply here because the Application was for a "sports court" and not a "pickleball court". This argument is far off track.

At the time the Applicant submitted its Application, "pickleball" was not a stand alone use with an established application process. The current pickleball approval process came into being in the pickleball ordinance. Prior to the pickleball ordinance, pickleball courts were treated as "Recreational Facilities, Private" uses under the LMC. Applicant submitted an application for a "Recreational Facilities, Private" conditional use, which use contemplated pickleball along with swimming pools, tennis courts, and other similar facilities. *See* LMC § 15-15-1. The Application contemplated all uses approved by the Planning Commission. The proposed use fits into the category of other private recreational facilities approved before April 28, 2022.

Argument 3: Applicant's proposed chain link fence does not comply with the Planning Commission's conditions.

Response: Condition K of the Final Action Letter requires that "[a]n 'AcousticFence' or similar soundproofing fencing must be installed around the Sports Court." Applicant fully intends to comply with this requirement. To the extent a chain link fence is used, the fence will include soundproofing as required by Condition K. There is nothing unlawful about Applicant installing a chain link fence because such fences are expressly permitted by the LMC for recreational facilities. *See* LMC § 15-4-2.B. This argument is not a basis for overturning the Planning Commission's decision because, at most, this is a speculative and future compliance-type item. It has no bearing on whether the Planning Commission's decision was legally and factually correct.

Argument 4: Applicant did not submit a lighting plan for the Sports Court, and the existing lighting on the Applicant's putting green and playground area are not up to code.

Response: Condition H of the Final Action Letter states "No overhead lighting is permitted for the Sports Court. All exterior lighting for walkways and landscaping shall be down-directed, fully shielded, with bulbs 3,000 degrees Kelvin of less to prevent glare onto adjacent property, and shall comply with the City's outdoor lighting code per LMC § 15-5-5(j). Final lighting details must be reviewed by the City's planning staff prior to installation and final inspection."

Applicant fully intends to comply with this condition. This, like the item discussed above, is a speculative and future compliance-type item. It has no bearing on whether the Planning Commission's decision was legally and factually correct. Moreover, lighting for the putting green and playground

area are completely irrelevant for purposes of this Application and said lighting has already been approved by the City².

Argument 5: The Applicant's putting green, playground and Sports Court has exceeded the sensitive land area limits in the LMC.

Response: The putting green and playground area are completely irrelevant for purposes of this Application because this Application is only related to the Sports Court and the putting green and playground were the subject of a separate permit. Concerning the Sports Court, Appellants fail to identify any LMC provision regulating sensitive land areas that the Sports Court violates. Likewise, as Section 9.O. of the Final Action Letter recognizes “the sensitive land overlay is not applicable to the Nielson portion of the Nielsen/Korhoff MPD, as approved on June 14, 1993 (the Property is in the Nielson portion of the MPD)”. This is a non-issue.

Argument 6: The surrounding neighbors believe the Sport Court is incompatible with the Neighborhood.

Response: There is no legal requirement that the Sports Court must be compatible with the opinions of the surrounding neighbors. In fact, Utah law, expressly prohibits the Planning Commission from denying a conditional use permit based on the opinions of whether the neighbors dislike the proposed use. *See, e.g., Ralph L. Wadsworth Const. v. West Jordan City*, 2000 UT App 49, ¶ 17, 999 P.2d 1240 (concluding that findings “based solely on adverse public comment” are insufficient to support a conditional use permit denial.); *Davis Cty. v. Clearfield*, 756 P.2d 704, 711–12 (Utah Ct. App. 1988) (collecting cases and explaining why public clamor cannot form the basis for denying a conditional use permit).

Appellants provide no evidence or legal support for their claim that the Sports Court is incompatible with the surrounding neighborhood. Instead, the Appellants rely on their personal opinions and desires to control property that they do not own. Whether the Sports Court is compatible with the Appellant's unilateral desires cannot justify reversing the well-reasoned findings of the Planning Commission.

IV. Conclusion

The Appeal Board should swiftly deny this appeal because the Appellants fail to identify a single legal or factual error made by the Planning Commission. The Appellants instead focus on irrelevant issues that are not a part of this Application such as the Property's putting green and playground area. Even where the Appellants argue that the Sports Court fails to comply with the City's pickleball ordinance, the Appellants ask the Appeal Board to upend and ignore long-standing Utah law to divest the Applicant of its vested rights. Such an extreme position is expressly

² On June 15, 2023, the Park City Building Department notified Applicant that all inspections related to Building Permit No. 21-052 were completed and approved.

prohibited by the LMC, Utah Code, and decades of case law that recognize that a land use applicant has a vested right to have its application considered under the laws in effect when the application is submitted. There is simply no reason to reverse the Planning Commission. Thus, the Appeal Board should deny this meritless appeal.

DATED: June 12, 2024.

SNELL & WILMER L.L.P.

Wade R. Budge

Michael B. Hutchings

/s/ Wade R. Budge

Wade R. Budge

Attorneys for 1115 Aerie, LLC

EXHIBIT A

Final Action Letter

(attached)



Planning Department

May 8, 2024

Wade Budge
Snell & Wilmer

CC: Gary Sutton

NOTICE OF PLANNING COMMISSION ACTION

Description

Address: 1115 Aerie Drive

Zoning District: Estate
Sensitive Land Overlay

Application: Conditional Use Permit

Project Number: PL-21-05101

Action: APPROVED WITH CONDITIONS (See Below)

Date of Final Action: May 8, 2024

Project Summary: The Applicant proposes reducing the size of a concrete pad from 4,795 square feet to 2,085 square feet, removing a portion that encroaches into the Side Setback and encroaches on adjacent property to construct a Private Recreation Facility (sports court), and removing and reconfiguring portions of the retaining walls in the northeast corner of the Lot to help with grading and on-site stormwater retention.

Action Taken

On April 24, 2024, the Planning Commission conducted a public hearing and approved the Private Recreation Facility (sports court) Conditional Use Permit according to the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

Conditional Use
File No. PL-21-05101
[Sports Court –1115 Aerie]

Procedural History

A. On December 20, 2021, the applicant 1115 Aerie LLC ("Applicant") submitted an application ("Application") and paid the required fee for a conditional use

permit in connection with a proposed sports court (the "Sports Court") on Summit County, Utah Tax Parcel No. OOT-HSTONE-8 (the "Property"). The Application was submitted after a contractor commenced work without all necessary permits.

B. On July 13, 2022, the Park City Planning Commission ("Planning Commission") held a public hearing and denied the Application.

C. On July 20, 2022, the Planning Commission issued its written denial of the Application. The Planning Commission reasoned that the Application (a) was not compatible with prior land use approvals, specifically a building pad note on the applicable subdivision plat prohibited the proposed sports court; (b) lacked information regarding the conditional use permit requirements for screening and landscaping, compatibility with surrounding structures, noise, lighting, sensitive lands, and steep slopes; and (c) was inconsistent with the general plan.

D. On July 29, 2022, the Applicant appealed that denial and on August 2, 2022, submitted an advisory opinion request for the Application to the Utah Office of the Property Rights Ombudsman.

E. On November 16, 2023, the Ombudsman issued an advisory opinion on this matter and concluded that the Planning Commission erred in denying the Application. Specifically, the Ombudsman concluded that: (i) the Sports Court did not violate any plat note or building area restriction, (ii) the Planning Commission erred in denying the Application for insufficient evidence; and (iii) the Application should be allowed to supplement its Application with any insufficient information.

F. On March 4, 2024, the Park City Appeal Panel held a hearing on the Applicant's appeal and concluded that: (i) the Sports Court did not violate any plat note or building area restriction; (ii) the Applicant should be allowed to supplement its Application with additional information; and (iii) the Planning Commission should reconsider the following issues in light of the conclusions from the Appeal Panel and the Applicant's supplemental information:

- (1) Whether the Sports Court will cause any detrimental effects, and, if any, could those effects be reasonably mitigated; and
- (2) Whether the Sports Court complies with the City's very steep slope, significant vegetation, and impervious surface requirements.

G. On March 22, 2024, the Applicant formally supplemented its Application with a steep slope analysis, drainage plan, and an analysis of how the proposed use satisfies Park City's conditional use permit requirements.

Findings of Fact

1. The Property is located within the Nielsen/Korthoff (Hearthstone) Small Scale Master Plan Development that was approved June 14, 1993, and within the Hearthstone Subdivision Plat that was recorded June 13, 1994.

2. The Property is primarily used as a single-family residence, which use will continue with the Sports Court being accessory thereto.

3. Pursuant to the Park City Land Management Code ("LMC") Sports Courts are a conditional use for the Property and thus require a conditional use permit ("Sports Court CUP"). The Sports Court CUP must be issued to the Applicant if the Planning Commission finds that the proposed Sports Court causes no detrimental effects on adjacent uses or if it does cause detrimental effects, those effects can be reasonably mitigated.

4. In connection with the Application, the Applicant submitted the following documents for the Planning Commission's consideration:

- a. Existing Conditions & Topography Map (Job No. 3-9-21) prepared by Alliance Engineering Inc.;
- b. Conceptual Grading & Drainage Plan (Job No. 8-3-23) prepared by Alliance Engineering Inc.;
- c. Landscaping Plan/sports court exhibit prepared by DBS + Associates, LLC.

5. The Planning Commission has the authority to act as the land use authority for the Sports Court CUP. See LMC § 15-1-10(D).

6. The Applicant submitted all the materials required by the LMC for the Sports Court CUP and presented in a public hearing regarding the proposals set forth in the Application.

7. With respect to the Sports Court CUP, the Planning Commission, after carefully considering the Applicant's submittals referenced above and the Applicant's presentation at the public hearing, has determined that any detrimental effects caused by proposed development can be reasonably mitigated and comply with the LMC's requirements.

Additional Findings

8. The Planning Commission, as the land use authority, finds that the proposed Sports Court CUP complies with the standards in LMC § 15-1-10(D). Specifically:

- a. The Application complies with all applicable requirements of the LMC as required by LMC § 15-1-10(D)(1). Based on the materials provided with the Application the Sports Court complies with all applicable LMC provisions.

b. The Sports Court is compatible with surrounding structures in use, scale, mass, and circulation. See LMC § 15-1-10(D)(2). Specifically, the Sports Court is compatible with surrounding uses as it is accessory to the primary single-family residential use on the Property. Use of the Sports Court will be limited to the Property's residents and guests and will not be open to the general public. This is consistent with the surrounding residential area. The Sports Court is and will be located entirely within the Property's setbacks and will be screened from view by the existing residence and carefully designed landscaping. The Sports Court will have no impact on the onsite pedestrian and vehicular circulation.

c. The Applicant has proposed several conditions to mitigate any differences in use or scale. See LMC § 15-1-10(D)(3).

9. The Planning Commission, as the land use authority, finds that the Sports Court CUP complies with the standards in LMC § 15-1-10(E). Specifically:

a. Size and location of the site:

The Property a single-family lot that was approved/created when the Hearthstone Subdivision was recorded on 6-13-1994. The proposed Sports Court is accessory to the single-family home existing on the Property. The size of the Property is more than adequate for the Sports Court as it will be located entirely outside the Property's setbacks. The location of the Sports Court on the Property is appropriate because it is within the Property's designated building pad, as defined by LMC § 15-15.

b. Traffic considerations including capacity of the existing streets in the area:

The Sports Court will not increase traffic to the Property as it will be primarily used by the Property's residents and guests. No new traffic impacts are being created.

c. Utility capacity, including storm water run-off:

No new utilities are being proposed for the Sports Court because as a proposed condition of approval the Sports Court will not have any outdoor lighting. The Applicant's drainage plan is adequate to manage any stormwater runoff generated by the Sports Court's impervious surface.

d. Emergency vehicle access:

The Sports Court will not change or impact any emergency vehicle access. The current emergency access to the Property from Aerie Dr. will not be impacted by the Sports Court.

e. Location and amount of off-street parking:

Per the LMC, a private recreation facility generates a parking demand of 1 space per 4 persons. This is in addition to the 2 spaces required for a single-family dwelling. Thus, the Property requires 3 parking spaces. As shown on the submitted plans, the capacity of the existing garage is 3 vehicles, with additional parking space in the driveway, outside of the setbacks of 7 vehicles. The Property has sufficient parking.

f. Internal vehicular and pedestrian circulation system:

There is no change to the existing pedestrian or vehicular circulation patterns.

g. Fencing, screening, and landscaping to separate the use from adjoining uses:

The provided landscape plan shows that the Sports Court will be extensively screened from view from Aerie Drive and the neighbors to the north and east. The landscape plan shows that at least thirty-nine (39) trees will be planted, but it is anticipated that up to sixty (60) trees will be planted, most of which are evergreens, which will provide year-round screening. The Application also depicts a ten-foot chain link fence surrounding the Sports Court on all sides for additional screening and safety, security, and noise reduction purposes. The Sports Court is adequately fenced, screened, and landscaped to separate it from adjoining uses.

h. Building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots:

The Sports Court will be within the setback and within the Property's building pad, as defined in LMC § 15-15-1. Due to the grade of the site, the Sports Court will sit approximately ten feet (10') below the elevation of Aerie Drive. There will be a two foot (2') retaining wall on the north side of the Sports Court, then an approximately 4:1 slope from the retaining wall to Aerie Drive.

i. Usable open space:

The portion of the lot containing the Sports Court will continue to be open space, as defined by the LMC¹. Thus, the Sports Court does

¹ LMC § 15-15-1: OPEN SPACE - Open Space, Landscaped. Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, recreation amenities, public landscaped and hard-scaped plazas, and public pedestrian amenities, but excluding Buildings or Structures.

not change the existing open space, and in fact, makes the existing open space more usable for recreational activities.

j. Signs and lighting:

No signs or lighting are being proposed with the Sports Court.

k. Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing:

The proposed Sports Court will be used solely for the residents and guests at the Property. The landscaping associated with the Sports Court will screen the use from Aerie Dr. The landscaping wall on the north of the Sports Court is being reduced in size from what is currently constructed to reduce visibility from adjoining uses.

l. Noise, vibration, odors, steam, or other mechanical factors that might affect people and off-site property:

Sports courts typically create noise that might affect people and off-site properties. The Sports Court, however, has been carefully designed by including a SportGam PB open cell court surface and AcoustiFence soundproofing surrounding the Sport Court to mitigate noise. Likewise, the Applicant has agreed to the conditions identified below to further mitigate potential noise concerns. The Sports Court, as conditioned, adequately mitigates any potential detrimental noise. The Sports Court will not cause any vibration, odors, steam, or other mechanical factors that may affect people and property off-site.

m. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup areas:

No changes are proposed or anticipated with regards to service vehicles.

n. Expected Ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies, how the form of ownership affects taxing entities:

The Sports Court will not change the ownership or management composition of the Property and will be used only by the Property's residents and guests. There is no change affecting taxing entities.

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:

The Applicant provided a detailed steep slope analysis that shows that the Sports Court is not located within fifty feet (50') of very steep slopes. The Property is not within the soil ordinance boundary. Finally, the sensitive land overlay is not applicable to the Nielson portion of the Nielsen/Korthoff MPD, as approved on June 14, 1993. (The Property is in the Neilson portion of that MPD).

- p. Reviewed for consistency with the goals and objectives of the Park City General Plan.

The use is consistent with the Park City General Plan and is an allowed conditional use; however, such review for consistency shall not alone be binding. There are specific elements of the general plan that the Application supports:

1. Objective 1A - Direct complimentary land use and development into existing neighborhoods that have available infrastructure and resource capacity. (pg. 27)
2. Objective 1C - Primary residential neighborhoods should encourage opportunities to enhance livability with access to daily needs, including: a mini market, a neighborhood park, trails, community gardens, walkability, bus access, home business, minor office space, and other uses that are programmed to meet the needs of residents within the neighborhood and complement the existing context of the built environment. (pg. 27)
3. The more Park City residents are able to take advantage of the benefits provided by parks and recreational facilities, the healthier our community will be. (pg. 99)

10. The location of the Sports Court is more than seventy-five (75') from Very Steep Slopes as shown on Alliance Engineering Existing Conditions & Topography Exhibit dated 4/2/2024. See LMC § 15-2.21-3(A)(3).

11. The Planning Commission finds that for the reasons above, the Sports Court will not have any unmitigated detrimental impact on surrounding uses.

12. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result from the proposed Sports Court. The Planning Commission finds that these conditions adequately mitigate potential detrimental effects that may result from the Sports Court.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Sports Court CUP meets the standards and requirements of the LMC, including the criteria for approving a conditional use per LMC § 15-1-10(D) and Utah Code § 10-9A-507. The Planning Commission concludes it is appropriate to approve the Sports Court CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the uses described in the Application.

Conditions

The Sports Court CUP is conditioned upon the following:

- A. Portions of the Sports Court and retaining walls currently located inside the front and side setbacks must be removed. The disturbed areas must be revegetated in accordance with the submitted plans. The sports court shall be constructed to the specifications of the updated site and landscape plans dated March 28, 2024, not to exceed 2,085 square feet.
- B. Any disturbed area offsite from the Property must be revegetated in accordance with submitted landscape plans.
- C. The Applicant shall bury or relocate the retaining wall that is north of the Sports Court and in the front and side setbacks. The new wall is limited to two feet (2') in accordance with the plans as submitted. Prior to obtaining a building permit for the relocated retaining wall, the Applicant shall submit to the City's engineering department an excavation and grading plan showing no erosion, land subsidence, or avalanche is created by the relocation of the retaining wall.
- D. The Applicant shall submit a construction mitigation plan for approval by the City's Chief Building Official that mitigates construction traffic on Aerie Dr. The Applicant shall submit a management and safety plan for the proposed route. Time of operations, truck inspections, and the number of trips hauling shall be outlined and regulated through the Construction Mitigation Plan.
- E. The Applicant's stormwater mitigation plan shall include mitigation for on-site retention and shall be reviewed and approved by the Engineering Department prior to building permit submittal.
- F. The Applicant shall notify the Planning Department prior to making any changes to the plans approved as part of the Sports Court CUP.
- G. The Property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not

regulated by the City for mine-related impacts. If the Applicant does encounter mine waste or mine waste impacted soils, the Applicant must handle the material in accordance with State and Federal law.

- H. No overhead lighting is permitted for the Sports Court. All exterior lighting for walkways and landscaping shall be down-directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property, and shall comply with the City's outdoor lighting code per LMC § 15-5-5(J). Final lighting details must be reviewed by the City's planning staff prior to installation and final inspection.
- I. Use of the Sports Court will be prohibited from 10:00 PM to 7:00 AM and the use of pickleball is restricted from 8:00 PM to 8:00 AM.
- J. The surface of the Sports Court shall be comprised of SportGame PB Open Cell materials or similar noise-reducing materials.
- K. An "AcousticFence" or similar soundproofing fencing must be installed around the Sports Court.
- L. Sports court may be used for paddle games (including pickleball), but only when USA Pickleball's Quiet Category compliant paddles and soft balls are used.

If you have questions or concerns regarding this Final Action Letter, please call 435-615-5060 or email planning@parkcity.org.

Sincerely,



Sarah Hall
Planning Commission Chair

CC: Rebecca Ward, Planning Director