



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 26, 2024**

COMMISSIONERS IN ATTENDANCE: Chair Sarah Hall, Christin Van Dine, John Frontero, Bill Johnson (via Zoom), Laura Suesser (via Zoom)

EX OFFICIO: Rebecca Ward, Planning Director; Virgil Lund, Planner I; Jaron Ehlers, Planning Technician; Mark Harrington, City Attorney

1. ROLL CALL

Chair Sarah Hall called the meeting to order at 5:30 p.m. and introduced the Commissioners present. She noted that Commissioner Henry Sigg and Commissioner Rick Shand are absent. Commissioner Suesser would communicate with the Planning Commission via the chat function and some pre-drafted questions were submitted to Staff because she lost her voice.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from June 12, 2024.

Commissioner Johnson provided corrections to the Meeting Minutes. On Page 2 Paragraph 2, the first sentence has "in" written two times in a row. On Page 4 Paragraph 2, the sixth sentence should be changed from Durango to Telluride. On Page 14 Paragraph 6, in the first sentence, he asked that 300 be changed to 30, so it read as "30 to 100 feet" instead.

MOTION: Commissioner Johnson moved to APPROVE the Meeting Minutes for June 12, 2024, as amended. Commissioner Frontero seconded the motion.

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

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Rebecca Ward, thanked those attending the Planning Commission Meeting. She reviewed the public comment guidelines with those present and asked speakers to sign in.

Chair Hall pointed out that there is a lengthy agenda, but some of the items have already been noticed for continuation. She shared a disclosure for the 220 King Road application, as she is represented by both HLH, which is the appellant attorney, and Snell & Wilmer, the applicant attorney. However, she does not find any need to recuse herself from the discussion or vote.

4. PUBLIC COMMUNICATIONS

There were no Public Communications.

5. CONTINUATIONS

- A. 218 Sandridge Avenue – Steep Slope Conditional Use Permit** – The Applicant Proposes an Addition to a Significant Historic Structure on a Steep Slope in the Historic Residential – 1 Zoning District. PL-24-06059.

Chair Hall opened the public hearing. There were no comments. The hearing remained open.

MOTION: Commissioner Van Dine moved to CONTINUE the application for 218 Sandridge Avenue – Steep Slope Conditional Use Permit as well as the Public Hearing to the July 10, 2024, Planning Commission Meeting. Commissioner Frontero seconded the motion.

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

6. REGULAR AGENDA

- A. Parcel PCA-S-98-II-X – Conditional Use Permit** – The Applicant Proposes Improvements at the Mid-Mountain Trailhead, and to Increase the Number of Parking Spaces to 29. PL-24-06159.

Planner I, Virgil Lund, presented the Staff Report and explained that the application is for a Conditional Use Permit (“CUP”) for Mid-Mountain Trailhead. The Mid-Mountain Trailhead has been an unofficial trailhead for many years, serving the Mid-Mountain Trail, which is a very popular trail in the area. Planner Lund shared a map and explained that this is located near the Montage Resort and the Sommet Blanc Condominiums. From the Sommet Blanc Condominium approval, Condition of Approval #18 from the Plat Approval states that “The Mid-Mountain Trailhead parking lot shall be constructed by 10/15/24.” He shared an overview of the plans.

Planner Lund explained that the proposal will complete 29 parking spaces with two ADA-compliant parking spaces. Trailer parking will be allowed within the parallel parking stall along the north side of the landscaped berm. The parking area improvements comply with the Residential Development (“RD”) Zoning District requirements. Parking areas are listed as front, side, and rear setback exceptions. As part of this construction, the applicant will need to remove seven trees. The Forestry Board reviewed the proposal to remove those trees and gave their approval.

The proposal complies with all of the CUP criteria. Planner Lund reported that the retaining walls seen in the plans are greater than six feet. As a result, an Administrative Conditional Use Permit (“ACUP”) is needed, which will ultimately be reviewed by the Planning Director.

Planner Lund highlighted some of the Conditions of Approval. Condition of Approval #4 was carried over from the Sommet Blanc approvals and states that the applicant will need to obtain a License Agreement, which will ensure that the City can operate, manage, and maintain the Mid-Mountain parking lot. The snow removal will remain with the Empire Pass Master Owners

Association ("EPMOA"). This will need to be recorded prior to Building Permit issuance. Condition of Approval #5 states that the parking lot needs to be constructed by October 15, 2024.

Staff recommends that the Planning Commission open a public hearing and consider approving the CUP based on the Final Action letter included in the Meeting Materials Packet. The applicant representative from Alliance Engineering is present to share any additional information needed.

Director Ward shared some questions from Commissioner Suesser. She wanted to know if monitoring has been done to determine whether the users of the lot are mostly coming from the Big Cottonwood side or from Park City. Planner Lund does not believe that has been monitored. The second question from Commissioner Suesser has to do with the significant increase in the parking stalls. She wants to know whether building more parking stalls will add more stress to the roads and trails. Lastly, she asked if the plan is consistent with the goal of encouraging transit use. Applicant representative, Connor Dinsmor, explained that there will be control of the in and out with a one-way. There will be a more controlled intersection than there is currently, which will increase safety overall. It is not his belief that adding a few more stalls will stress the roads.

Chair Hall asked about the Staff Report and the statement that one trash can is proposed to be screened with existing vegetation. She wanted to understand how trash removal will occur. Planner Lund clarified that Trails and Open Space will be in charge of trash removal. Discussions were had about recycling. Mr. Dinsmor believed it would be possible to add a reference to that.

Chair Hall opened the public hearing.

Jade Whirley gave his zip code as 84098. He is a resident of Brighton Estates and a lot of the residents there need to park in this area when there are storms. He wanted to know if there will still be 72-hour parking spaces available. As for the trailer parking that was mentioned earlier, he wanted to know if that will be for overnight parking as well. Mr. Whirley addressed the earlier question about whether most of the traffic comes from the Big Cottonwood side or the Park City side. In the wintertime, none of it comes from the other side. It is a busy and dangerous lot.

There were no further comments. The public hearing was closed.

Chair Hall asked that the questions posed during the public hearing be addressed. Planner Lund explained that it will be up to the Trails and Open Space Department to determine whether there is a desire to add restrictions on overnight parking. Chair Hall noted that there was nothing within the Staff Report or within the Final Action Letter, as drafted, that referenced the hours of parking.

Commissioner Johnson noted that the Planning Commission spoke a lot about the parking lot during the Sommet Blanc review. He wanted to confirm that there are no deviations from those previous discussions or the original approval. Planner Lund reported that during the Sommet Blanc review, there was a rudimentary design presented to the Commission, but it was not as detailed as what is now shared. The general organization and layout was determined previously.

Commissioner Johnson believed the parallel parking was due to the feedback received from the public about the need for trailer space. He next asked if the City has a Certified Arborist on Staff. Director Ward reported that there is a plan in place to have an existing Staff Member certified. Currently, applications proposing changes to significant vegetation go to the Forestry Board.

Commissioner John Frontero found the design to be improved over the current conditions. He wondered how the 29 parking spaces were determined. Planner Lund believed the 29 spaces were determined as part of the Sommet Blanc approvals. Each parking space needs to maintain a minimum dimension of 9x18. With the amount of space that was available, that was the number of spaces that could be created. Commissioner Frontero pointed out that there are currently between 15 and 20 spaces. The excavation is not so much to create more width, but more depth. Mr. Dinsmor confirmed this and explained that the design was created to maximize the space.

Chair Hall noted that the Planning Commission spent a lot of time discussing the parking previously. She feels what is proposed is a lot safer than the current conditions. Additionally, there is compliance with the code. Chair Hall suggested that there be a slight modification to the Final Action Letter for 11(M)(i) to clearly state that there is one trash and one recycling can. Commissioner Frontero asked about the retaining wall that is taller than six feet. Planner Lund reported that the maximum is 12 feet at the highest point. It then breaks up into two stacked rock walls, which are 8-feet and 6-feet. There were no additional Commissioner questions.

MOTION: Commissioner Van Dine moved to APPROVE the Conditional Use Permit for Parcel PCA-S-98-SD-1A for the Mid-Mountain Parking Lot, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval, as amended, in the Final Action Letter:

Findings of Fact:

1. The Applicant proposes improvements to the existing Mid-Mountain Trailhead parking to increase the Parking Spaces from 15 to 29 with two that are ADA compliant. The current paved parking area requires vehicles to back onto Marsac Avenue. The improved Parking Area will be horizontally separated from Marsac Avenue with a low landscaped berm and includes angle-in parking with a one-way entrance and exit, and parallel parking for vehicles with trailers.
2. The Applicant proposes retaining walls greater than six feet in height and the removal of Significant Vegetation to construct the Parking Area improvements.
3. The Mid-Mountain Trailhead and Parking Area along Marsac Avenue in the Empire Pass area near the Sommet Blanc site has been an unofficial Parking Area for many years and is popular for recreational users.
4. Parking Areas greater than five Parking Spaces require a CUP in the RD Zoning District.
5. The Sommet Blanc Conditional Use Permit (CUP) was approved by the Planning Commission on March 9, 2022, for the development of 49 residential units and a 3,600-square-foot restaurant.
6. The Mid-Mountain Trailhead was considered as part of the 2022 Sommet Blanc approvals and CUP Condition of Approval 24 states.
 - a. Condition of Approval 24 from the CUP Final Action Letter states: "Applicant shall construct a parking lot at the Mid-Mountain location and

reroute the Mid-Mountain trail, which shall be reviewed and approved by the City Trails & Open Space Manager.”

- b. Condition of Approval 25 states: “Applicant shall obtain a license agreement, subject to City Attorney’s Office approval, which ensures the City’s ability to operate, manage and maintain the Mid-Mountain parking lot (snow removal to remain within the EPMOA).”
 - c. Condition of Approval 18 from the Sommet Blanc plat approval states: “The Mid-Mountain Trailhead parking lot shall be constructed by 10/15/24.”
- 7. On June 6, 2024, the Applicant submitted a CUP for the required improvements to the Mid-Mountain Trailhead.
 - 8. On June 11, 2024, staff determined the Application was complete.
 - 9. The proposal complies with the Residential Development Zoning District requirements found in LMC Chapter 15-2.13
 - a. Front Setback:
 - i. Parking Areas are listed as a Front, Side, and Rear Setback exception in the RD Zoning District. The Proposed Parking Area is approximately 13 feet from the property line along Marsac Avenue.
 - b. Side Setback:
 - i. The proposed Parking Area improvements are greater than 12 feet from any side property line.
 - c. Rear Setback:
 - i. The proposed Parking Area improvements are greater than 15 feet from the rear property line.
 - d. Vegetation Protection:
 - i. The Applicant proposes to remove seven trees with a diameter of 6” inches or greater.
 - ii. LMC § 15-5-5(N)(4)(i)(2) establishes exceptions where the Forestry Board and Planning Director may approve the removal of Significant Vegetation “if upon their review it is found that equivalent replacement is impossible, would be detrimental to the site’s existing and/or proposed vegetation, or violates Chapter 11-21 Utah Wildland-Urban Interface Code.”
 - iii. On June 6, 2024, the Forestry Board reviewed the proposal and determined the replacement of Significant Vegetation would be

detrimental to the site's existing vegetation and approved the removal of seven trees with a diameter of 6" inches or greater.

10. The proposal, as conditioned, complies with LMC § 15-3-4 Specific Parking Area Standards for Parking Areas With 5 or More Spaces.
 - a. All Parking Lots shall maintain the required Front and Side Setbacks as would be required for any Structure.
 - i. LMC § 15-15-1 defines a Parking Lot, Commercial: "A Parking Lot in which motor vehicles are parked for compensation or for Commercial Uses."
 - ii. Parking Area is defined: "An unenclosed Area or Lot other than a Street used or designed for parking."
 - iii. The Applicant proposes a Parking Area at the Mid Mountain Trailhead. Parking Areas are listed as a Front, Side, and Rear Setback exception in the RD Zoning District.
 - b. A geotechnical report must be submitted to the City Engineer providing recommendations on Parking Lot design and construction parameters. The City Engineer may approve minor spacing and width deviations.
 - i. On June 4, 2024, the City Engineer reviewed the proposed plans. The Engineering Department requires the Applicant to provide detailed engineered plans and a geotechnical report for the proposed retaining walls and Parking Area improvements at building permit submittal.
11. The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).
 - a. Size and Location of Site:
 - i. The proposed Parking Area improvements will help increase pedestrian and vehicle safety at the Mid-Mountain Trailhead because vehicles will no longer be required to back into Marsac Avenue, and there is a one-way entrance and exit.
 - b. Traffic Capacity:
 - i. The proposed Parking Area improvements will help alleviate vehicular traffic and conflict surrounding the Mid-Mountain Trailhead by removing the need for parked cars to back into Marsac Avenue.
 - c. Utility Capacity:

- i. The Development Review Committee reviewed the proposal on June 4, 2024, and confirmed the proposal conforms with their requirements.
- d. Emergency Vehicle Access:
 - i. The Park City Fire District reviewed the proposal on June 4, 2024, and confirmed the proposal conforms with their requirements.
- e. Off-Street Parking:
 - i. The proposed Parking Area improvements will increase the amount of Off-street parking for recreation uses from 15 Parking Spaces to 29.
- f. Internal Vehicular and Pedestrian Circulation System:
 - i. The proposed Parking Area improvements will help increase pedestrian and vehicle safety at the Mid-Mountain Trailhead because pedestrians and users of the Parking Area will be located off Marsac Avenue and will be separated by a landscaped berm.
- g. Fencing, Screening, and Landscaping:
 - i. The Applicant proposes retaining walls greater than six feet along the hillside to stabilize the slope surrounding the Parking Area. The maximum height that the retaining walls will reach is 12 feet from the Final Grade and will span the length of the Parking Area, approximately 288 feet across. The proposed retaining wall will be constructed of rocks.
 - ii. Retaining walls greater than six feet in the RD Zoning District requires an Administrative Conditional Use Permit (ACUP). The Applicant submitted an ACUP for the retaining walls with the Planning Department.
- h. Structure Mass, Bulk, and Orientation:
 - i. The total square footage for the proposed improvements will be approximately 18,000 square feet. Vegetation must be protected during development activity, and disturbed areas must be replaced with existing or improved conditions.
 - ii. The proposed Parking Area improvements will be similar in design to other Trailheads in Park City. On May 27, 2024, the Trails and Open Space Department approved the design for the proposed Parking Area improvements.
- i. Useable Open Space:

- i. The proposed Parking Area will increase the accessibility to Open Space for the community.
- j. Signs and Lighting:
 - i. Municipal Code of Park City § 12-8-1 lists exceptions from the Sign Code requirements: "Signs located inside open-air recreational facilities that are not oriented to public streets, such as signs in ski resorts, skateboard parks, and golf courses, are exempt from the requirements of this Title."
 - ii. The Applicant proposes a trailhead kiosk sign that is four feet wide by four feet tall and approximately eight feet tall and is not oriented to Marsac Avenue, similar to other kiosk signs at Park City trailheads.
 - iii. There will be six signs, approximately seven square feet each, oriented towards Marsac Avenue.
 - iv. The Sign Code states the following in § 12-8-1(A): "CITY SIGNS. Signs erected by or at the direction of the Park City Municipal Corporation are exempt from the requirements of this Title."
 - v. The Trails and Open Space and Engineering Department requires the Applicant to install entrance and exit signs, trail crossing warning signs, a stop sign at the Parking Area exit, and trail stop signs for trail users.
- k. Physical Design and Compatibility with Surrounding Structures:
 - i. The Applicant proposes retaining walls greater than six feet along the hillside to stabilize the slope surrounding the Parking Area. The maximum height that the retaining walls will reach is 12 feet from Final Grade and will span the length of the Parking Area, approximately 288 feet across. The proposed retaining wall will be constructed of rocks.
 - ii. The design of the Parking Area will be graded to match the existing grade of Marsac Avenue and will be screened from Marsac Avenue with a low landscaped berm with small boulders approximately 3-5 feet in diameter to discourage parking within the landscaped area.
- l. Noise, Vibration, Odors, Steam, or Other Mechanical Structures:
 - i. The applicant proposes installing a 110-square-foot singular pit toilet on the east side of the Parking Area, to be maintained by the Trails and Open Space Department.

- m. Control of Delivery and Service Vehicles; Loading and Unloading; Screening of Trash and Recycling Pickup Areas:
 - i. One trash and one recycling area is proposed with this application.
- n. Expected Ownership:
 - i. Parcel PCA-S-98-SD-1A is owned by REDUS LLC. The Applicant obtained approval by UDOT for the proposed work adjacent to Marsac Avenue.
- o. Environmentally Sensitive Lands, Physical Hazards, Historic Mining Waste, Park City Soils Ordinance, or Steep Slopes:
 - i. The proposed Parking Area improvement plans were evaluated as part of the Sommet Blanc MPD/CUP Approval. The Planning Commission reviewed the proposed location and plans for the Mid-Mountain Trailhead improvements attached as Exhibit X to the March 9, 2022, Planning Commission packet.
 - ii. Staff determined at that time “The MPD Conclusion of Law #10 notes that the Flagstaff Annexation was not included in the Sensitive Lands Overlay. The MPD does not assert why this is, but it may be because, at the time of annexation, the City and Applicant strategically chose specific development pods and donated the other acreage to preservation. Fourteen (14) technical reports were required and submitted with the annexation agreement that covered detailed reports of the area including a mine soil mitigation plan, open space management plan, a trails master plan, historic preservation, and wildlife management plan (amongst others). Again, these plans were utilized to suggest the least sensitive areas for development while preserving 826 acres as Open Space. The 2004 Village at Empire Pass MPD Conclusion of Law #10 noted: “The Sensitive Lands (overlay) Zone did not specifically apply to the Empire Pass Large-Scale MPD annexation; however, the locations of the development pods are based on Sensitive Lands principles.”
 - iii. The Applicant proposes retaining walls to stabilize the slope surrounding the Parking Area. The proposed retaining walls are appropriate for the site and necessary to stabilize the surrounding hillside for the Parking Area improvements. Condition of Approval 3 requires the Applicant to provide engineered plans and a geotechnical report to be reviewed by the Engineering Department prior to Building Permit issuance.
 - iv. The proposed Parking Area improvements do not conflict with any Physical Mine Hazards, and they are outside the Soils Ordinance Boundary. No wetlands, ridgelines, stream corridors, or wildlife habitat will be impacted.

- v. The Flagstaff technical report number 13 “Wildlife Management Plan” does not mention the Mid-Mountain Trailhead as a Sensitive Wildlife Area. The Open Space Management plan does not specifically mention the Mid-Mountain Trailhead, but it could be inferred that the “trailhead” mentioned refers to the Mid-Mountain Trailhead. “Deer Valley and UPK have historically cooperated with the Utah Department of Transportation (UDOT) in providing a base parking area and snowmobile route through the Deer Valley ski area for use by property owners in Wasatch County in accessing cabins and/or lots outside the boundaries of Deer Valley ski resort. This route is the same as that referred to under the commercial snowmobile operations section, above. While the parking area and trailhead will ultimately be relocated, Deer Valley and UPK will continue to work with UDOT in providing winter access to Wasatch County landowners.”
- vi. The proposal includes parallel parking stalls for vehicles with trailers. There are no additional technical reports that mention the Mid-Mountain Trailhead.
- p. General Plan:
 - i. Goal 4 of the General Plan states: “Conserve a connected, healthy network of open space for continued access to and respect for the Natural Setting.” The proposed Parking Area improvements will increase access and connectivity in Open Space areas.
 - ii. Goal 9 of the General Plan states: “Park City will continue to provide unparalleled parks and recreation opportunities for residents and visitors.” The proposed Parking Area improvements will provide residents and visitors with improved access to recreational opportunities.
- 12. Staff published notice on the City’s website and the Utah Public Notice website and posted notice to the property on June 12, 2024.
- 13. Staff mailed a courtesy notice to property owners within 300 feet on June 12, 2024. The Park Record published a courtesy notice on June 12, 2024.

Conclusions of Law:

- 1. The proposal complies with the Land Management Code requirements pursuant to Chapter 15-2.13 Residential Development Zoning District, Chapter 15-3 Off-Street Parking, and Section 15-1-10, Conditional Use Review Process.
- 2. The Use will be compatible with surrounding Structures in use, scale, mass, and circulation.

3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval:

1. Final building plans and construction details shall reflect substantial compliance with the final plans dated June 7, 2024, submitted to the Planning Department and reviewed June 26, 2024, by the Planning Commission.
2. The Applicant is responsible for notifying the Planning Department prior to making any changes from the approved plans. Any changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review and approval/denial in accordance with the applicable standards by the Planning Director prior to construction.
3. The Applicant shall provide detailed engineered plans and a geotechnical report for the proposed retaining walls and Parking Area improvements at building permit submittal.
4. The Applicant shall obtain a license agreement, subject to City Attorney's Office approval, which ensures the City's ability to operate, manage, and maintain the Mid-Mountain parking lot (snow removal to remain within the EPMOA) prior to Building Permit Issuance.
5. The Mid-Mountain Trailhead parking lot shall be constructed by 10/15/24.
6. All disturbed vegetation must be replaced to existing or improved conditions and shall comply with LMC § 15-5-5(N). Seeded areas shall have at least 80% or more germination prior to site completion.
7. The Applicant shall obtain a Conditional Access Permit from UDOT prior to Building Permit issuance.

Commissioner Frontero seconded the motion.

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

- B. 8945 Marsac Avenue Moonshadow Condominiums – Condominium Plat Amendment** – The Applicant Proposes to Amend the Moonshadow Condominium Plat to Define Private and Limited Common Areas for Units A, B, C, D, F, and H. PL-24-06084.

Planner Lund presented the Staff Report and explained that the application is for a Condominium Plat Amendment at 8945 Marsac Avenue for the Moonshadow Condominiums. The Plat Amendment is for Units A, B, C, D, F, and H, of the Moonshadow Condominiums. Units E and G will come back for a Plat Amendment at a later date. Planner Lund shared background information about the Moonshadow Condominiums. These are part of the Flagstaff Development Agreement and the Village at Empire Pass Master Planned Development ("MPD"). The Planning Commission approved no more than 31 unit equivalents of residential density (62,000 square

feet) for the Moonshadow Condominiums. Eight units were ultimately created. Units A, B, C, D, F, and H, have approved ACUPs and have been issued Building Permits. As part of the original ordinance back in 2018, Condition of Approval #9 includes the following language:

- "The plat shall note that...a supplemental condominium plat for each unit shall be approved and recorded at Summit County prior to issuance of a Certificate of Occupancy. Supplemental plats may be combined."

As for Condition of Approval #6, there are portions of the units that have limited common areas within the Recreation and Open Space ("ROS") Zoning District. Carried over from Ordinance 2018-54, any construction disturbances within the ROS-zoned portions are subject to the Amended Development Agreement and associated technical reports. Planner Lund explained that the proposal complies with the Flagstaff Development Agreement and the Empire Pass MPD. No individual unit can exceed 7,750 square feet of floor area. With this Condominium Plat, the applicant proposes a combined 40,746 square feet of floor area for all units. No individual unit exceeds the 7,750 square foot limitation. Staff finds good cause for the Plat Amendment because it is required as part of Ordinance 2018-54, and it combines six of the eight Condominium Plat Amendments for efficiency. Additionally, he reminded Commissioners that the application is compliant with the Amended Flagstaff Development Agreement and the Empire Pass MPD.

The applicant representative, Michael Demkowicz from Alliance Engineering, introduced himself to the Commission. As for the Condition of Approval for the Certificate of Occupancy, there is a desire to address that during the Planning Commission Meeting, if possible, since there are a few units that are requesting a Certificate of Occupancy. Mr. Demkowicz asked that the homes that are ready be granted the ability to move in as the recording process is taking place.

Director Ward explained that the Condition of Approval that requires the Plat process to be completed is from an ordinance approved by the City Council back in 2018. One of the Conditions of Approval for that ordinance is that a supplemental Condominium Plat for each unit shall be approved and recorded at Summit County prior to issuance of a Certificate of Occupancy. There would need to be a separate process to amend that ordinance requirement. Mr. Demkowicz stated that the redline process will be expedited and recording will take place as soon as possible.

Commissioner Johnson asked about the snow storage easement removal. Director Ward read a question on behalf of Commissioner Suesser, which has to do with why the snow storage easement bordering Marsac Avenue is being removed. Mr. Demkowicz reported that the 10-foot snow storage easement along Marsac Avenue was put on in the original plat in 2018 as a request from the City. During that time, there was an existing berm there to separate where the future Moonshadow Court Road would be and Marsac Avenue. With where the road was built, to keep that berm in place, three retaining walls needed to be constructed. There has been work with the City to determine how to keep the wall there because it makes sense to have the berm. There have also been conversations with the Utah Department of Transportation ("UDOT") and UDOT does not have any entitlements. Additionally, there have been discussions with the person who does the plowing for the EPMOA, and currently, the right-of-way is 50 feet wide and the road is only 30 feet wide. There are 10-foot shoulders on each side of Marsac Avenue in that area. On heavy snow days, a snowblower is used to blow snow to the south side of the road.

Commissioner Johnson noted that regardless of how the snow plowing is managed and who owns the road, the Planning Commission previously pro-actively dedicated that road. He wanted to

know if the intention was to keep the berm for safety. Mr. Demkowicz explained that the way Marsac Avenue was originally constructed, it was always cut into the mountain in this location. Technically, the additional 10 feet beyond the right-of-way does not become a snow storage easement, because it is uphill. The language was not challenged at the time the original Moonshadow plat was created. The original plat did not anticipate the sensitivity to headlights, privacy, and noise that Marsac Avenue has on the neighborhood. Had that been anticipated, the snow storage easement would have been addressed back in 2018 and it would not have been on the original plat. Now that there are homeowners, the sensitive to that berm is very important.

Commissioner Johnson believes the pro-active approach the Planning Commission has been taking is the right path for snow storage. However, he believes the information included in Exhibit F is clear. It is important to focus on safety for those in the area. Commissioner Frontero asked if there is somewhere else to move the 10-foot snow storage easement. It was noted that the issue is the berm, fencing, and rock wall being within the 10-foot snow storage easement. Additional discussions were had about the easement and what is located in the surrounding area.

Commissioner Frontero explained that he is hesitant to eliminate snow storage in that area, as it is difficult to find places to put the snow safely. He is not generally in favor of removing dedicated snow storage spaces. That being said, he does understand what has been presented in this case. Mr. Demkowicz pointed out that if a note can be put on the Condominium Plat that states the snow storage easement will remain, but it is still possible to have the berms, fencing, and necessary rock walls within the easement, there likely does not need to be a request to remove. He simply does not want to run into an issue where the safety improvements cannot be done.

Commissioner Frontero wondered whether there is enough room to serve both needs. Mr. Demkowicz reported that the berm is inside the 10-foot snow storage easement. It is outside of the right-of-way and in the Moonshadow property but is within the 10-foot easement area that was on the original plat. Chair Hall referenced Condition of Approval #7. It stated that "Each individual unit may not exceed 7,750 square feet of floor area, consistent with the Amended Development Agreement." She asked that this state, "including basement," which is part of the Findings of Fact above. The way floor area is defined excludes the basement as a default.

Chair Hall opened the public hearing.

Anne Bransford gave her zip code as 84060. According to the Development Agreement, for any excavation of soil, that soil has to remain within the EPMOA and cannot be trucked out. She asked how many cubic yards are being looked at for this and where the soil will be relocated.

There were no further comments. The public hearing was closed.

MOTION: Commissioner Frontero moved to APPROVE the Condominium Plat Amendment for 8945 Marsac Avenue, Moonshine Condominiums, Units A, B, C, D, F, H, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval, as amended, in the Final Action Letter:

Findings of Fact:

1. The Moonshadow Condominiums are part of the Flagstaff Annexation Area, governed by the Flagstaff Development Agreement, the Village at Empire Pass Master Planned Development, within the Residential Development (RD) and Recreation Open Space (ROS) Zoning Districts.

2. The Moonshadow Condominiums contain eight PUD-style units. The 2007 Amended Flagstaff Development Agreement describes PUD-style units as “clustered, detached, single-family or duplex units with common open space and coordinated architecture.”
3. The City Council adopted Ordinance 2018-54 approving the Moonshadow Condominiums on October 25, 2018. On July 1, 2019, the Moonshadow Condominiums Plat was recorded with Summit County, Summit County Recorder Entry No. 111351. The Plat created an eight-unit condominium.
4. As part of the Village at Empire Pass Master Planned Development Approval and the Amended Flagstaff Development Agreement, the Planning Commission approved no more than 31 Unit Equivalents (UEs) of residential density (62,000 square feet) for the Moonshadow Condominiums.
5. Ordinance 2018-54 Condition of Approval 7 states: “Administrative Conditional Use Permits (ACUP) are required prior to building permit issuance for the Moonshadow Condominiums.” Units A, B, C, D, F, and H have approved ACUPs and have been issued Building Permits. Condominium plat approvals memorializing private, common, and limited common area of each unit are required prior to issuance of Certificates of Occupancy.
6. The proposed plat amendment complies with the City Council approvals for the Condominiums:
 - a. The City Council approved the Moonshadow Condominiums with the following Setbacks: “Fifteen foot (15') front setbacks (20' to the front of the garage) are approved to cluster units closer to the private street in order to decrease cut and fill, decrease driveway area, increase the separation from areas of 40% and greater slope, and to protect additional existing vegetation.”
 - b. The proposed plat amendment complies with the 15-foot (20-foot to the front of the garage) Front Setback requirement for all proposed Units.
 - c. Side Setback Requirement: The Side Setbacks are 12 feet between structures. For units that abut the Subdivision Lot lines, the Structures must maintain a minimum Side Setback of 12 feet.
 - i. The proposed condominiums comply with the 12-foot Side Setback requirement.
 - d. Rear Setback Requirement: The Rear Setback is zero feet (0') which is the RD/ROS Zoning District line.
 - i. No structures are proposed in the ROS-zoned portion of the plat.

7. The proposed plat amendment complies with the ROS Zoning District Requirements.
 - a. No structures are proposed or approved to be constructed in the ROS Zoned portion of the Plat. Each unit has Limited Common Area that is located within the ROS Zone. Staff recommends a Condition of Approval that the Limited Common Area that is within the ROS zone of each unit must comply with the ROS zoning district requirements and comply with Ordinance 2018-54 Condition of Approval 20: "Construction disturbances within ROS portions are subject to the Amended Development Agreement and associated Technical Reports."
8. The proposed plat amendment complies with the Village at Empire Pass Master Planned Development and the Amended Flagstaff Development Agreement.
 - a. As part of the Village at Empire Pass Master Planned Development Approval and the Amended Flagstaff Development Agreement, the Planning Commission approved no more than 31 UEs of residential density (total of 62,000 square feet) for the Moonshadow Condominiums, with no individual unit exceeding 7,750 square feet of floor area. The Amended Development Agreement requires PUD-style units to include all floor area, including all basement areas, in the UE calculations. 600 square feet of garages are excluded.
 - b. The Applicant proposes a combined 40,746 square feet of floor area for all units included in this Plat Amendment, and no individual unit exceeds 7,750 square feet. The Applicant has a remaining 21,254 square feet of floor area for Units E and G. However, each individual Unit may not exceed 7,750 square feet of floor area consistent with the Amended Development Agreement.
9. The proposed plat amendment complies with Chapter 15-3, Off-Street Parking.
 - a. Condominium units greater than 2,000 square feet in floor area require two Parking Spaces per unit. Double car garages must be at least twenty feet (20') wide by twenty feet (20') deep. All proposed units have interior garages measuring at least 20 feet wide by 20 feet long and accommodate two Parking Spaces.
10. The proposed plat amendment complies with LMC § 15-7.1-3(B), Plat Amendment:
 - a. Changes to platted elements including conversion of Common Area/Limited Common Area within a condominium requires a Plat Amendment.
 - b. Plat Amendments shall be reviewed according to the requirements of LMC § 15-7-1.6 and approval shall require a finding of Good Cause.

- c. LMC § 15-15-1 defines Good Cause as “Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.”
 - d. Staff finds Good Cause for this plat amendment because this amendment is required as part of Ordinance 2018-54 Condition of Approval 9: “The plat shall note that a supplemental condominium plat for each unit shall be approved and recorded at Summit County prior to issuance of a certificate of occupancy. Supplemental plats may be combined.”
 - e. The Condominium Plat Amendment is compliant with the Village at Empire Pass MPD and Amended Flagstaff Development Agreement and does not create any non-conformities.
 - f. No Public Street or Right of Way is vacated or amended.
- 11. The Development Review Committee reviewed the proposal on April 16, 2024 and does not require Conditions of Approval.
 - 12. Staff published notice on the City’s website and the Utah Public Notice website and posted notice to the property on June 12, 2024.
 - 13. Staff mailed a courtesy notice to property owners within 300 feet on June 12, 2024. The Park Record published a courtesy notice on June 12, 2024.

Conclusions of Law:

- 1. There is Good Cause for this plat amendment.
- 2. The Plat Amendment is consistent with Land Management Code § 15-7.1-3(B), § 15-7.1-6, and Chapter 15-2.13 Residential Development District.
- 3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
- 4. Approval of the Plat Amendment, subject to the conditions below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval:

- 1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, the Conditions of Approval, and the amended CC&Rs prior to recordation of the plat.

2. The Applicant shall record the plat at the County within one year from the date of Planning Commission approval. If recordation is not complete within one year, this approval will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the Planning Director.
3. Conditions of Approval of the Village at Empire Pass Master Planned Development and the Village at Empire Pass North Subdivision plat continue to apply.
4. Conditions of approval of the Amended Flagstaff Development Agreement and all related Technical Reports continue to apply.
5. An Administrative Conditional Use Permit for each of the remaining two Units (Unit E and Unit G) is required prior to issuance of any Building Permits for the units.
6. The Limited Common Area that is within the ROS Zoning District of each unit must comply with the ROS requirements and Ordinance 2018-54: "Construction disturbances within ROS portions are subject to the Amended Development Agreement and associated Technical Reports."
7. Each individual Unit may not exceed 7,750 square feet of floor area, including basement, consistent with the Amended Development Agreement.

Commissioner Van Dine seconded the motion.

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

- C. 218 Sandridge Road – Plat Amendment** – The Applicant Proposes Creating a 5,835-Square-Foot Lot and Dedicating 233 Square Feet to Sandridge Road for a Significant Historic Site in the Historic Residential – 1 Zoning District. PL-24-06059.

Planning Technician, Jaron Ehlers, presented the Staff Report and explained that the application is for a Plat Amendment at 218 Sandridge Road. He explained that this is a historic structure. He shared a map and a historic photograph of the property. Additional photographs were reviewed. 218 Sandridge Road was built between 1889 and 1900, but a rear addition was added in 1941. This is designated as a Significant Site on the Historic Sites Inventory. This is currently a metes-and-bounds parcel. The proposal is to convert that parcel into a recorded lot of record.

Planner Ehlers explained that the property is exempt from the maximum lot size regulations, as it is a historic structure. The lot is 103 feet wide. Staff recommends several Conditions of Approval, including a condition that a Plat Note shall state that the maximum building footprint is 2,048 square feet. Another condition requires a 10-foot snow storage easement along Sandridge Road. He noted that the applicant is proposing to dedicate 233 square feet of right-of-way.

There is Good Cause for the Plat Amendment, as it preserves the present land uses and historic structures. Creating a lot will allow the applicant to move forward with the rehabilitation of the structure. Additionally, the applicant is proposing to dedicate the right-of-way area. As a result, Staff recommends that the Planning Commission approve the Plat Amendment for the property.

Director Ward posed a question on behalf of Commission Suesser. Part of the Good Cause cited for the Plat Amendment is to create a lot for the Significant Historic Site, which will allow for the rehabilitation of the structure. However, the Staff Report notes that modifications have been made to the site over the years and it is not considered eligible for listing on the National Register of Historic Places. She wanted to know whether the structure will be required to be rehabilitated and preserved. Director Ward explained that it still qualifies as a Significant Historic Site on the Park City Historic Sites Inventory. The applicant is proposing to rehabilitate the historic structure and has been going through the review process with the Historic Preservation Board.

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

MOTION: Commissioner Van Dine moved to APPROVE the Plat Amendment for 218 Sandridge Road, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Final Action Letter:

Findings of Fact:

1. 218 Sandridge Road is a Significant Historic Site on the Park City Historic Sites Inventory, constructed during the Mature Mining Era (1894-1930).
2. The property is 5,835 square feet and the Applicant proposes dedicating 233 square feet as Sandridge Road right-of-way, creating a 5,612-square-foot Lot.
3. 218 Sandridge Road is in the Historic Residential – 1 Zoning District, which establishes a maximum Lot size of 3,750 square feet. However, pursuant to Land Management Code Section 15-2.2-4, Historic Sites are exempt from the maximum Lot size regulations.
4. The Historic Residential – 1 Zoning District requires a minimum Lot width of 25 feet. The proposed Lot is 103 feet wide.
5. The Historic Residential – 1 Zoning District establishes a maximum Building Footprint of 2,048 square feet for a 5,612-square-foot Lot.
6. On June 12, 2024, staff duly noticed a Planning Commission public hearing for June 26, 2024.

Conclusions of Law:

1. The 218 Sandridge Avenue Plat Amendment complies with Land Management Code Chapter 15-2.2 Historic Residential – 1 Zoning District and Chapter 15-7 Subdivisions.
2. There is Good Cause for the Plat Amendment because it creates a Lot for a Significant Historic Site, dedicates 223 square feet at Sandridge Avenue right-of-way, and resolves non-conformities – the Significant Historic Structure straddles portions of Lots 21 and 22 of Block 12 of the Park City Survey, and the Plat Amendment resolves the non-conformity.

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 shall review and approve the final form and content of the Plat Amendment for compliance with State law, the Land Management Code, and these Conditions of Approval prior to recordation of the plat.
2. The Applicant shall record this Plat Amendment at the County within one year from the date of Planning Commission approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the Planning Director.
3. A plat note shall state the maximum Building Footprint is 2,048 square feet.
4. A 10-foot snow storage easement along Sandridge Road in a form approved by the Engineering Department shall be added to the plat prior to recordation.

Commissioner Frontero seconded the motion.

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

The Planning Commission took a short break ahead of the next item on the meeting agenda.

- D. 220 King Road – Plat Amendment (PL-22-05319)** – On April 30, 2024, the Appeal Panel Denied the Appeal of Conditional Use Permits and a Steep Slope Conditional Use Permit for a New Single-Family Dwelling at 220 King Road, Lot 2 of the Treasure Hill Subdivision, Part of the Sweeney Master Planned Development. The Appeal Panel Remanded the Plat Amendment to the Planning Commission to Determine (1) Does the Sensitive Land Overlay Apply Due to Sweeney Master Planned Development Vesting; (2) If the Sensitive Land Overlay Applies, whether it Can Bisect a Lot; and (3) If the Sensitive Land Overlay Applies, What is Staff's Sensitive Land Determination, Recommendation, and Mitigations. PL-24-06057.

Director Ward explained that this is an Appeal Remand from the Appeal Panel for a Plat Amendment request at 220 King Road. The applicant applied for CUPs and a Plat Amendment to demolish a home and guest house, to construct a home, accessory building, outdoor pool, and underground parking area. On February 14, the Planning Commission approved the CUPs and Plat Amendment, and on March 1, the appellants appealed. On April 30, the Appeal Panel denied the CUP appeals and remanded the following questions regarding the Sensitive Land Overlay:

- Whether the Sensitive Land Overlay applies due to the Sweeney MPD vesting;
- If the Sensitive Land Overlay applies, whether it can bisect a lot;
- If the Sensitive Land Overlay applies, what is Staff's Sensitive Land determination, recommendation, and mitigations.

Director Ward explained that what happens next will depend on the determination made by the Planning Commission on the first question. If the determination is no, then the Commission can direct Staff to draft written findings for Appeal Panel consideration. If the determination is yes, then the second question will be considered. If the answer to question two is no, then the Commission can direct Staff to draft writing findings for Appeal Panel consideration. If the answer is yes, then the third question will be considered. At this time, the first question will be addressed.

Additional background information was shared with the Commission. Director Ward reported that the Planning Commission approved the Sweeney MPD in 1985 and it was amended in 1986. It includes seven homes in the Treasure Hill Subdivision. In 1990, the City Council zoned the six Treasure Hill lots, which included 220 King Road, to HR-1-MPD. In 1992, the City Council adopted the Sensitive Land Overlay. Between 1995 and 2009, the Treasure Hill Subdivisions were platted and amended. Regarding the first question, research confirms that the Sweeney properties were considered vested unless a substantive change to the Sweeney MPD was proposed. This is reflected in a 1992 letter from City Attorney, James Carter, about the applicability of the Sensitive Land Overlay. It stated, "If, however, a change in the Mater Plan is requested, as defined in the LMC, the provisions of the Sensitive Lands Ordinance would be applied. A change will be defined as any change in concept, unit type, configuration, or number."

With the Treasure Hill properties, because of the Sweeney MPD vesting, the Sensitive Land Overlay was not considered in any of the reviews as they were platted and amended. Rather, those reviews were evaluated for compliance with the Sweeney MPD. City Attorney, Mark Harrington, suggested that the applicant address the matters related to the first question.

The applicant representative, Wade Budge, introduced himself to the Commission. He explained that Bruce Baird and Jason Bull are also present. As Staff indicated, this matter was heard at an Appeal Panel hearing. It was an exhaustive hearing that lasted for approximately five hours. The decision that was made by the Planning Commission was upheld during that appeal. The questions that remain have to do with the Sensitive Land Overlay. Mr. Budge explained that he will review a timeline and some maps that will answer the question of whether it applies.

Mr. Budge shared a timeline with the Commission. He pointed out that the Sweeney MPD was approved in 1985, and in 1990, Lot 2 and its companion lot received a Preliminary Plat Approval from the Planning Commission. That date is important because additional rights begin to vest upon plat application. In addition, in 1990, there was another identification of a Preliminary Plat.

In 1992, the Sensitive Land Overlay was approved. After 1992, when the Sensitive Land Overlay was created and the map was approved that created the boundary, the Treasure Hill Phase 1 Preliminary Plat was approved. In 1995, it received Final Plat approval. Beginning in 1993, certain actions occurred after the adoption of the Sensitive Land Overlay. There was no Sensitive Land Overlay review, which is something that was mentioned in the Staff Report. It confirms the understanding that as applications were being processed in the Sweeney MPD, that Sensitive Land Overlay was not being applied to those applications. This is important to keep in mind.

Similarly, in 1997, there was an amendment to Lot 2. Mr. Budge reported that the buildable area was shifted five feet to the west. In connection with that approval, there was a Small Scale Master Plan and Accessory Dwelling approved. In 2000, there was one instance where the Sensitive Land Overlay boundary was adjusted. That was done over on Deer Valley Drive East to adjust the line as it was first enacted. This shows that both under the Land Management Code ("LMC") and under State Law, the way a Sensitive Land Overlay boundary is installed or moved is through a map amendment. The only body that can do that is the City Council through ordinance. There has been a consistent course of action from the City with respect to how the Sensitive Land Overlay is treated as well as how development within the Sweeney MPD is treated.

Mr. Budge noted that the arguments before the Planning Commission relate to the applicant lot and the lot owned by the appellants. He shared a section from the ordinance in 1990. There are two areas circled. In yellow, that section shows that the two King Road single-family lots were being rezoned at that time. In red, it states that the rezone was requested after the two lots already received Preliminary Plat Approval. Mr. Budge shared a map that was used in 1992 when the Sensitive Land Overlay was approved. According to the initial Sensitive Land Overlay boundary, as set by the ordinance in 1992, the two lots indicated were set outside of the boundary. This is because the City has a policy in its code about not bisecting lots unless there was an intent to do so. When the Sensitive Land Overlay was enacted, it was consistent with that policy. Mr. Budge shared several examples to indicate the location of the yellow and red lots. He explained that the lots were both located downhill and were not in the Sensitive Land Overlay.

The digitization of the Sensitive Land Overlay lines occurred in 2010. During that process, the Sensitive Land Overlay line begins to drift, which causes it to bisect the upper portion of the red and yellow lot. This has caused some confusion and caused the Appeal Panel to question whether there was still an open item. Once this matter was remanded, he was able to look at the information further and confirm that there has been no Council action to adopt the digitization of the line as it has drifted. In order to determine whether the Sensitive Land Overlay actually touches a property, the actual ordinances adopting the maps need to be reviewed and considered. He has since done that and no ordinance showed the 1992 line has been amended.

In terms of the question posed by the Appeal Board about whether the Sensitive Land Overlay should be applied to the Sweeney MPD, this was addressed in a response letter that was submitted to the City earlier that morning. Mr. Budge reiterated that the Sensitive Land Overlay is clearly outside of the applicant property and the Sensitive Land Overlay does not apply. However, since it does apply to some lots in the Sweeney MPD, the matter was addressed through the concept of vesting. The letter from Attorney Carter directly speaks to the issue. As long as the MPD is valid and moving forward, then the Sensitive Land Overlay does not apply to defeat the rights that were vested. The MPD contemplated the seven homes and the lots. In this instance, the approval for the homes and approval for the lots predates the enactment of the Sensitive Land Overlay. It is true that the Final Plat was not approved until after the adoption of the Sensitive Land Overlay, but it was understood that the Sensitive Land Overlay could not be made to apply to any of the Sweeney MPD lots to defeat a plat. In fact, he pointed out that the Sensitive Land Overlay was not even discussed when the Final Plat was being considered.

Mr. Baird shared a Sensitive Land Overlay map comparison to compare the 1992 adopted boundary and the digitized version of the line. The red line, which is the digitized approximation, is significantly downhill from the actual line. The Sensitive Land Overlay, as adopted, does not

include 220 King or the home of the appellant. The digitized approximation line was never adopted pursuant to any City Code and there is no evidence in the record to indicate otherwise.

Chair Hall noted that it is unusual for the Planning Commission to have an appeal remand. Staff shared the list of questions as well as an outline for how to move forward based on the answers.

Commissioner Frontero asked Mr. Budge to show in the code where it states the Sensitive Land Overlay will not bifurcate a lot. Mr. Budge offered to look for that and share it with the Commission. Commissioner Johnson wanted to understand the difference between the Sensitive Land Overlay, Frontage Protection Zone, and Entry Corridor Protection Overlay. Chair Hall believed if there are concerns about the second question posted by the Appeal Panel, it might make sense to receive full presentations. Attorney Harrington suggested that Mr. Budge respond to Commissioner Frontero and then Director Ward can present materials related to the second question.

Mr. Budge referenced LMC 15-1-6, which was cited in the letter that was submitted to the City. It states that zoning boundary lines are intended to conform to existing property boundary lines, unless the lines are located by specific dimension, in which case, the dimension shall control. At the end of the Staff Report, it states that there has not been evidence found to determine there has been intent manifest to have this particular zoning line go through a particular property.

Mr. Baird added that there seemed to be some question from the appellant about whether the Sensitive Land Overlay line is a zoning line. It is a zoning line, as the Sensitive Land Overlay is clearly a zone boundary. Additionally, there is no evidence of any intent regarding the location of the digitized approximation line. It is simply a digitized remnant of what was a graphic analog presentation. Mr. Budge read portions from the Staff Report, which stated that the only change to the boundary of the Sensitive Land Overlay since enactment in 1992 is the 2000 modification of the boundary. It goes on to say that there may have been an unintentional shift when the move was made from the original paper zoning map to the digital zoning map platform.

Commissioner Johnson believed that because of the digitized issues and because the map was not modified, similar to the 2000 modification, it is not possible to define where the boundary is located. It is a valid boundary at some point, but right now, there is not something clearly set. Mr. Budge explained that at a past Planning Commission Meeting, there was an acknowledgment that there was not clarity about the location of the line. However, at that time, he stated that even if the line does somehow drift onto the subject property, because of the extensive work that was done, any standard that would have been applied has already been met. When information was presented to the Appeal Panel, there was a desire to better understand whether the line is there.

Due to the questions posed by the Appeal Panel, exhaustive research has been done to determine the location of the line. While there might have been uncertainty back when the matter was discussed by the Planning Commission in February, there is no longer uncertainty. Mr. Budge explained that the reason for this is that when the map and zone were adopted in 1992, those were done accurately and correctly. There is now clarity about the boundary line.

Commissioner Johnson explained that he has struggled with this matter, as it is difficult to define where the boundary is at the current point based on historical documents. He wants additional clarity about the boundary line. Mr. Budge noted that this is not the only application he has worked on that involves sensitive lands. Whenever there is a property where a map appears to show that sensitive lands are near or potentially crossing, he will pull up the actual ordinance that adopted that particular line to make sure there is consistency. That ensures everyone is acting in

conformity with what was established by the only body legally authorized to set a zoning district boundary. Commissioner Johnson referenced the low resolution of the previous maps.

Mr. Baird shared a portion of the 1995 Staff Report, which reflects the actual Sensitive Land Overlay that came from the 1992 map. The 1995 Staff Report image is clearer than the original map. Looking at either of those two maps, it is clear that the line is uphill from the subject property. Commissioner Johnson explained that the problem he is having with the images is that the older maps show the building footprint of the existing homes. He wants to understand where the accessory use that is being proposed aligns with the Sensitive Land Overlay. Mr. Baird stated the whole lot is outside the Sensitive Land Overlay, not just the building envelope, but the entirety.

Commissioner Johnson asked about the project timeline slide that was shared earlier. He wondered whether there was a reference in the Findings of Fact to any of the Sweeney MPD Plat Amendments regarding the Sensitive Land Overlay. Director Ward reported that the Staff Reports, Meeting Minutes, and Final Action Letters were reviewed and the Sensitive Land Overlay was not brought in as part of the consideration or evaluation for any of those properties.

Commissioner Christin Van Dine asked about the digitized line that protrudes into the property. She wanted to understand the area that it impacts. Director Ward explained that the way the Sensitive Land Overlay is illustrated on the zoning map is with a straight line. The property lines for 220 King Road are not parallel to that, so there is a range. It is approximately 30 to 35 feet.

Commissioner Frontero noted that the first question posed has to do with vesting. He suggested that Commissioners discuss the first question that was remanded to the Planning Commission. It makes sense to look at whether the Sweeney MPD has vested rights that precede the 1992 Sensitive Land Overlay. He asked the City Attorney about the interpretation of the timeline because, in his view, the timeline is the key to whether this is vested or not. Attorney Harrington explained that with vesting questions, there is not always a black-and-white answer. The timeline is the first question in vesting, in terms of when a project was approved. Staff and the applicant are somewhat in agreement on the timeline that there was vesting. He noted that the second question relates to what there is vesting for. That is the nature of what the Attorney Carter letter tried to address. He reminded Commissioners that the letter from the previous City Attorney stated that only a substantive amendment to the MPD would trigger an application of the Sensitive Land Overlay.

Attorney Harrington noted that the Planning Commission already determined that the proposed amendments do not constitute a substantive amendment to the MPD. There has been a lot of consistency with the interpretation over time. In this case, the substance of the approval was that any application of the Sensitive Land Overlay would render almost all of these lots undevelopable because the slopes on many of them would not comply with the provisions, especially the 50-foot mandatory setback. That is one of the reasons there was such a consistent application of the vested rights that did not include further Sensitive Land Overlay review. There was an assumption that it would not be possible to implement the project, as approved if the Sensitive Land Overlay was applied. It was approved with rights and density that were not contemplated by the Sensitive Land Overlay. The current Staff Report is consistent with the letter from Attorney Carter.

Commissioner Frontero believed the question comes down to whether this application is a substantive change. It is clear from the comments made by Attorney Carter that in the absence of a substantive change, the vesting rights continue. Commissioner Van Dine noted that it was previously determined by the Planning Commission that this was not a substantive change to the

MPD. Chair Hall noted that the letter from the previous City Attorney outlines what a change would be: any change in concept, unit type, configuration, or number. Based on that, it is possible to conclude that there is not a substantive change with this application and it has vested rights.

Director Ward shared comments from Commissioner Suesser. She felt that moving a building pad is a substantive change. Attorney Harrington suggested that the Commission determine whether public input will be received on each question, one at a time, or in a more general manner. Chair Hall believed there has been some overlap between question one and question two in the discussions so far. As a result, she suggested that Staff do the presentation for the second question, and then the applicant can share comments about the second question as well. From there, it is possible to resume the Commissioner discussion period. Mr. Budge clarified that he does not have additional presentation slides. Public comment can occur after the Staff details.

Director Ward reported that the second question is whether the Sensitive Land Overlay can bisect a lot. She referenced the earlier question from Commissioner Johnson about the Frontage Protection Zone and the Entry Corridor Protection Overlay. When zoning ordinances come before the Planning Commission and City Council for consideration, there is generally a legal description that is included as part of that. With the Frontage Protection Zone and Entry Corridor Protection Overlay, there is clarity about where to measure it from. The Frontage Protection Zone is from the nearest right-of-way line to 100 feet. The Entry Corridor Protection Overlay is from the nearest right-of-way line to 250 feet. The slight changes to the Sensitive Land Overlay do not appear to have intentionally bifurcated the lot. When looking at the Sensitive Land Overlay that was established as part of the adoption in 1992, there is no legal description available to use.

The Sensitive Land Overlay has been modified over the years. There is one modification to the Sensitive Land Overlay, which was in the Deer Valley Drive East area in 2000. Staff has been unable to find an affirmative amendment to the Sensitive Land Overlay in the area to the west of the HR-1 Zone. Steep slopes are addressed through the LMC in two ways: through the Sensitive Land Overlay or the Steep Slope Conditional Use Permit. The criteria and factors are different between the two. Regardless of the Sensitive Land Overlay applying, the Planning Commission evaluates construction on steep slopes in the HR-1 Zone, through the Steep Slope Conditional Use Permit process. The maps attached in the 1990s packet show the Sensitive Land Overlay to the west of the HR-1 MPD Zoned properties. There is one lot within the Treasure Hill Sweeney MPD in the Estate Zone that is fully within the Sensitive Land Overlay boundary. In the evaluation of that property, platting, Plat Amendment, and CUP, the Sensitive Land Overlay was not applied.

Chair Hall opened the public hearing.

Justin Keys explained that he is at the Planning Commission Meeting on behalf of his clients, Eric Hermann, and Susan Fredstone Hermann. It was noted that the public hearing is focused on the first two questions from the Appeal Panel. Mr. Keys addressed the purpose of the Sensitive Land Overlay and why it was enacted in the first place. The purpose statement of the Sensitive Land Overlay is found in LMC 15-2.21-1. One of the identified purposes is to prohibit and regulate development on steep slopes. The reason for this is that developing on steep slopes is inherently dangerous. Treasure Hill is an area where there is a history of natural slides, in addition to human-caused landslides. He provided a report from the Department of Natural Resources that identified this as one of the areas that has a high risk for landslides, particularly if vegetation is removed, which is something proposed in the application currently before the Commission.

The question is whether the Sensitive Land Overlay includes part of the subject property. Mr. Keys noted that a plain reading of the code states that it is the official zoning map that applies. The official zoning map is the map that is currently online. It is the same map that is hanging in the Planning Department and that has been repeatedly adopted, most recently in Ordinance 2022-18. Based on that, the Sensitive Land Overlay bisects the properties. As the appellant representative, he is only given three minutes to address the Commission. However, he does not feel that is fair to his client, as his client is the neighboring property owner and is subject to landslide risks. Mr. Keys asked the Commission to read the plain language of the Sensitive Land Overlay and Condition of Approval #1 of the MPD approval. Both state that they are subject to the ordinance at the time of approval. He believes that addresses the question of vesting.

Eric Hermann gave his zip code as 84060 and explained that he is the appellant. In his view, there is no question that moving a building pad into a 50% slope is a substantive change. The Commission has heard a lot about MPDs and old letters, but there are some basic common sense truths that should be considered. Steep slope rules and rules prohibiting excavation in the Sensitive Land Overlay are in place for safety. Steep slope excavation has unpredictable dangers that need to be taken into account, as evidenced by the excavation at Kings Crown. The decision to permit massive excavation on steep slopes and sensitive land is made by the Planning Commission. Most of the time, models work, but the unpredictable means property damage, injury, and even death to those in the path of a landslide. That is why the Sensitive Land Overlay and Steep Slope Ordinances are in place. Mr. Hermann noted that a lot of debris and soil will be removed from wrecking two houses and digging down 80 feet. The projected soil removal for this single structure is about the same that Kings Crown excavated to build 57 dwelling units.

Mr. Hermann and his wife are long-time Park City residents and have been involved in community public service. He never imagined they would not have the backing of the Park City when asking the City to enforce its own rules. This project would never have been approved had the applicant not been a billionaire willing to intimidate, harass, and use money to suppress key local voices. Mr. Hermann stressed the importance of all citizens being treated equally under the law.

Chair Hall understands that this is an unusual format, where there was an Appeal Panel and the appellant was able to present there with representatives. However, this body is operating differently, where there is just the applicant, Staff, and Planning Commission. She acknowledged the frustration of the appellant being limited to the three-minute timer for public comments.

Lee Gerstein gave his zip code as 84060. The Planning Commission has a responsibility to protect the aesthetic of Park City, but more importantly, to protect the safety and welfare of citizens who are impacted by the projects that are ruled on. The aesthetic appropriateness of the proposed project is not up for debate here, but the matter of safety still needs to be considered. He reiterated that the Commission is entrusted with the safety of the residents. The risk of a slide is real. Should there be a landslide on this property, there would be a high-consequence event. There are at least seven known mine shafts in the immediate vicinity of this proposed project. Mr. Gerstein urged the Commission to look at the inherent dangers associated with the proposal.

Jim Doilney gave his zip code as 84060. He lives in Old Town at 50 Sampson Avenue, four homes south of the proposed project. Park City has been his home for 50 years. He was on the Council and voted against the Sweeney agreements in both 1985 and 1987. As a contractor and developer, he has followed geotechnical mandates, but even the best engineers and builders occasionally make mistakes. Mr. Doilney shared information about the Kings Crown slide and its

impacts. The ground there was an approximately 30% slope. Whether or not the application violates the Sensitive Land Overlay should not guide the decision. Safety should be the focus.

Betsey Wallace gave her address as 158 Main Street and stated that her zip code is 84060. The proposed property is wide and deep, meaning that it will go down 70 or 80 feet, resulting in a lot of dirt being disturbed. She explained that the west side of the valley becomes steeper as one drives or walks up Main Street. The same can be said as one walks up King Road. With the steepness of the proposed property and the unpredictable weather conditions, there may be many homes in the path that could be hit by a mudslide or landslide. Ms. Wallace stated that the Planning Commission must stop the approval of the development of this property until it can be guaranteed that these slides will not occur and will not impact the safety of others.

Ginger Tolman gave her zip code as 84060 and stated that she is in the direct line of the potential landslide area. While she understands the Sensitive Land Overlay lines have shifted a bit, were vague, or there were issues with the digitization, none of that makes her feel any less at risk.

Rich Wyman noted that the applicant's attorneys have gone on record stating that the applicant would never build a house that can slide. However, it is not necessarily the house that would slide, but the soil around the house. Mr. Wyman noted that many have spoken in opposition to this application. He agrees with those who spoke before him against the application. It seems that the Sensitive Land Overlay is vitally important, but there is a lot of confusion about it. A lot of work still needs to be done by Staff and by the Planning Commission to reach a conclusion. Mr. Wyman believes there are substantive changes that have taken place in the application. He also felt the dangers of the excavation, slides, and trucks coming up and down King Road need to be discussed. He asked the Commission to listen to the comments that have been shared.

Nic Schapper gave his zip code as 84098. When he reviewed the Staff Report, he saw a series of justifications based on precedent, but what matters to the community is whether it is safe to build what is proposed on a steep slope. He responded to an avalanche in the late 1980s that covered King Road and buried a vehicle parked at the corner in front of the subject property. Nowhere in the presentation were the winter safety concerns addressed. Mr. Schapper stated that avalanches begin on 30-degree slopes and there is a history of avalanches in that area. He did not see that due diligence was done to address the snow and winter conditions.

Mr. Schapper noted that these are the first houses in over 100 years to be built that high above Main Street. He wanted the Commissioners to look beyond precedence and focus on the safety of building slopeside. Building on the site needs to be safe for the community and houses below.

There were no further comments. The public hearing was closed.

Director Ward shared comments on behalf of Commissioner Suesser. The Sweeney MPD states that there are no vested rights that exempt the property from future zoning changes. The ordinance approving the Sensitive Land Overlay states that applications are not exempt from the Sensitive Land Overlay even if the MPD governing the application was approved prior to the creation of the Sensitive Land Overlay. Moving the building pad into the Sensitive Land Overlay is inconsistent with the Sweeney MPD and that inconsistency means the project is not protected by any vested rights. She feels the application requires a Sensitive Land Overlay determination.

Additional comments were shared by Commissioner Suesser. As for whether the Sensitive Land Overlay can bisect a lot, she believes it can do so since the Sensitive Land Overlay is based on

topography rather than lot lines. Chair Hall noted that the first and second questions from the Appeal Panel have been discussed jointly during the Planning Commission Meeting. She asked for further Commissioner comments about the first two questions forwarded from the Panel.

Commissioner Frontero noted that by virtue of the approval dates, there was a starting point for vesting rights determined. The code provides for the Sensitive Land Overlay to be applied if there are substantive changes occurring. He acknowledged that Commissioner Suesser pointed out a few areas of the application that would rise to the level of a substantive change. As a result, he wanted to focus on that area of discussion first. He thought the Commission should come to a conclusion about whether there is a substantive change proposed to the property or not.

Director Ward reported that there has been a lot of input on this application and this process. She shared a slide that shows the topography of 220 King Road for reference. Much of this property contains very steep slopes, including where the existing structures are built. In 1995, the Planning Commission recommended, and the City Council adopted, the ordinance approving the Treasure Hill Subdivision, establishing the building pad. In the establishment of the building pad, the Sensitive Land Overlay was not applied, even though that process was after the 1992 adoption.

Specific to Lot 2, the building pad went through an amendment process two years later in 1997, which impacted very steep slopes. At that time, the Sensitive Land Overlay was not applied as part of the analysis or review of the project. Director Ward explained that through the history of the vesting and how it is has been interpreted and applied to the Treasure Hill Subdivision properties, as well as 220 King Road, amending the building pad has not been determined to be a substantive change. Commissioner Frontero believed the Commission is relying on precedent.

Director Ward shared additional comments from Commissioner Suesser. She stated that moving a building pad into a Sensitive Land Overlay is a reconfiguration and a reconfiguration is considered a substantive change under the code. She also asked a clarifying question, which was whether the prior findings were correct. Commissioner Van Dine noted that applying the Sensitive Land Overlay to this area only impacts the accessory building that protrudes and not the main building pad for the main house. Director Ward explained that the modification proposed by the applicant is to remove some of the building pad from the eastern portion of the lot, which also contains very steep slopes, bring that to the west, and expand the footprint behind the single-family dwelling for the partially sub-terranean accessory building. Commissioner Van Dine pointed out that the main structure could still be built regardless of the decision made.

Commissioner Johnson reviewed the first question from the Appeal Panel. He believes the answer is yes, but based on the discussion with the applicants this evening in relation to where the Sensitive Land Overlay boundary is, he is not sure that the Sensitive Land Overlay applies to this particular parcel. While he believes errors have been made in the past regarding the Sensitive Land Overlay and how it applies to the Sweeney MPD, with this particular lot, based on what has been provided by the applicant, he is not sure it necessarily matters for this particular project.

Commissioner Johnson noted that he voted against the Steep Slope CUP because he did not feel that it met the CUP criteria or that it complied with the LMC criteria in 12-2.2-6B. However, the Planning Commission cannot reopen the Steep Slope CUP based on the Sensitive Land Overlay. This residential development will have an 80-foot shoring wall cut into the hillside. Regardless of what happens at this meeting, he urged the Chief Building Official to look carefully into any shoring and geotechnical reports that are received in the future. Commissioner Van Dine agreed with the comments that were shared by Commissioner Johnson.

Commissioner Frontero reviewed the first Appeal Panel question. According to Commissioner Johnson, he believes the answer is yes, which is something that Commissioner Frontero agrees with. However, the Sensitive Land Overlay would apply if substantive changes are being made. He wondered what Commissioner Johnson thought about that matter. Commissioner Johnson stated that it is arguable, but based on the interpretation of the boundaries presented, he does not believe the property in question would be within the overlay and subject to its provisions.

Commissioner Frontero stated that his answer to the first question is yes. He believes the Sweeney MPD provided vesting for this lot, because of the timing of when it was originally approved. That being said, he does believe that this current application is rising to the level of substantive changes. His understanding is that if the changes are substantive, then the Sensitive Land Overlay should apply. Based on that, his answer to question one would be that the Sensitive Land Overlay did not apply until the application rose to the level of a substantive change. Commissioner Frontero stated that the original 1990s map shows that the properties are outside of the Sensitive Land Overlay, therefore, the Sensitive Land Overlay does not apply to Lot 2.

Attorney Harrington believed Commissioner Frontero agreed with the Staff analysis, which indicates that the zoning ordinance, which adopted the original map, controls because it was more specific. Commissioner Frontero confirmed this. He is having trouble ignoring the original map in favor of the digitized map. Commissioner Johnson feels similarly, but his question is how to define the line in the future to make sure there is more clarity about the maps that are in place. Director Ward acknowledged the concerns and agreed this is something that needs to be clarified.

Chair Hall found the potential for error for something so important to be frustrating. She hopes that unrelated to this application, the map can be revisited by the Planning Commission in the future. As for this application, she asked that each Commission summarize their thoughts.

Commissioner Van Dine agrees with Commissioner Frontero that the original map best delineates where the Sensitive Land Overlay was intended to be. That goes back to the first question from the Appeal Panel and clarifies that the Sensitive Land Overlay should not apply to the subject property within the Sweeney MPD. It is outside of the Sensitive Land Overlay. The digitized map has shown the applicant property drifting closer to the overlay line. On the other hand, she agrees with a lot of the points raised by Commissioner Johnson and hears the concerns about excavation and slide potential. When it comes to the question of whether this is a substantive change, she does not believe that it is based on the previous letter from Attorney Carter. For the second question, she believes the Sensitive Land Overlay can bisect a lot, but in this case, it does not bisect the lot because the Sensitive Land Overlay does not apply to this particular property.

Chair Hall took a moment to summarize the comments made by the Commissioners. She believes Commissioner Van Dine and Commissioner Johnson feel the Sensitive Land Overlay applies to the Sweeney MPD, but does not apply to this lot due to where the line is drawn. Commissioner Suesser felt that the Sweeney MPD as a whole is not vested. Commissioner Frontero believes that the Sweeney MPD was vested until there was a substantive change. Discussions were had about the location of the Sensitive Land Overlay line on the maps. Commissioner Johnson noted that there will never be a solid answer, due to the previous process.

Chair Hall believes that all four of the Commissioners agree that the Sensitive Land Overlay could bisect a lot, but three of the Commissioners feel that the line is not bisecting this particular property. On the other hand, Commissioner Suesser does believe that it bisects this property.

Director Ward shared comments from Commissioner Suesser. She did not state that the Sweeney MPD was not vested, but the change in this application varies from what was approved for the project under the MPD. She felt that triggered the Sensitive Land Overlay. Commissioner Suesser commented that the Sensitive Land Overlay can bisect a lot, as it is based on topography. Chair Hall discussed the areas where there is and is not consensus among the Commission. There is a majority consensus that the Sensitive Land Overlay line is outside of the applicant lot.

Director Ward explained that the motion language would request that Staff draft these findings for Appeal Panel consideration. Discussions were had about appropriate motion language.

MOTION: Commissioner Frontero moved to RECOMMEND that Staff make findings to present to the Appeal Panel, as the Planning Commission finds that Lot 2 lies outside of the Sensitive Land Overlay and therefore does not apply. The answers to the other questions from the Appeal Panel were summarized by Chair Hall. Commissioner Van Dine seconded the motion.

VOTE: Commissioner Frontero-Aye; Commissioner Van Dine-Aye; Commissioner Johnson-Aye; Commissioner Suesser-Nay. The motion carried with a vote of 3-to-1.

The Planning Commission took a five-minute break before hearing the next agenda item.

- E. 1800 Park Avenue – Park and Kearns Master Planned Development –**
The Applicant Proposes Redevelopment of the Site with 174 Hotel/Condo Units, 60 Affordable Units, 8,143 Square Feet of Restaurant/Bar Uses, 2,543-Square-Feet of Retail, and 6,500-Square-Feet of Office Spaces in the General Commercial Zoning District and Frontage Protection Overlay Zone. The Applicant Modified the Project Building Height and Requested Planning Commission Input. PL-22-05476.

Director Ward presented the Staff Report and explained that it is for the Park and Kearns MPD. The property is located at 1800 Park Avenue. The applicant has been revising the plans, so the request is to receive some input from the Planning Commission specific to height. As a reminder, the property is within the Frontage Protection Overlay Zone. The purpose of that zone is to:

- Preserve the scenic view corridors;
- Enhance the resort character of the entry corridor;
- Provide a significant landscape buffer between development and highway uses;
- Minimize curb cuts, driveways, and access points;
- Allow for future pedestrian and vehicular improvements along the corridors.

Within the MPD review process, applicants can request some exceptions on how density is allocated through volume on the site based on the underlying density if six criteria are met:

- The increase in Building Height does not result in increased square footage or Building volume over what would be allowed under the zone-required Building Height and Density, including requirements for Facade variation and design, but rather provides desired architectural variation, unless the increased square footage or Building volume is from the Transfer of Development Credits;

- Buildings have been positioned to minimize visual impacts on adjacent Structures. Potential problems on neighboring Properties caused by shadows, loss of solar Access, and loss of air circulation have been mitigated as determined by the Site-specific analysis;
- There is adequate Landscaping and buffering from adjacent Properties and Uses;
- Increased Setbacks and separations from adjacent projects are proposed;
- The additional Building Height results in more than the minimum Open Space required and results in Open Space that is publicly accessible;
- The additional Building Height is designed in a manner that provides a transition in roof elements in compliance with Chapter 15-5, Architectural Review, or the Design Guidelines for Park City's Historic Districts and Historic Sites if the Building is located within the Historic District.

Commissioner Johnson asked to review 15-2.20-4. Director Ward shared that language with the Commission. Commissioner Johnson noted that in the case of General Commercial, it clearly states that no structure can be erected to a height greater than 35 feet. Exceptions were only made for five to eight feet for rooftop utility equipment. This seems to supersede what Director Ward referenced in the MPD section of the code and there is a cap of 35 feet in the Frontage Protection Zone. Director Ward clarified that this is her understanding as well. The applicant is requesting an exception to that and the building height outside of the Frontage Protection Zone.

Commissioner Johnson wanted to know if the City is legally able, based on the language in 15-2.20-4 to grant an exception within 100 feet of the Frontage Protection Zone. Director Ward explained that the majority of the Commission input so far has been to keep that 35 feet within the Frontage Protection Zone. The question is whether the MPD height can exceed the 35 feet in the Frontage Protection Zone when the Frontage Protection Zone requires consistency with the underlying zoning district. Commissioner Johnson explained that within 100 feet, the Commission must defer to the maximum underlying zoning height. Attorney Harrington informed the Commission that he would prefer to research this further. He is not sure that there is a limitation in the MPD height exception criteria that would prohibit the Commission from considering this. Commissioner Johnson asked that information be shared about this in the future.

The applicant representative, Peter Tomai, introduced himself to the Commission. He explained that he is a development partner with the applicant. Craig Elliott of Elliott Workgroup is also present at the meeting as well as Seth Singerman from Singerman Real Estate. As the first potential major redevelopment in an operating property in town, this property represents a win for the community. He is excited about the valuable improvements and the community infrastructure that the proposed redevelopment would provide. The features most desired by the community in Bonanza Park are livability, walkability, sustainability, and inclusivity. He believes that the 1800 Park MPD will deliver these community benefits to make the community better than it is today.

Mr. Elliott noted that everyone listened to the feedback received during the last two presentations and significant changes were made to the project. Some of the densities were reduced, the buildings were lowered by a story and a half in some places, and a floor was dropped in all areas. The intention is to create a project that everyone will be happy with. Mr. Elliott reported that he has a presentation prepared, which includes some videos interspersed throughout.

As for the earlier question from Commissioner Johnson, the way they have reviewed the language is that the Frontage Protection Zone requires there to be consistency with the underlying zone,

which is General Commercial. The General Commercial Zone requires an MPD because it has more than 20 lodging units and more than 10,000 square feet of commercial. In order to be consistent, it is required that there be an MPD process. Mr. Elliott explained that the MPD process allows them to use the height exception, which is something that was included to ensure there were better projects. The different heights will create diversity in mass and form in relationship to the surroundings. It is his impression that the request is consistent with the zone because the zone requires the MPD process. The MPD process then allows them to request the height.

Mr. Elliott shared a map of the area and pointed out the location of the site. He reviewed the pedestrian and bicycle accesses to the site, which are not ideal. One benefit of the location is that it is next to one of the busiest transit centers in town, as most of the bus lines come through the area. There are more automobile access points than there are pedestrian access points. Part of the Frontage Protection Zone requirements involve cleaning that up. As a result, a Proposed Site Plan was created that breaks the building massing into five blocks: A, B, C, D, and E.

With the Frontage Protection Zone, there are five criteria that need to be met. Mr. Elliott shared a short video to illustrate how the proposal is consistent with those and improves the current conditions. The intention is to create a buffer around the project and to set it back in order to maintain the view corridor. He thinks the design does a good job of breaking up the massing. In addition, there is a significant landscape buffer proposed that includes pedestrian pathways. The end result is 38.1% open space. The requirement is to have 30%, but the intention is to focus the public-oriented open space on the perimeters of Park and Kearns. The Frontage Protection Zone has a requirement to minimize curb cuts and driveways. There are two curb cuts that exist on Kearns currently and those have been consolidated and aligned with the easternmost entrance to the parking lot. This will improve turning radiuses. A second entrance and access point at the entrance to the hotel has been removed as well, which will relieve some of the current issues. Additionally, he noted that there is a drop-off area available for the meeting space.

The fifth criterion for the Frontage Protection Zone is to allow for future pedestrian and vehicular improvements along the corridors. Mr. Elliott reported that this project has been designed to accommodate a future tunnel connection and a 12-foot-wide multi-use path. There is an opportunity for better access from the transit center as well. Mr. Elliott shared a video to provide context for what currently exists in the area. He pointed out that the sidewalk is approximately four feet wide and is right on the curb of two highways. The proposal is something significantly different. It meets the requirements and the overall intent of the Frontage Protection Zone.

An aerial image with the proposed uses was shared. Mr. Elliott pointed out a restaurant with a rooftop bar on the south side. The meeting space has been moved to the section adjacent to that. Block A is the hotel drop-off that has condo-hotel units over the lobby and services. Blocks B, C, and D are condo-hotel units. In between each one of those is a public gathering area. In Block E, there is affordable housing over top of commercial. Mr. Elliott referenced a 30-foot setback line. The Holladay Village property is just shy of a 30-foot setback. As for the height of the Holladay Village, the closest corner is 39 feet. The furthest corner of the building that is closest to Kearns is 41 feet. The project massing proposed is slightly smaller than that and is consistent with the nature of the street. Additional details were shared about setbacks and height.

Mr. Elliott reviewed drawings that illustrate the existing conditions for Yarrow and Holladay Village. He next shared a drawing of the 1800 Park proposal and pointed out the landscaping and the building. Commissioner Frontero asked for clarification about which building is shown. Mr. Elliott clarified that it is in Block B. It is important to consider the context of the area to understand the

heights proposed and the impact of those heights. The proposal is similar in height to the Holladay Village, but it is proposed to be 20 feet further back. Building height was further discussed.

Mr. Elliott shared the following information with the Planning Commission:

- The increase in building height does not result in increased square footage or building volume over what would be allowed under the zone-required building height and density, including requirements for facade variation and design, but rather provides desired architectural variation, unless the increased square footage or building volume is from the transfer of development credits.

An analysis was conducted that used the 100-foot setback and an analysis was conducted that used the 30-foot setback. Mr. Elliott explained that the proposed volume is less than either one. As for the architectural variation, he reminded Commissioners that the height exception was included to improve architectural designs. The idea was to ensure there were quality projects. Mr. Elliott believes there is a lot of variation proposed with this project, particularly along Kearns.

Commissioner Frontero understood that solar panels are being considered and asked where those would be located. Mr. Elliott explained that those would not be visible from the street and are proposed to be on Block A and Block E. He pointed out the locations on the aerial image.

Commissioner Johnson discussed the architectural variation. It seemed the buildings along Kearns have been tweaked slightly since the last presentation. Mr. Elliott confirmed that some additional development has been done as far as the architectural character. There is a stone veneer and a wood-type finish. The materials would last well on a long-term basis. There is an intention to tie in the materials seen in the area and allow the building forms to represent the uses clearly. There is a combination of stone, wood, and a metal panel in addition to the glass.

Commissioner Johnson asked about the mechanical equipment on the roof. He wondered whether that will be centered more on the roof so it is stepped back off of the edge where there are no solar panels proposed. Mr. Elliott confirmed that this is what they have been looking at. There is a mechanical screen on Blocks B, C, and D. Those are stepped back significantly. Commissioner Johnson wanted to know if there has been contemplation of the relocation of the telecommunications facilities on the rooftops. Mr. Tomai reported that there have been conversations with the existing antenna operators about opportunities to accommodate the continuation of those facilities in a less obvious fashion. It is possible to use the flagpoles for this.

Mr. Elliott next read the following language from the presentation slides to the Commission:

- Buildings have been positioned to minimize visual impacts on adjacent structures. Potential problems on neighboring properties caused by shadows, loss of solar access, and loss of air circulation have been mitigated as determined by the site-specific analysis.

The Landscape Plan was reviewed. Mr. Elliott noted that there are a number of indigenous species and bioswales. Along the perimeter, it is heavily landscaped. A rendering of the buffer from the walking path looking to the west was shared for reference. Mr. Elliott next informed the Commission that increased setbacks and separations from adjacent projects are proposed. He shared a map that indicates the Frontage Protection Zone and MPD setbacks for the area. There is a tremendous amount of variation in the setbacks. With the 25-foot setback, they have tried to

consider the future of Bonanza Park. The goals indicate that there is a desire for mixed-use. Mr. Elliott explained that the east and south sides are set up for sidewalks, retail, and access to commercial spaces. He next read the following language to the Commission:

- The additional building height results in more than the minimum open space required and results in open space that is publicly accessible.

Mr. Elliott reported that there is a 30% open space requirement and the project currently proposes 38.1%. There is additional open space on the interior of the property. He noted that there are several public gathering areas proposed, one between Block B and Block C and one between Block C and Block D. These spaces will be beneficial areas for members of the public to gather. The final issue outlined in the presentation slides related to transition and roof elements:

- The additional building height is designed in a manner that provides a transition in roof elements in compliance with Chapter 15-5, Architectural Review, or the Design Guidelines for Park City's Historic Districts and Historic Sites if the building is located within the Historic District.

Mr. Elliott noted that there is a significant transition in roof elements. The variation in the building mass is significantly greater than the 15 feet outlined. He shared some example images. The star shown on Block D is the tallest point along Kearns based on the existing grade. The grade will match the grade along the eastern property line. Mr. Tomai pointed out the accommodations in the Proposed Site Plan for the tunnel and the stairs to the tunnel. That was modeled into the site early on. Mr. Elliott shared additional renderings and videos to illustrate what is proposed.

Chair Hall believed the Staff Report indicated that the intention is to focus on the building height during this discussion. This includes the rationale for exceptions to building height as well as the Frontage Protection Zone. Commissioner Johnson appreciates the revised plans submitted by the applicant, as this presentation was a little more in-depth. He also appreciates the slide that depicted the Frontage Protection Zone and the adjacent properties. Overall, he would still like some more information, but he likes where things are headed. Commissioner Johnson specifically requested a better depiction of the heights of the proposed buildings from grade. It would be advantageous to have the parapets and any mechanical equipment included as well. Additionally, he needs some clarification about whether the Frontage Protection Zone supersedes an MPD. Based on his reading of the code, he believes it does, but more clarity is needed.

Director Ward read comments from Commissioner Suesser. She asked how much height the solar panels and parapets add to the height of the building. She also wanted to know why those should be excluded from the total height. Mr. Elliott believes it is approximately 3-feet, but offered to find the exact dimensions for the Commission. Commissioner Suesser asked what square footage and building volume is allowed for the 35-foot building on the project site. She specifically wanted calculations for buildings starting at the Frontage Protection Zone lines of 30 feet, 50 feet, and 70 feet, including requirements for other setbacks, façade variation, and design. Director Ward explained that it is possible for Staff to work with the applicant to update and clarify that information ahead of the next Planning Commission presentation on the proposed project.

Chair Hall opened the public hearing.

Marianne Crosby explained that she has been a resident of Park City for 40 years. During her 37 years as a real estate professional, she has helped shape some of present-day Park City with various projects. In addition, she has served on numerous Board and Commissions, including the Park City Historic Preservation Board. Ms. Crosby thanked the Planning Commission for considering the proposed MPD for the 1800 Park Avenue site. She feels the benefits of the proposed development far outweigh the proposed increase in height. She commended the applicant for submitting a well-thought-out design and Site Plan. The design is not an attempt to copy Historic District structures but will provide a fresh contemporary look and feel, rather than the dated brick-and-mortar look of the City's initial expansion beyond Old Town in the mid-1970s.

The proposed Master Plan goes beyond simply meeting the basic requirements of the General Commercial Zone by providing a safe and visually appealing Frontage Protection Zone, which is not currently in place on Kearns Boulevard or Park Avenue going south from City Park. There will also be large gathering areas for locals and visitors to meet, dine, walk, and bicycle to. Ms. Crosby hopes this example of responsible development will set the standard for all future development of the Bonanza Park area. As for affordable housing, she noted that this will provide 60 units of inclusionary housing with direct access to transit, entertainment, and shopping.

Corie Hardee gave her zip code as 84060. She is the President of the Homeowners Association ("HOA") for Park Avenue Condominiums. This is the only residential neighborhood that is directly impacted by the proposed project. Park Avenue Condominiums is a large residential community with many of the 132 units occupied by full-time residents. While the project could potentially offer significant long-term community benefits, there are concerns about the quality of life for the full-time residents during the construction period. She is eager to work collaboratively to find solutions that address these concerns and ensure the project proceeds in a respectful manner.

Tim Bidell gave his zip code as 84060 and stated that he lives in the Park Avenue Condominiums. He is a full-time resident and has lived there since 2012. Mr. Bidell thanked Mr. Tomai who has done a lot of outreach and met with the HOA. Being directly across from this project, both during and after construction, will impact the residents. He pointed out that there will be visual, auditory, and fugitive dust impacts. On a long-term basis, the views will also be impacted. Park City Condominiums has started a dialogue with the developers and there is a desire to continue that.

Bill Coleman stated that he has lived in the area for 55 years and he has sat on the Planning Commission and City Council. In terms of the heights, the General Commercial Zone is overdue when it comes to re-examining different height restrictions. This is a logical place to add height. Mr. Coleman likes that affordable housing has been proposed in this project and that it has the ability to positively impact the area. He believes this is a phenomenal project that will be a real improvement. He expressed appreciation for the applicant's approach and for the Staff effort.

Mark Fischer expressed his support for the project. The reason he feels it is important to the community is that it could be a flagship project for the long-term future of Bonanza Park. He stressed the importance of there being a future vision for the area. There will need to be compromises made, as he feels it is important for this project to be approved in some fashion.

Mark Sletten noted that he has driven by this site many times in the 30 years that he has been living in Park City. This is an important area, especially in terms of access for pedestrians, bicyclists, and vehicles. He discussed the Proposed Site Plan and pointed out the articulation of the five buildings, the underground parking, the open space, and affordable units. There need to

be concessions provided to make sure this project works. The height limitations that have been set are unreasonable given construction costs. He thinks this will be an exceptional project.

There were no further comments. The public hearing was continued to a date uncertain.

It was noted that Commissioner Suesser left the Planning Commission Meeting.

Commissioner Johnson acknowledged the public comments received. He clarified that he is not against the height, but his question about the Frontage Protection Zone is whether it is legally possible to grant an exception to the underlying zone height. He noted that it is a question of the rules that need to be abided by rather than the wants and needs of the community.

Commissioner Van Dine stands by her prior comments about the height, especially in the Frontage Protection Zone. The 45-foot exceptions have gone towards affordable MPDs. That being said, she does see the community benefits associated with this project and the proposal has come a long way. She stressed the importance of preserving the character of the area. While she does not want to continue to mirror everything in Park City with old architecture, she struggles with the look of this project and the 45-foot height proposed on that front corner. The back building is not as much of an issue for her, but 45 feet right on Kearns is a bit much, in her opinion.

Commissioner Frontero found the presentation to be much improved. He applauded the applicant for coming back and listening to some of the previous comments. Most of those have been incorporated in the present iteration. The height is something there will need to be additional discussions about, but he believes there are significant benefits that have been presented. He is more comfortable with the height proposed based on that. Some of the benefits are on-site affordability, underground parking, that the tunnel has been considered, the breakup of the massing, two public green spaces, more open space than required, and the 12-foot sidewalks. There are significant benefits proposed and he appreciates what has been presented so far.

Director Ward reported that Commissioner Suesser shared some comments before she left the meeting. Commissioner Suesser stated that she will revise her comments and submit them for the record, based on the new information that was presented at the Planning Commission Meeting. Chair Hall stated that she also finds there are a lot of community benefits proposed, however, she does not believe it is possible to go above the height of the Frontage Protection Zone. She would have a hard time finding all six criteria for a height exception in the zone. Discussions were had about an appropriate meeting date for future application consideration.

MOTION: Commissioner Johnson moved to CONTINUE the 1800 Park Avenue Master Planned Development and Conditional Use Permit to the August 28, 2024, Planning Commission Meeting. Commissioner Frontero seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Suesser did not participate in the vote.

F. 2656 Aspen Springs – Modification to a Conditional Use Permit – The Applicant Requests a Modification to a Guest House Conditional Use Permit Approved by the Planning Commission on April 13, 2022, to Include an Outdoor Pool. PL-24-06160

Director Ward reported that the next item is a Modification to a Conditional Use Permit for 2656 Aspen Springs. It is a modification to a Guest House Conditional Use Permit that was approved by the Planning Commission on April 13, 2022. The request is coming from Staff due to a Staff oversight. Director Ward expressed appreciation to the property owner and applicant representative for working with Staff while a path forward was determined. This will allow for the inclusion of an outdoor pool on the property. All of the details are in the Staff Report, which includes compliance with the zoning district setbacks, mitigation, landscaping, and visibility.

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

Commissioner Johnson had a question about Condition of Approval #9. He wanted to know why the word “substantially comply” was included. Director Ward explained that something that has been found with Landscaping Plans is that the tree types might change, but some are still allowed under the approved list. This provides some flexibility for minor modifications to the landscaping. Director Ward suggested clarification to state that the “outdoor pool shall comply with...” and “the landscaping plan shall substantially comply with...” There was support for this amendment.

MOTION: Commissioner Van Dine moved to APPROVE the Modification to a Conditional Use Permit for 2656 Aspen Springs Drive, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval, as amended, in the Final Action Letter:

Findings of Fact:

1. The property is located at 2656 Aspen Springs Drive, Lot 47 of the Aspen Springs Ranch Subdivision Phase II.
2. The property is in the Single-Family (SF) Zoning District and a portion of the Lot's rear is zoned as Recreation Open Space.
3. Lot 47 contains 1.6 acres.
4. A Detached Guest House, an Accessory Structure, is a Conditional Use in the SF Zoning District and requires Planning Commission review and approval.
5. On February 7, 2022, the Planning Department received a Conditional Use Permit Application to construct a Detached Guest House at 2656 Aspen Springs Drive.
6. On February 15, 2022, the Planning Department determined the Conditional Use Permit Application was completed.
7. The minimum front Setback for the SF Zoning District is 20 feet.
8. The minimum rear Setback for the SF Zoning District is 15 feet.
9. The minimum side Setback for the SF Zoning District is 12 feet, on each side.
10. The site plan indicates the southwest corner will touch the Front Setback.
11. The maximum height for an Accessory Structure is 18 feet.

12. The Plat states the maximum Limits of Disturbance (LOD) for Lot 47 is 10,000 sq. ft.
13. The Plat states the maximum Floor Area is 8,250 sq. ft.
14. The ROS-zoned portion of Lot 47 is a non-disturbance zone.
15. Conditional Use Permits require review pursuant to the criteria outlined in Land Management Code § 15-1-10(E).
 - a. Size and Location of Site – No unmitigated impacts. The Lot is 1.6 acres. The Detached Guest House is proposed to be outside the ROS-zoned portion of the property. The proposal complies with the size, height, setback, and location criteria for the Guest House as found in the LMC.
 - b. Traffic Capacity – No unmitigated impacts. Traffic generated by occupants of the Guest House will have minimal impact on traffic capacity.
 - c. Utility Capacity – No unmitigated impacts. All utility requirements will be reviewed during the Building Permit review phase.
 - d. Emergency Vehicle Access – No unmitigated impacts. Emergency vehicles can access the site from Aspen Springs Drive.
 - e. Off-Street Parking – Complies. LMC § 15-3-6 requires a Guest House to provide one (1) Off-Street parking space in addition to the required two (2) parking spaces for the main Structure. The Applicant proposes to build an additional garage with the Guest House to meet this requirement.
 - f. Internal Vehicle and Pedestrian Circulation – No unmitigated impacts. The Use of the Detached Guest House will not change vehicle or pedestrian circulation.
 - g. Fencing, Screening, Landscaping, to Separate Use from Adjoining Properties – Condition of Approval 5.
 - h. Structure Mass, Bulk, and Orientation – Condition of Approval 6.
 - i. Useable Open Space – No unmitigated impacts. There are no open space requirements for a Single-Family Dwelling. The addition of the Detached Guest House does not encroach into the ROS Zone nor change the amount of useable Open Space in the Subdivision.
 - j. Signs and Lighting – Condition of Approval 7.

- k. Physical Design and Compatibility with Surrounding Structures – No unmitigated impacts. The Detached Guest House is similar in design and scale in the Subdivision.
 - l. Noise, Vibration, Odors, Steam, or Other Mechanical Structures – No unmitigated impacts. There is no change in use that will result in additional noise, vibration, odors, steam, or other mechanical factors. All exterior mechanical equipment will be screened and comply with the Setback requirements.
 - m. Control of Delivery and Service Vehicles; Loading and Unloading; Screening of Trash and Recycling Pickup Areas – Not applicable. No changes are proposed for delivery and service vehicles or trash and recycling management.
 - n. Expected Ownership – Not applicable. No change in ownership is proposed.
 - o. Environmentally Sensitive Lands, Physical Hazards, Historic Mining Waste, Park City Soils Ordinance, or Steep Slope – Complies. The project is compliant with the Sensitive Lands Overlay (SLO).
 - p. General Plan Consistency – Complies. The General Plan calls out the importance of developing a Sense of Community. Goal 7 of the General Plan shows that the City strives to create a diversity of housing opportunities.
16. The findings in the Analysis section of the April 12, 2023, and June 26, 2024 Staff Report are incorporated herein.

Conclusions of Law:

- 1. This Conditional Use Permit, as conditioned, is consistent with the Park City Land Management Code.
- 2. The Use is consistent with the Park City General Plan.
- 3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval:

- 1. The Applicant shall ensure that the roof overhang does not project more than three feet (3') into the Front Setback.
- 2. The Applicant Shall ensure that the Detached Guest House does not exceed the allowed Maximum Floor Area as indicated on the Aspen Springs Ranch Subdivision Phase II Plat.

3. The Applicant shall ensure construction activity is confined to the LOD and the portion of Lot 74 zoned single-family.
4. The Detached Guest House shall not exceed a maximum height of 18 feet.
5. Fences and Retaining Walls shall comply with LMC § 15-4-2, Fences and Retaining Walls.
6. The project shall conform with the applicable sections of the LMC regulating Accessory Structure mass, bulk, and orientation.
7. No signs or outdoor lighting are proposed or approved under this CUP. The Applicant shall ensure all outdoor lighting is compliant with LMC § 15-5-5(J).
8. Prior to issuance of a certificate of occupancy, the Property Owner shall record with the Summit County Recorder's Office a deed restriction "Notice to Purchaser" stating the Guest House may not be sold or leased separately from the main house, nor used for Nightly Rentals.
9. The outdoor pool shall comply and the landscaping shall substantially comply with Building Permit 22-814 and the Site and Landscaping Plans dated June 6, 2024, and reviewed by the Planning Commission on June 26, 2024

Commissioner Frontero seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Suesser did not participate in the vote.

7. ADJOURNMENT

MOTION: Commissioner Van Dine moved to ADJOURN.

The meeting adjourned at approximately 10:10 p.m.

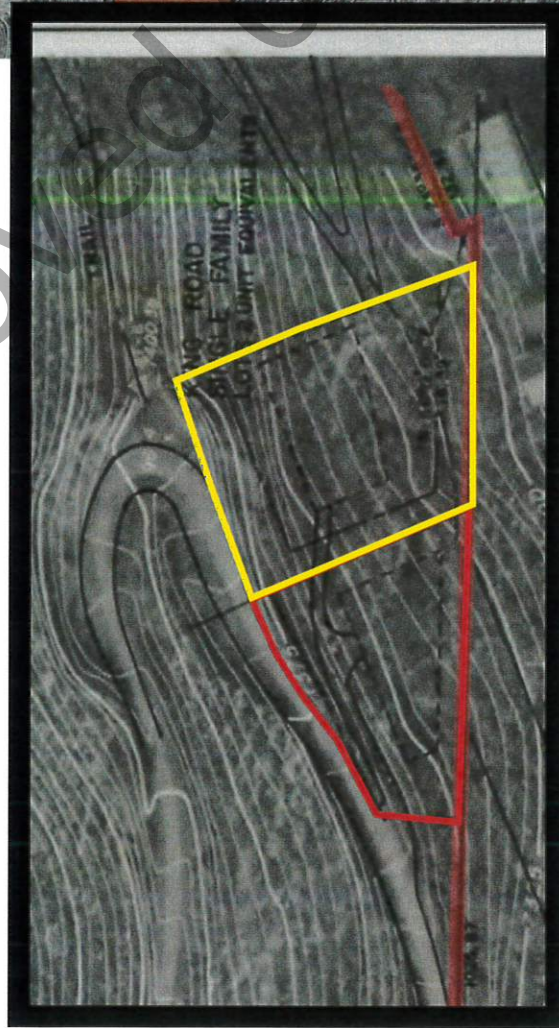
220 King Road
PL-22-05319, Plat Amendment

June 26, 2024

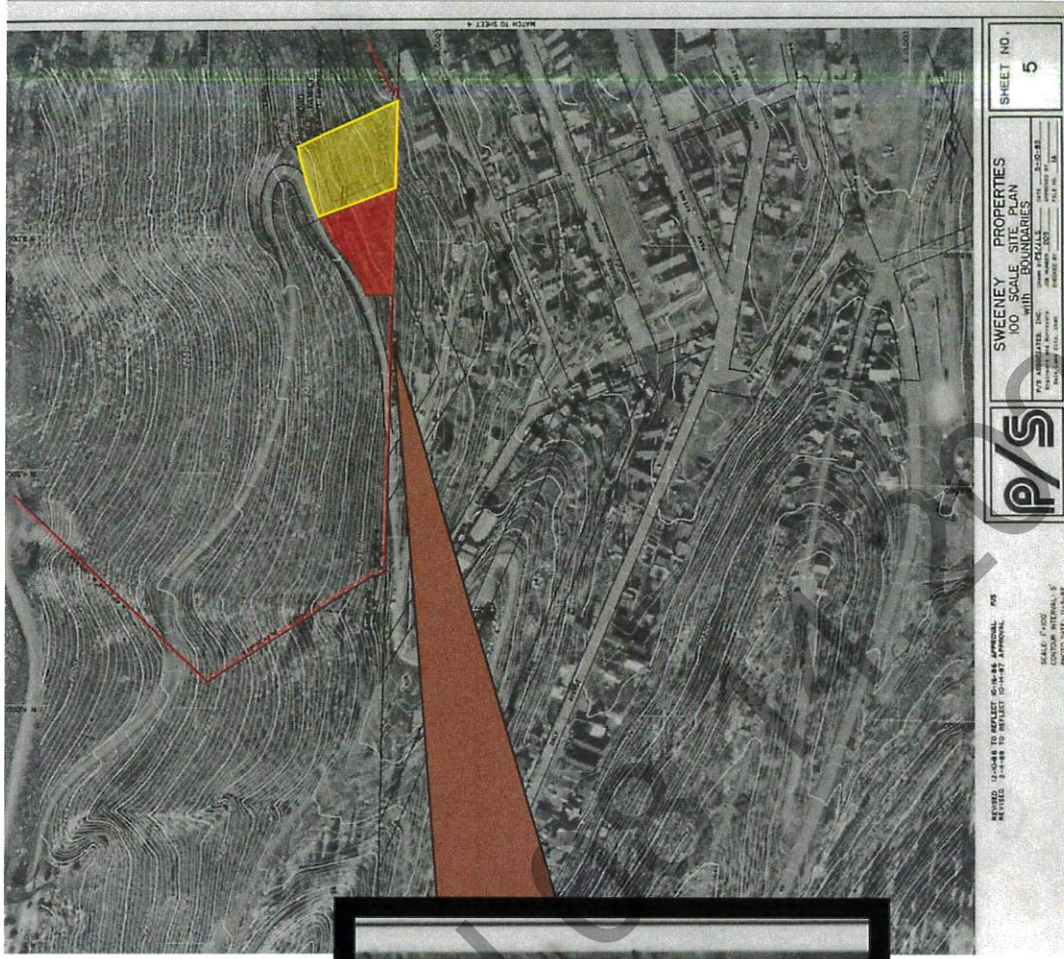
Sweeney MPD Timeline

- 12/18/1985 – Sweeney MPD Approved
- 10/14/1987 – Sweeney MPD Amended
- 8/8/1990 – Preliminary Plat, including Lot 2, received preliminary plat approval from Planning Commission
- 12/23/1990 – Six (6) Treasure Hill lots (including Lot 2), then identified by the preliminary plat, rezoned to HR1-MPD
- 9/27/1992 – Sensitive Land Overlay (SLO) adopted
- 9/23/1993 – Treasure Hill Phase 1 Preliminary Plat, including Lot 2, approved (No SLO Review)
- 9/7/1995 – Treasure Hill Phase 1 Final Plat, including Lot 2 approved (No SLO Review)
- 4/10/1997 – Amendment to Lot 2, Treasure Hill Phase 1 Final Plat (No SLO Review)
 - *Small Scale Master Plan and Accessory Dwelling approved at this time as well. (No SLO Review)*
- 2/3/2000 - Ordinance No. 00-4 adjusted the Sensitive Land Overlay boundary along Deer Valley Drive East
- 6/15/2000 – Treasure Hill Phase 2 Final Plat approved (No SLO Review)
- 7/31/2003 – Treasure Hill Phase 3 Final Plat approved (No SLO Review)
- 5/28/2009 – Treasure Hill Phase 3 Final Plat amended (No SLO Review)
- Approx. 2009-2010 SLO line was digitized and moved from previous alignment

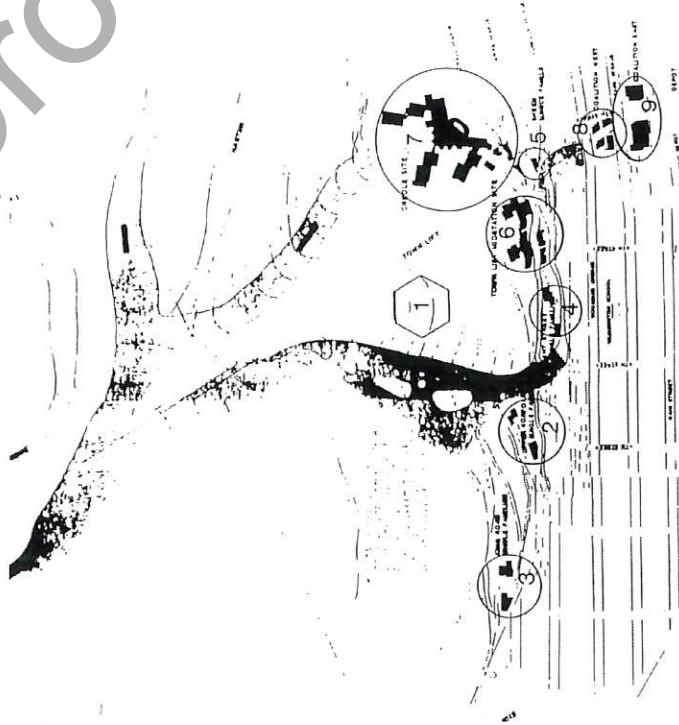
King Road Lots in 1987 (Approved Sweeney MPD)



Lot 2, 220 King Rd. – Yellow
Lot 1, 200 King Rd. – Red

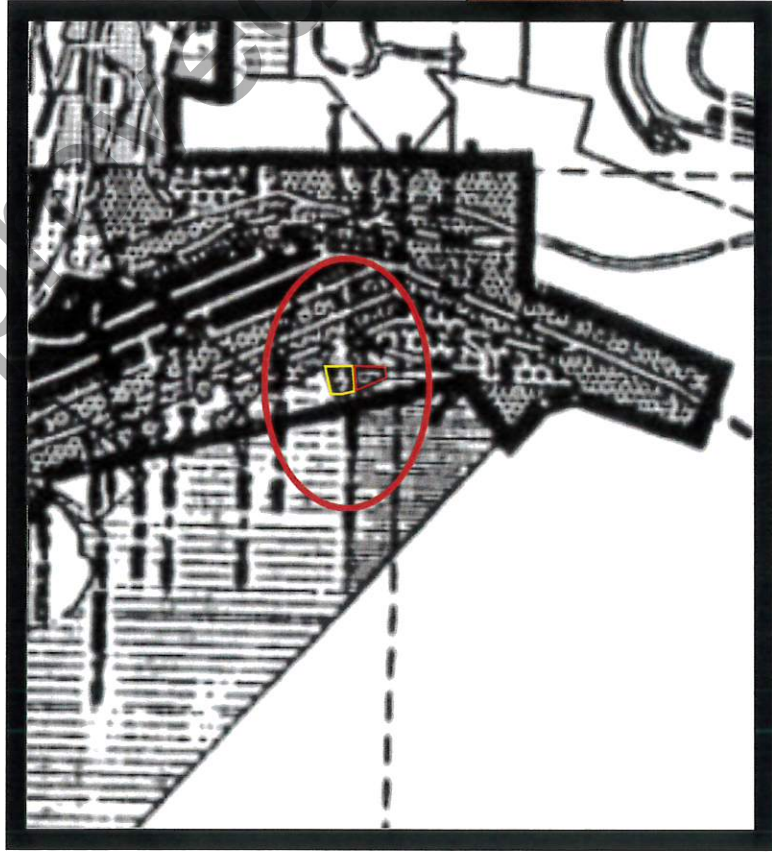


Sweeney Lots (including 220 King) in 1990 (Ordinance 90-24)

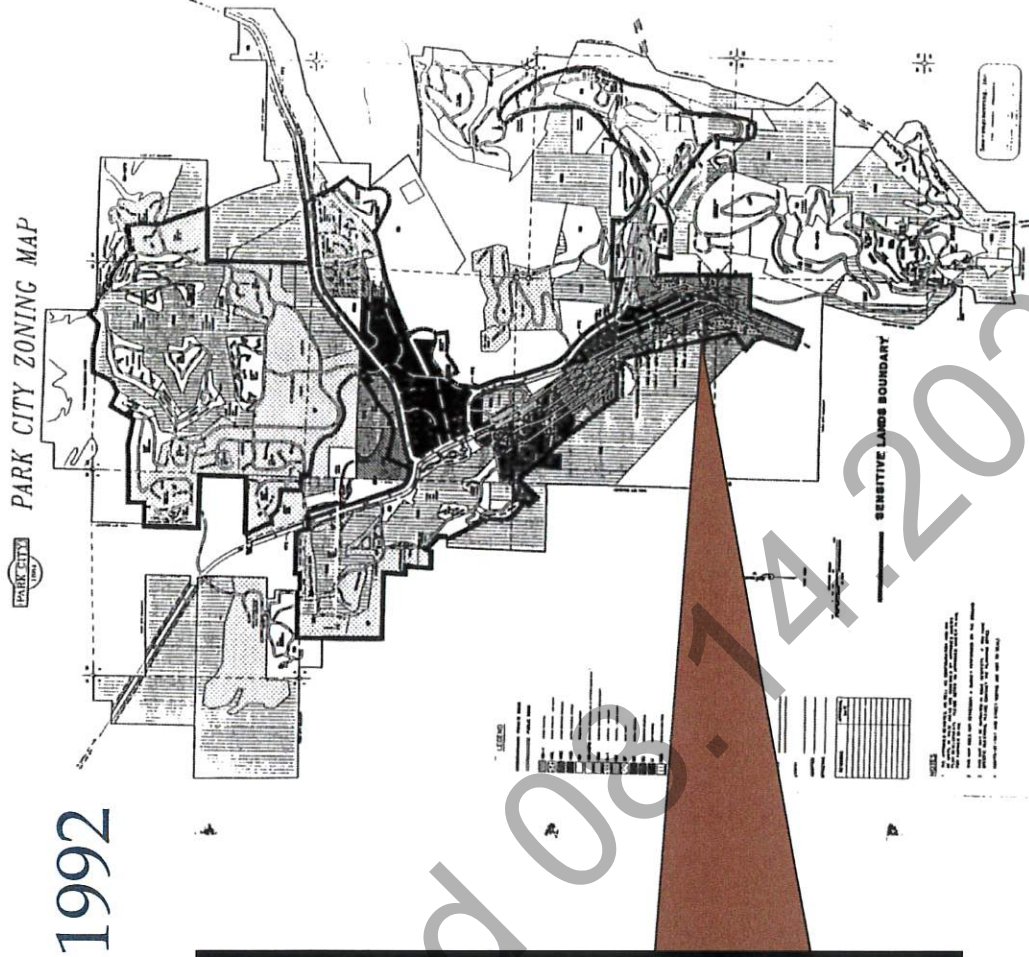


2. Rezone portions of the Historic District; specifically 109 acres of hillside on Treasure Mountain from Estate to Recreation Open Space and several development parcels; specifically; two Fifth Street single family lots from HR1 to HR1-MPD; and two upper Norfolk (approximately 400 Upper Norfolk) single family lots from HR1 to HR1-MPD; and two King Road (approximately 200 King Road) single family lots from HR1 to HR1-MPD; and one Lower Norfolk Avenue (approximately 700 Lower Norfolk) single family lot from HR1 to HR1-MPD; and a 3.75 acre condominium/commercial lot at the Town Lift Midstation from HR1 to Estate-MPD; and a 7.75 are hotel/condo/commercial lot at the Creole Gulch site from Estate to Estate-MPD; and a .543 acre hotel/condo/commercial lot at the Coalition West Site at approximately 775 Park Avenue from HRC to HRC-MPD; and a 1.57 acre hotel/condo/commercial site at approximately 770 Park Avenue from HRC to HCB-MPD - Suzanne McIntyre reported that the Sweeney Master Plan was approved in October 1986 and involves 125 acres of a hillside, commonly referred to as Treasure Mountain. The Master Plan was approved after extensive study of numerous concepts and spells out the densities and development parameters for each of the parcels and includes a provision that each be zoned according to the Master Plan. This request is being processed concurrently with a request for two two-lot single family subdivision. The subdivision plats were preliminary approved by the Planning Commission on August 8 and final plat approval is pending.

Adopted SLO Boundary 1992 (Ordinance 92-17)

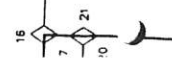


Lot 2, 220 King Rd. – Yellow
Lot 1, 200 King Rd. – Red



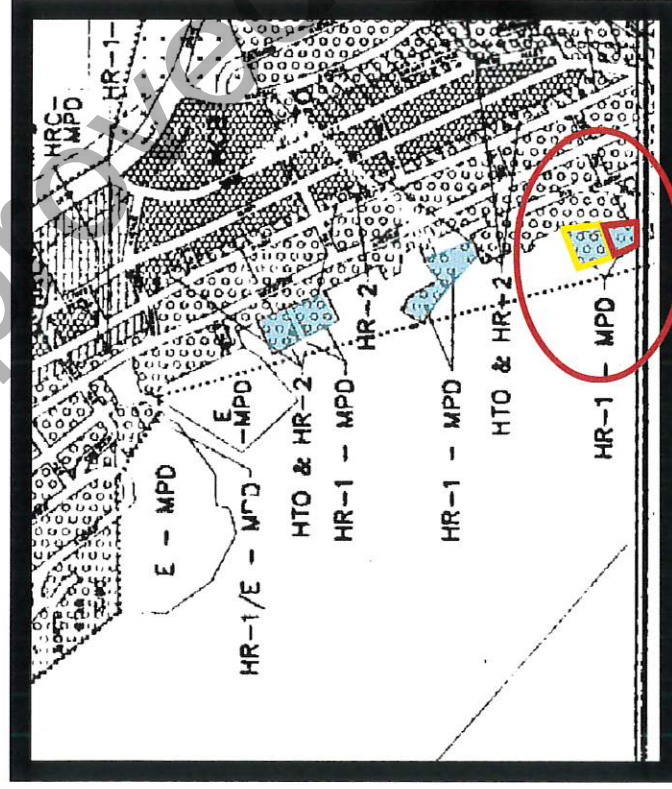
[illegible]

Project-Site:

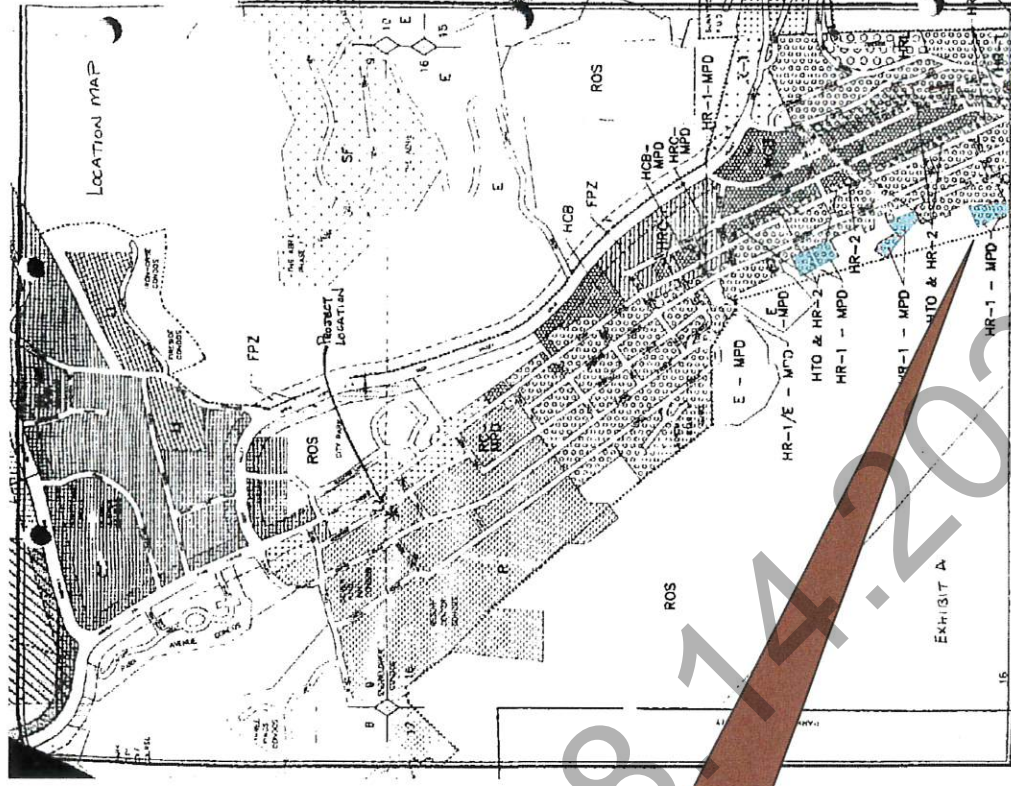


9

Adopted SLO Boundary 1995 (8/31/1995 Staff Report)



Lot 2, 220 King Rd. — Yellow
Lot 1, 200 King Rd. — Red



Adopted SLO Boundary 2000 (Ordinance 00-4 SLO Boundary modified off Deer Valley Dr.)



Ordinance No. 00-04

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF PARK CITY TO ADJUST THE SENSITIVE AREA
OVERLAY ZONE BOUNDARY IN THE VICINITY OF
DEER VALLEY DRIVE EAST,
PARK CITY, SUMMIT COUNTY, UTAH

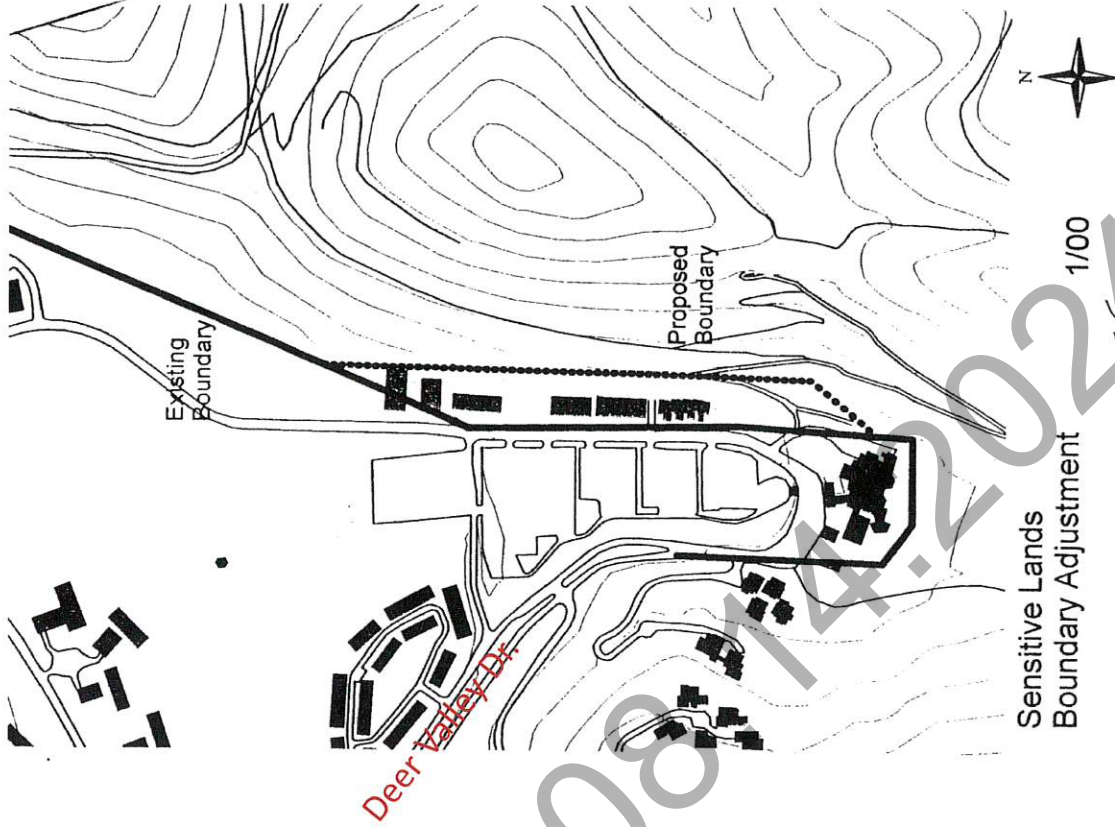
WHEREAS, the Sensitive Area Overlay Zone boundary was established in 1992 for the purpose of regulating development on ridgetops, hillsides and in wetlands; and

WHEREAS, the Sensitive Area Overlay boundary was drawn to be inclusive, with the understanding that further evaluation may result in some areas not being identified as "sensitive"; and

WHEREAS, it came to the attention of the Planning Department that the boundary in the vicinity of Deer Valley Drive may more appropriately be placed behind the existing development at the toe of the slope; and

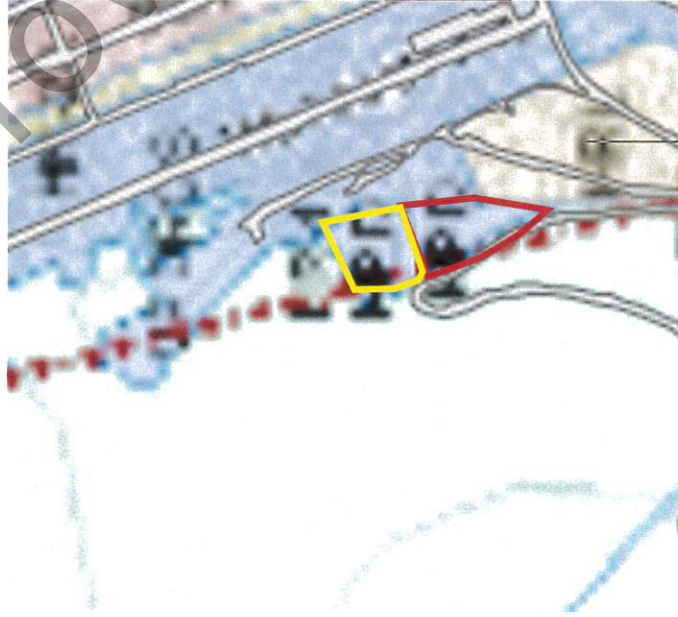
WHEREAS, the Planning Commission held a legally noticed public hearing on a proposed boundary adjustment on December 15, 1999 and forwarded a positive recommendation on the boundary line adjustment to the City Council;

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

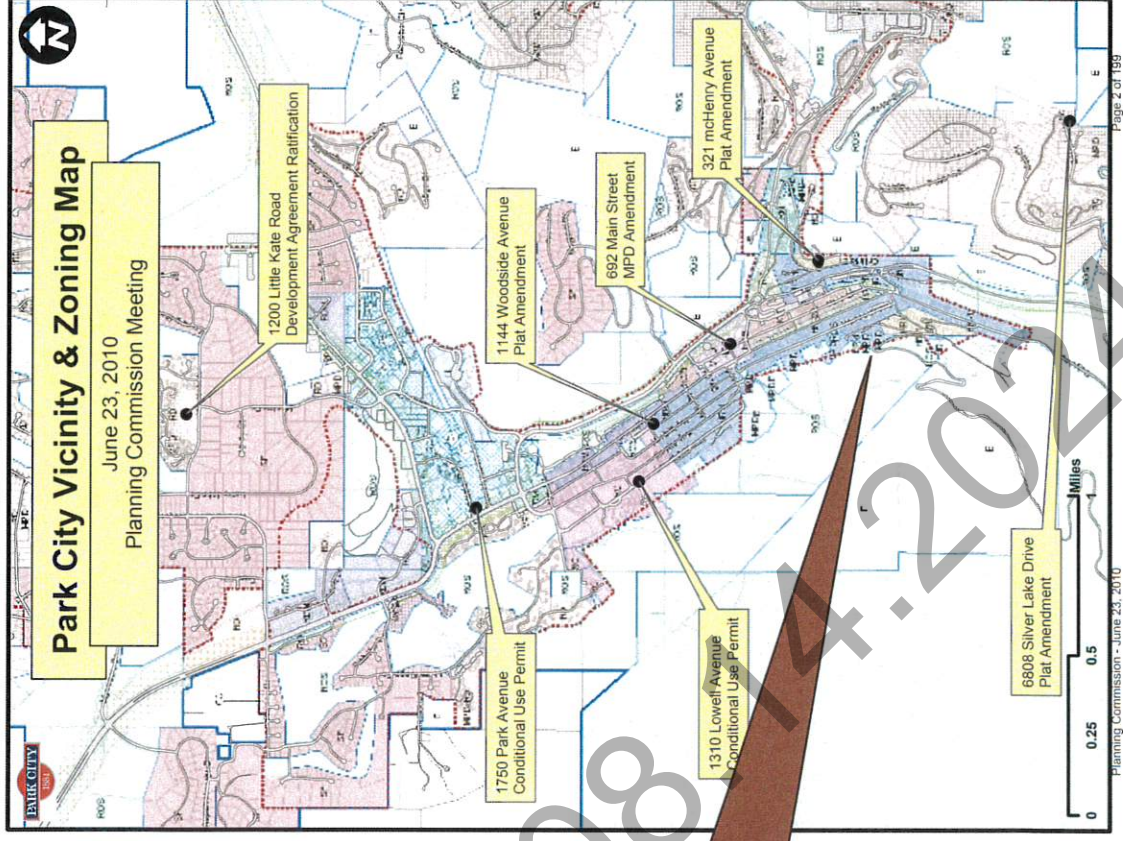


Digitized SLO Line 2010 (6/23/2010 Staff Report)

SLO Boundary begins to creep downhill



Lot 2, 220 King Rd. – Yellow
Lot 1, 200 King Rd. – Red



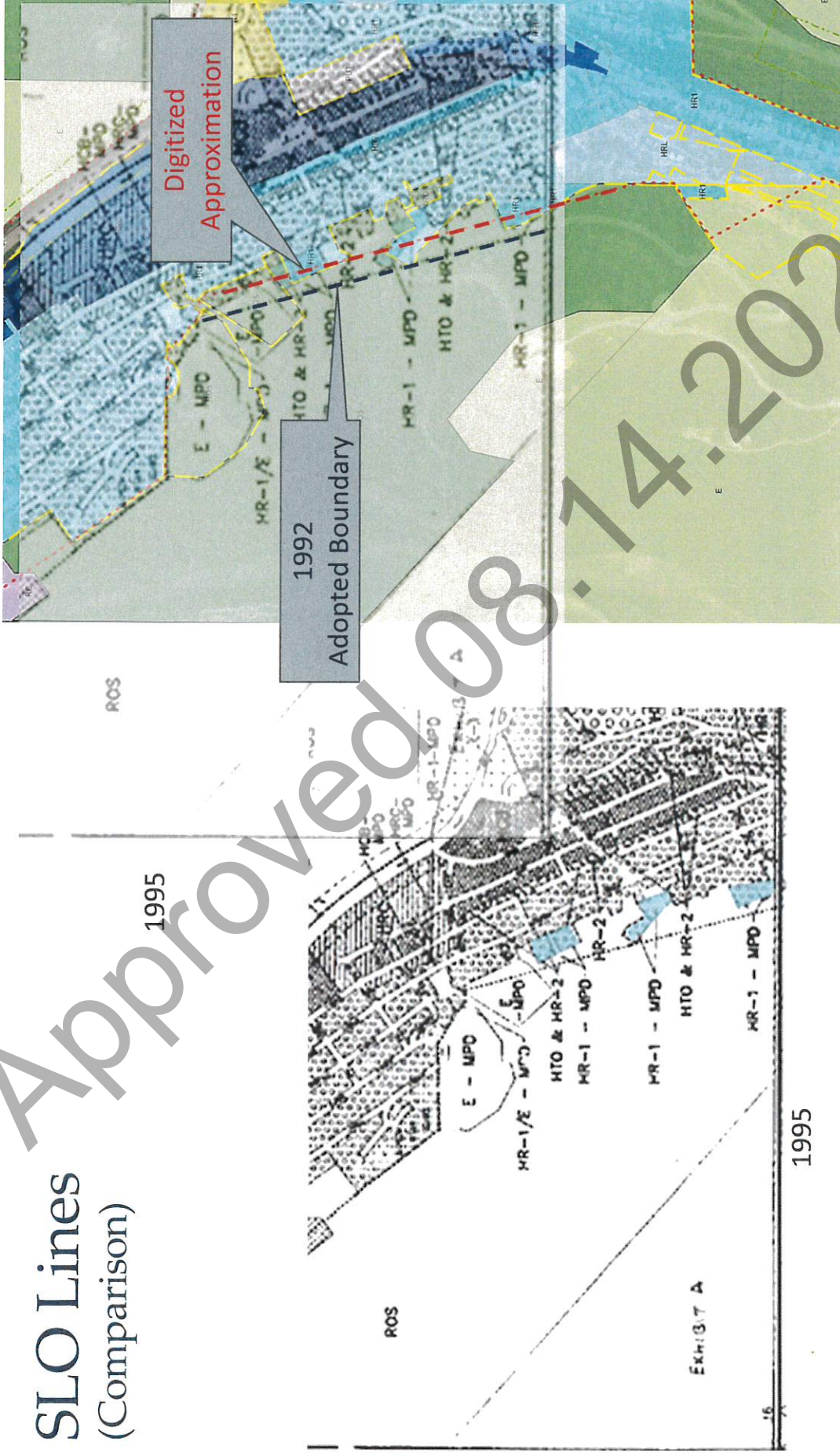
Digitized, but not adopted SLO Line (Current, according to digitized line)



Lot 2, 220 King Rd. — Yellow
Lot 1, 200 King Rd. — Red

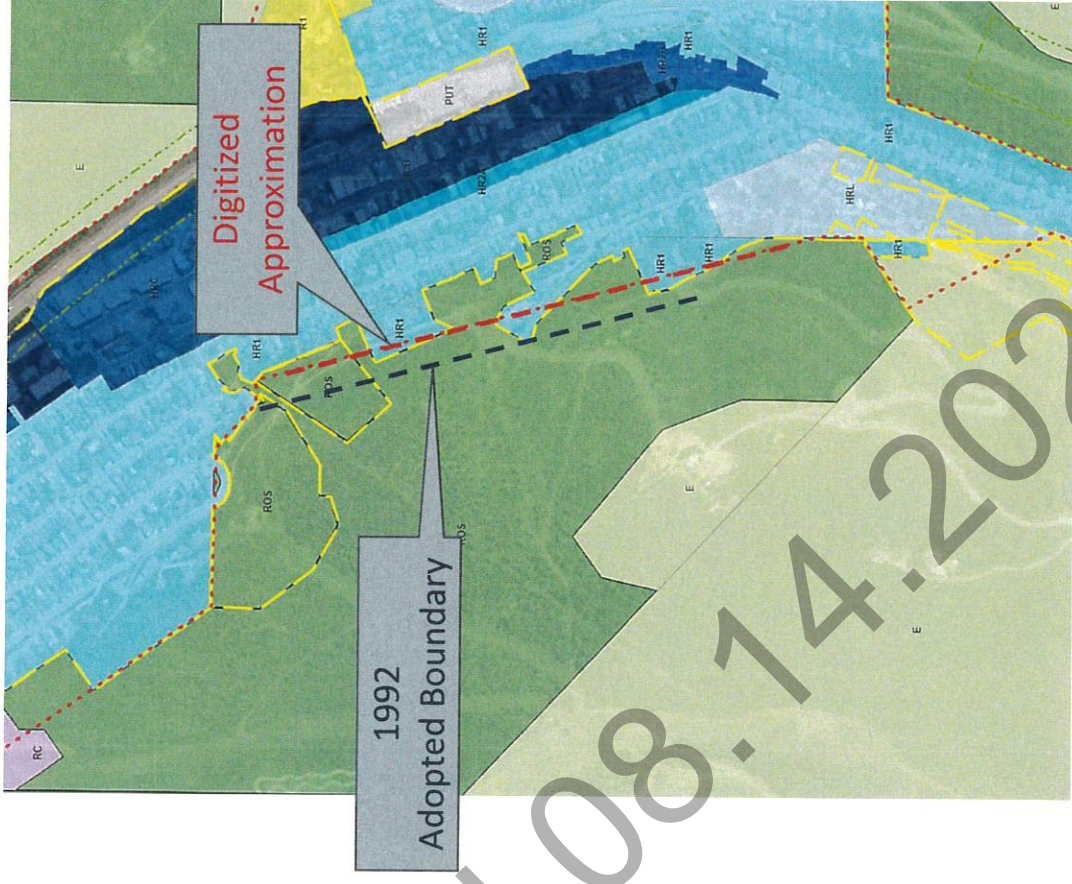


SLO Lines (Comparison)



Digitized Approximation

SLO Lines (Comparison)



Thank you!

Approved 08.14.2024

Jim Doilney's
Park City
Contracting and Development
History

photography by mark maziarz

Newpark Flats



Thaynes Canyon - one home

OWNER CONTRACTOR

Newpark Flats



Prospector Village - three homes & one duplex

GENERAL CONTRACTOR

Newpark Flats



Holiday Ranch – one home

GENERAL CONTRACTOR

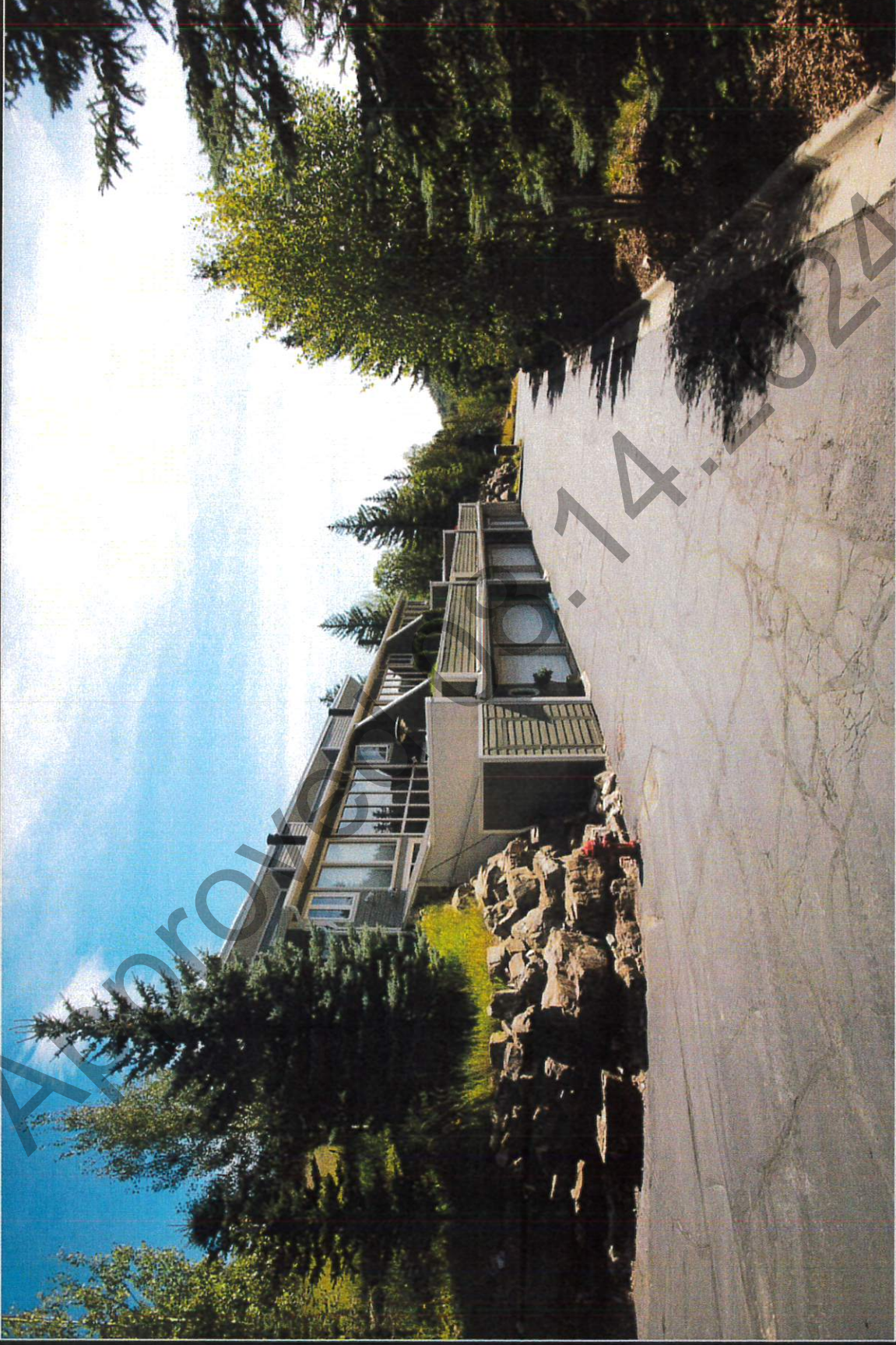
Newpark Flats



14th Street Townhomes – five townhomes

GENERAL CONTRACTOR

Newpark Flats



Sunnyside Up – six townhomes

GENERAL CONTRACTOR

Newpark Flats



Fireside – 48 condos and apartments

GENERAL CONTRACTOR

Newpark Flats



Park Creeke (Salt Lake) - 59 homes

GENERAL CONTRACTOR

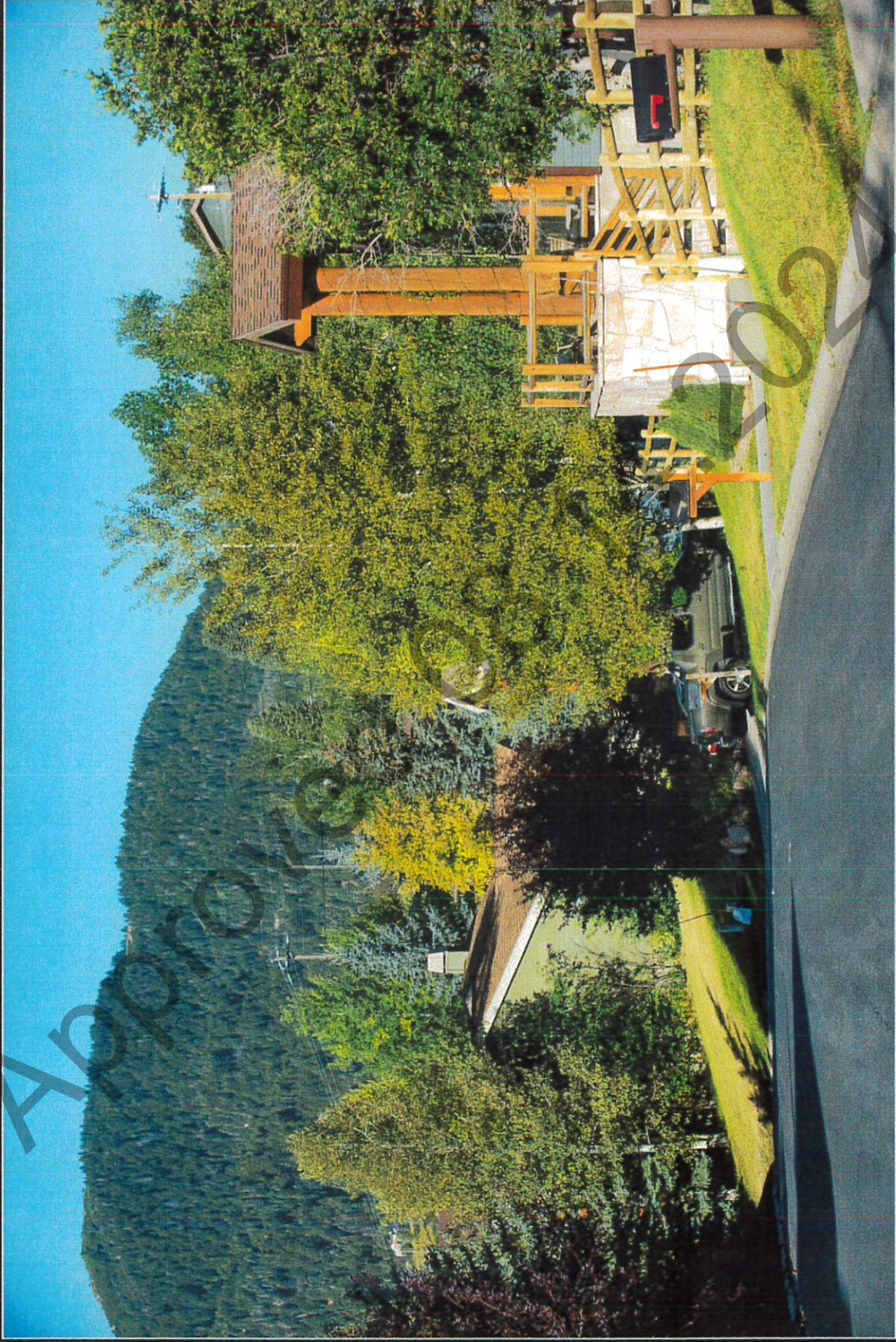
Newpark Flats



Southshore – 67 homes

GENERAL CONTRACTOR

Newpark Flats



South Ridge – 50 homes

GENERAL CONTRACTOR

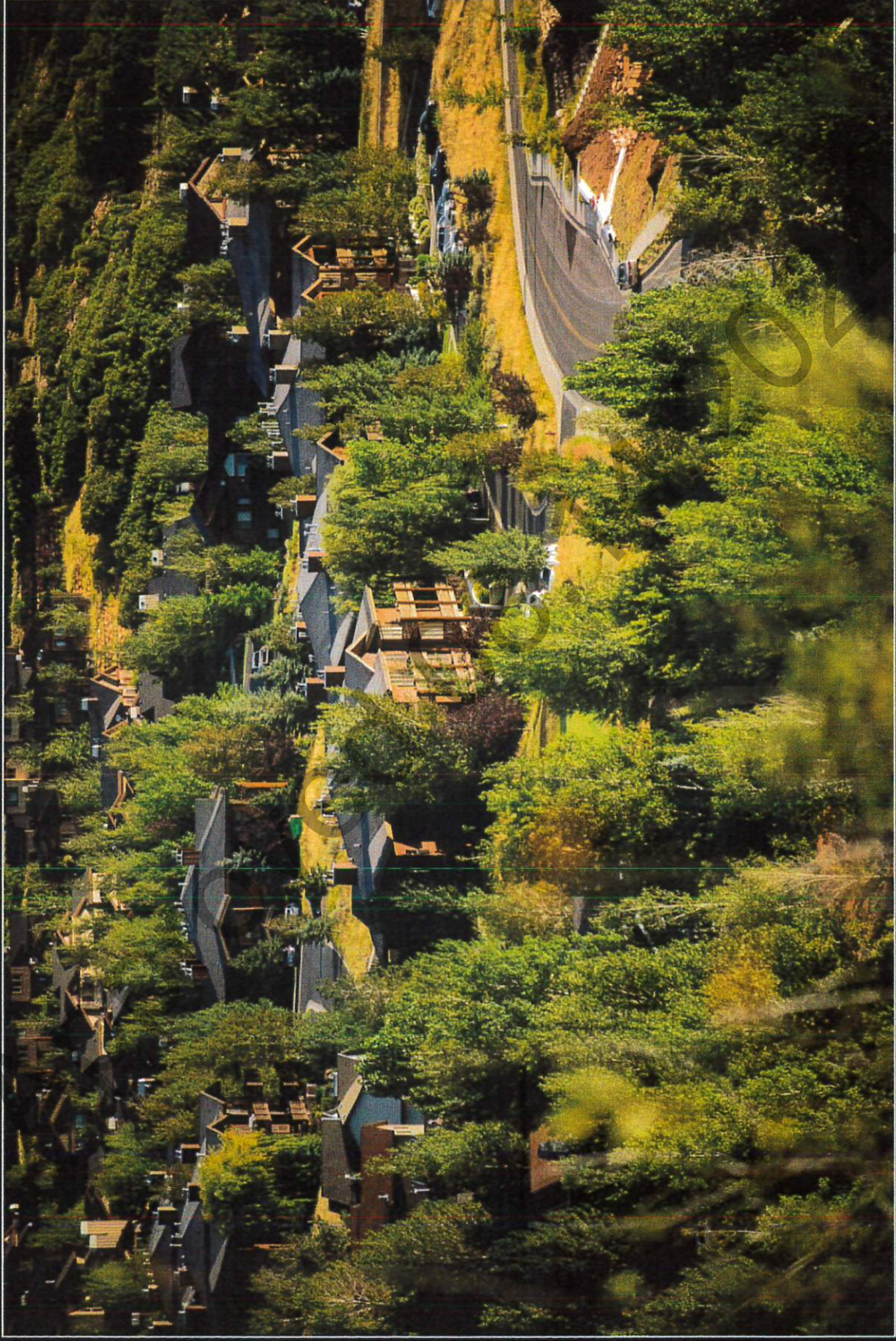
Newpark Flats



Pinebrook Cottages – 90 twinhomes

GENERAL CONTRACTOR

Newpark Flats



Pinebrook Point – 160 condos

GENERAL CONTRACTOR



Blackhawk – 160 homes

GENERAL CONTRACTOR

Newpark Flats



Trout Creek – 25 homes

GENERAL CONTRACTOR

Newpark Flats



Newpark Town Center – 819,360 sf mixed use center

GENERAL CONTRACTOR/MASTER DEVELOPER
160,000 SQUARE FEET

Newpark Flats



Zions Bank at Newpark

SITE DEVELOPER



Summit County fieldhouse at Newpark

SITE DONOR
SCHEMATIC DESIGN OVERSIGHT

Newpark Flats



USU – Swaner Eco Center at Newpark

SITE DONOR
SUN CALENDAR CREATOR AND BUILDER

Newpark Flats



Newpark Studios – 38 studio apartments

GENERAL CONTRACTOR

Newpark Flats



Newpark Townhomes – 95 townhomes

GENERAL CONTRACTOR

Newpark Flats



Newpark Hotel – 69 condos and 30,084 sf commercial

CONCEPTUAL DESIGNER
GENERAL CONTRACTOR OVERSEER



Newpark Flats



Newpark Flats rendering - 43 apartment unit rendering

SCHEMATIC DESIGNER
CO-DEVELOPER

Approved 08.14.2024

Snell & Wilmer

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SALT LAKE CITY, UT 84101
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(801) 257-1906
wbudge@swlaw.com

June 26, 2024

VIA E-MAIL

Park City Planning Commission
c/o Rebecca Ward
445 Marsac Avenue
Park City, UT 84060

Re: Response to Appellant's 6-21-2024 Letter Regarding 220 King Road

Dear Planning Commissioners:

We are responding on behalf of the applicant to the fundamentally flawed arguments made in the appellants¹, June 21st letter, a copy of which is in your packet for the June 26th meeting. Each of their flawed arguments is addressed below and we will be prepared to answer questions at this evening's public meeting.

As you are aware, the Appeal Panel upheld your February 14, 2024 decision to approve all three CUPs with only one small exception. The single remand is limited and deals only with issues related to the SLO. As we explained in our letter of June 21st, and as also found in the Staff Report, the SLO does not apply at all to 220 King Road. The arguments raised by the appellants are efforts to ignore the limited remand and to skirt the strict City and State legal standards for adopting a zoning map. We will address their four points below.

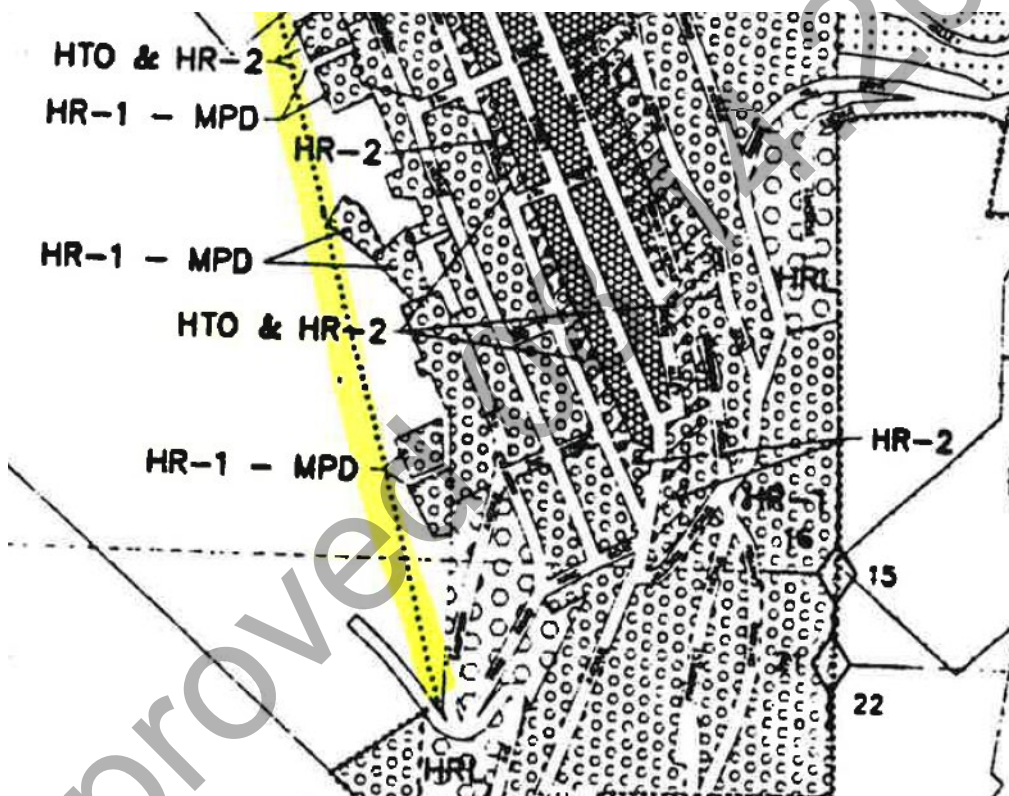
I. The SLO Does Not Apply to 220 King Road

The Staff Report correctly concludes that the SLO does not apply to 220 King Road. There are many reasons, most of which have been detailed in the Staff Report and our June 21 letter.

¹ Appellants are Eric Hermann and Susan Fredston-Hermann as stated in their June 21st letter.

First, when the SLO was enacted it was clearly identified that it did not apply to the two lots on King Road. This hasn't changed. Interestingly, the other beneficiary of this argument is the appellants, as they own the other exempted King Road lot.

Second, the yellow line on the map below depicts the location of the SLO when it was established in 1992. The southern most depicted lots, labeled HR-1-MPD, are the two King Road lots, including 220 King Road and the Hermanns lot. As you can see, the two lots, including the one at issue here, are NOT in the SLO.



Source: 1994 Park City Zoning Map.

Since the 1992 creation of the SLO, additional maps have also shown this same line. Research reflected in the Staff Report and our June 21 letter confirms that since 2009 there has been “digital creep” of the SLO line. This is illustrated by some post-2009 maps portraying the SLO line as touching a portion of the two King Road lots, including 220 King Road. These projections are not official zoning maps and are, thus, legally irrelevant to the issue before you tonight.

To be an official zoning map, the City Council must properly adopt the zoning map. See LMC § 15-1-7. This requirement also exists in state law. See Utah Code Ann. 10-9a-503(1)(a).

The SLO was adopted this way with Ordinance No. 92-17. That process requires notice, a hearing and publication. Since 1992 there has only been one lawfully adopted change to the boundary of the SLO. That was done in 2000 (Ordinance No. 00-4) to change the SLO boundary along Deer Valley Drive East. Since then, the SLO boundary has not been changed by any action of the Council—the only entity empowered to change it.

In sum, all officially adopted zoning maps depict 220 King Road as outside the SLO boundary. Appellants have produced no adopted ordinance map to change this fact. The other arguments we made about not splitting parcels are informative of how boundaries are to be interpreted. But given that the research in the staff report is so definitive, there is no need to use the interpretation guides on how to address a potential bisection of parcels.

This evening we will present a detailed presentation of the history of the SLO as it has unofficially crept into becoming the villain in this story.

II. The later adopted SLO ordinance cannot divest any of the Sweeney MPD lots of their vested rights.

The SLO may or may not cover some portions of the Sweeney MPD. What is certain is that it doesn't touch the subject property here, 220 King Road. Appellants spend a great deal of time twisting and misconstruing Utah's bedrock principle on vesting. These arguments could have implications for others within the Sweeney MPD. The rule applied by Park City, which has been consistently applied to all properties in the Sweeney MPD, is that the SLO cannot operate to divest rights described in the Sweeney MPD.

The reason Park City has applied this rule consistently is that it reflects Utah's bedrock principle that Utah is an early vesting² state. This rule also prevents the City from effecting an unlawful taking of valuable property rights. Appellants letter recognizes none of this. Instead, it invites mischief by encouraging the Planning Commission to split hairs—all in an effort to cause a violation of these longstanding legal principles.

When the City granted the other approvals to properties uphill from 220 King Road and within the Sweeney MPD, it recognized that residential uses were specifically vested under the Sweeney MPD. As a result, it did not apply the SLO to those applications. This is because the Sweeney MPD was approved on December 18, 1985. The SLO was adopted later. It was adopted on September 24, 1992, by Ordinance 92-17, well after Sweeney MPD rights vested.

Appellants offer half-baked arguments that the later implementation of these approvals, including modifications and plat applications, should cause the City to change its practice. They argue that the SLO should prevent those uses. But a change in use does not destroy that use or

² Utah's vesting rule was set in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388, 390–91 (Utah 1980); 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”)

extinguish vested rights. Simply, a change doesn't open the door to a free taking. It doesn't end vested rights. The City has known this and for this reason the SLO hasn't been applied to divest uses in the Sweeney MPD (including the residential uses for homes on lots). Again, it doesn't matter if plats were modified or other items were changed, even if those areas are (which they are not) within the SLO; the SLO cannot be applied to divest these rights

An earlier letter by prior City Attorney James Carter understood this. His letter, attached as Exhibit A, clarified that if the MPD expires, the SLO would apply. But absent expiration, it cannot be applied to divest these rights.

All of Appellants arguments on vesting cannot operate to prevent any uses created and vested in the Sweeney MPD. As such, the Planning Commission should summarily dismiss these arguments and confirm for the Appeal Panel, as was requested by that body, that the SLO doesn't apply to 220 King Road and even if it did the SLO could not operate to divest the uses previously approved first by the Sweeney MPD and then implemented through subsequent actions, including the February 14th CUP approvals.

This evening we will present a detailed presentation of the history of the non-application of the SLO to the Sweeney MPD further supplementing that history as explained in the Staff Report.

III. The Applicant Submitted all the Required Materials.

Although the SLO does not apply to the applicant's property at 220 King Road, the applicant submitted all materials required to develop within the SLO, pursuant to the LMC that applied at the time application was made. This point is not made to indicate that the SLO applies. Rather, all of these submissions are to confirm that this applicant is doing everything possible to cover every conceivable base in order to build a home conforming with all of codes.

The list of these wide-ranging materials, which by the way are the same as contemplated for a Sensitive Land Analysis, include the following:

- On April 26, 2023, applicant submitted a Visual Assessment;
- On July 8, 2022, as supplemented by submittals on December 28, 2023, February 2, 2024, and February 13, 2024, applicant submitted slope and topographical maps;
- On February 6, 2024, applicant submitted a soils report;
- On February 6, 2024, applicant submitted a geotechnical report;
- On July 8, 2022, and supplemented on April 26, 2023, Applicant submitted a 3D analysis showing no ridge line encroachments.
- On July 8, 2022 and supplemented on December 28, 2023, February 2, 2024 and February 13, 2024, applicant submitted a slope and elevation map that showed the elevations for the 220 King Road property;
- On February 5, 2024, applicant submitted a vegetation plan;
- On July 8, 2022, applicant submitted a vantage point assessment;

- There are no wetlands on the Applicant's Property; and
- On February 2, 2024, Applicant submitted a drainage plan.

Appellants' arguments attempt to gaslight the state of the materials submitted here. They try to argue steps have been skipped. This is false. The applicant's submissions have been extensive. And even though there was no need to obtain a Sensitive Lands Analysis given that the SLO cannot apply to 220 King Road, the fact that the information has been submitted should confirm to all how no step is being skipped. Moreover, these submissions add additional confirmation of the correctness of the Planning Commission's earlier decisions. The only complaint seems to be that there is no single document from Planning Staff explicitly using the phrase "determination". As the Staff Report makes clear, Planning Staff has, twice, determined that the application has complied with the SLO and that the CUP is appropriate to allow the applicant to develop 220 King Road as proposed.

IV. Safety Concerns

Park City LMC makes it clear that the approval of a conditional use permit, including a Steep Slope CUP, is not the end of the review for the development. In many ways it is, as Churchill said about D-Day, only the "end of the beginning". Each applicant is, obviously, required to obtain a building permit to move forward. The Park City Building Official is responsible for reviewing all construction to ensure that it complies with - International Building Code, the Housing Code, Abatement of Dangerous Building Code, Electrical Code, Plumbing Code, Uniform Sign Code, Mechanical Code and Fire Code. See Park City Buildings and Building Regulations § 11-2-3. Detailed geotechnical reports are required to be submitted and signed by appropriately licensed professional engineers.

This order of review and approval ensures that additional details, studies and engineering are provided and reviewed in increasing detail as building approvals are obtained. Concerns with safety regarding the construction method or construction details are reviewed in the context of the building permit, as administered by the Building Official. The applicant has hired multiple geotechnical engineers to review the site conditions and ensure any structure and improvements are constructed on site are done in the proper and safest manner. Appellants have made specious allegations about safety. Not only are these allegations baseless, they have no place in this proceeding where the Appeal Authority has so specifically identified what is to be reviewed. The safety of the proposed home is not one of them. Those responsibilities are assigned to the Chief Building Official.

The appellants' letter listing in Section 3 of potential construction amounts and processes and then engaging in paranoid speculation of imaginary horrors there, and in Section 4, simply proves the level of desperation that the appellants are stooping to in their effort to confuse the very limited issues presented by the remand.

Conclusion:

In sum, the SLO does not apply to 220 King Road. The actual, legally adopted, SLO map as approved by Council does not apply to this lot. Further, because the Sweeney MPD vested prior to the SLO ordinance, the efforts to attack the vesting and the lots' property rights should be rejected. Finally, applicant has submitted extensive materials complying with the SLO and will be responsible to comply with every safety code.

For these reasons the Planning Commission should answer the Appeal Authority's questions and confirm that the SLO doesn't apply here.

Very truly yours,

SNELL & WILMER



Wade R. Budge, P.C.

cc. **City Attorney office
counsel for Appellants**

EXHIBIT A
James Carter Letter
(Attached)

Approved 08.14.2024

PARK CITY

1884

Legal Department

September 22, 1992

Michael E. Sweeney
2280 S. 2300 East
Salt Lake City, Utah 84109

Re: Status of Sweeney Master Plan

Dear Mike:

I'm in receipt of your letter of September 21st which we received by telefax this morning. In an effort to provide you a timely and succinct response, here are our answers to your three questions:

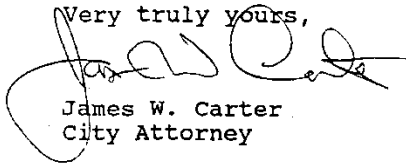
1. Will the Sensitive Lands Overlay Zone apply to the Sweeney property's master plan hillside portion (Treasure Hill)? Yes. However, Land Management Code § 3.14(c)(2) Length of Approval, provides, in pertinent part, "Zone changes occurring while the approval is in effect shall not effect the approval. Changes in the master plan requested by the developer will be reviewed and approved as a revision to the master plan by the Planning Commission. A change will be defined as any change in concept, unit type, configuration or number. At that time, the Planning Commission shall review the entire MPD, even if only one parcel or phase is involved in the modification, under the regulations in effect at the time of review. Modifications shall act as an extension of the approval." The Sensitive Lands Ordinance is being adopted in the form of an overlay zone, and so would not, by itself, affect the approved Sweeney Master Plan. If, however, a change in the master plan is requested, as defined in the LMC, the provisions of the Sensitive Lands Ordinance would be applied.

2. Is the Sweeney Master Plan in full effect? At this time, Park City is reviewing information being submitted by Pat Sweeney with regard to the progress made to date under the MPD approval to determine compliance with the MPD phasing and the terms of the Land Management Code relating to extension of the approval.

3. Is the City bound by the conceptual approval of the Town Lift project passed by the City Council on September 19, 1991? No. The Town Lift project conceptual approval was granted in order to give guidance to the developer as to what types of applications would be favorably reviewed by the City in the future. Neither the applicants nor the City, however, are bound by the conceptual approval. The City has, however, approved the plat for Phase I of the project, and is bound by that approval.

I hope this information is responsive to your request. Please give me a call if you need further information or clarification.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'James W. Carter', is written over the typed name.

James W. Carter
City Attorney

Approved 08.14.2024

From: [public_comments](#)
To: [Rebecca Ward](#)
Subject: FW: [External] Public Comment Submission
Date: Tuesday, June 25, 2024 12:15:24 PM
Attachments: [~WRD0003.jpg](#)

From: No Reply <noreply@civicplus.com>
Sent: Sunday, June 23, 2024 11:11 AM
To: public_comments <Public_Comments@parkcity.org>
Subject: [External] Public Comment Submission

Warning: Replies to this message will go to 010f01904614bb02-c61fb3e6-fd39-461f-90b6-e2b08127465b-000000@us-east-2.amazonaws.com. If you are unsure this is correct please contact the helpdesk.

[CAUTION] This is an external email.

Submitted by: Patricia Constable
Email Address [REDACTED]

Commented on event: <https://parkcityut.portal.civicclerk.com/event/358/overview>
If you are having trouble viewing the URL above, cut and paste the string into your browser window.

User comment: Reference: 220 King Road Steep Slope excavation Honorable Council, My husband David and I live at 287McHenryAve. We have serious concerns regarding the size and scope of the proposed steep slope excavation at 220 King Road. The Kings Crown landslide is a good example of the dangers of steep slope excavation. With the integrity of King Road at risk, the dangers of adjacent property damage and personal harm to inhabitants, we request extreme caution to be required before proceeding. The inconsistency to this is noted when neighbors living near us at 310 McHenry Ave. are remodeling their home. The planning department denied them additional excavation for a crawl space due concerns regarding truck loads of heavy material on a historically sensitive road. The approval of the steep slope excavation at 220 King Rd. and the 310 McHenry Ave. denial would be a disconnect in logic

and consistency. Respectfully, Patricia and David Constable

