



**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT MEETING
SUMMIT COUNTY, UTAH
MINUTES OF AUGUST 19, 2025**

BOARD MEMBERS IN ATTENDANCE: Jennifer Franklin-Chair, Beth Armstrong, Ruth Gezelius, Ginny Schulman, John Stafsholt, Stephanie Wilson (attended via Zoom)

STAFF: Planning Director, Rebecca Ward; Senior City Attorney, Mark Harrington; Planner I, Meredith Covey; Planner I, Jaron Ehlers; Capital Projects Manager, Steven Dennis; Public Utilities Engineer, Harrison Holley

CLOSED SESSION – 4:00 PM

MEETING CALLED TO ORDER AT 5:00 PM

1. ROLL CALL

Chair Jennifer Franklin called the meeting to order at 5:00 p.m. and identified the Board Members present.

2. SWEARING-IN CEREMONY

A. Swearing-In Ceremony for Ginny Schulman.

Board Member Ginny Schulman was sworn in by City Recorder, Michelle Kellogg.

3. MINUTES APPROVAL

A. Consideration to Approve the Board of Adjustment Meeting Minutes from April 15, 2025.

MOTION: Board Member Gezelius moved to APPROVE the Minutes of April 15, 2025, as presented. Board Member Armstrong seconded the motion. The motion passed unanimously.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Rebecca Ward, reported that the State Legislature amended State Code to prohibit municipalities from conducting public hearings on Variances. As a result, the four items being considered by the Board of Adjustment would not include public hearings.

5. PUBLIC COMMUNICATIONS

There were no public communications.

6. REGULAR AGENDA

A. 560 Deer Valley Drive – Variance – The Applicant Requests a Variance from the Regulations For Parking Areas For Historic Residential Sites Outlined in Land Management Code § 15-13-2(B)(1)(G) to Construct a Parking Area in Front of the Significant Historic Site. PL-25-06626.

Planner I, Meredith Covey, presented the Staff Report and reported that 560 Deer Valley Drive is a Significant Historic Structure located in the RM Zoning District. The Applicant requested a Variance from the Land Management Code (“LMC”) to construct a parking area in front of the Historic Structure.

The Site Plan and site photographs were reviewed. Planner Covey reported that the proposed parking pad would impact steep slopes and require retaining walls. It would also encroach into the City right-of-way, impacting the sidewalk and planned future pedestrian and bicycle improvements on Deer Valley Drive. If the Variance was approved, the Applicant would be required to obtain an Encroachment Agreement that could be revoked at any time. If revoked, the Applicant would be required to remove the parking area.

LMC § 15-13-2(B)(1)(g) establishes requirements for Parking Areas at Historic Residential Sites:

- Visual impacts of on-site parking shall be minimized.
- The existing topography and integral site features should be minimally impacted.
- Off-street parking areas should be located within the rear yard or beyond the rear wall plane of the primary structure.
 - If not physically possible, the off-street parking area should be visually buffered from adjacent properties and the public right-of-way.
 - Driveways should be located along the side yard when possible.

Staff analysis of the Variance Criteria determined the following:

- 1. Literal enforcement of the LMC would not cause an unreasonable hardship that is necessary to carry out the general purpose of the LMC.**
The Applicant is permitted to construct a parking area that is compatible with the LMC and Historic Residential Site regulations. They could also construct a garage under the existing Historic Structure, which would be reviewed by the Historic Preservation Board and the Planning Director. Compliance with the Historic Residential Site regulations is necessary to carry out the general purpose of the LMC.

- 2. There are not special circumstances attached to the property that do not generally apply to other properties in the same zone.**
While Historic Structures are exempt from off-street parking requirements, Staff found that there are no unique physical characteristics of the property that prevent parking on-site in less impactful locations.
- 3. Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other properties in the same zone.**
Denying the request does not infringe on the Applicant's ability to enjoy their property in a manner that is inconsistent with the ability of other properties in the Zoning District. The requirements in the LMC are applied consistently to Historic Residential Sites.
- 4. The Variance would substantially affect the General Plan and be contrary to the public interest.**
Maintaining the integrity of the historic fabric of the Historic District is integral to the goals outlined in the General Plan.
- 5. The spirit of the LMC is not observed, and substantial justice is not done.**
The proposed parking area is contradictory to the purposes outlined for the RM Zoning District in LMC that aim to encourage development that is compatible with the Historic Structures and minimize the visual impact of parking areas on the streetscape.

Staff recommended that the Board of Adjustment consider denial based on the Findings of Fact and Conclusions of Law outlined in the draft Final Action Letter.

Planner Covey reported that two neighboring property owners contacted the City to express support for the Variance.

The Applicant, Tony Martino, stated that he and Chloe Johnson intend to live in the home. The property is on Deer Valley Drive, which does not have street parking. All other properties on the road have parking in front of their home or in a private driveway. There are also multiple townhomes and a large condominium project across the street, which have surface parking or garages. The nearest public street parking is approximately 0.25 miles from the home. That is a concern, especially in the winter. He believes it is a public safety issue and nuisance as well because delivery drivers and workmen will park on the sidewalk. It is common to see driveways and lower garages in front of homes in the Historic District.

Mr. Martino stated that his lot is wider than average, but the electric poles in the west side yard and grade differences would make it difficult to park on the side of the lot. Rocky Mountain Power indicated that a seven-foot distance must be maintained from the poles, and the grade would require an additional three feet of height for the retaining wall. He did not believe his proposal required more modifications to the lot than would be necessary for a garage. The house had been on the market for three years, which he believed was due in part to the lack of parking. All other properties have parking either on their property or on

the street. If public parking were available for his property, he would not have made the request. Additionally, his opinion is that the impact would be minimized because the parking pad would be built into the hillside in front of the house and would not be visible from most areas of the street.

Ms. Johnson stated that Mr. Martino is a contractor, and his family has renovated many homes in the Historic District. She loves Old Town and is very excited to live there. The property is next to Main Street. They are looking forward to restoring the house and updating the landscaping.

Mr. Martino stated that the house needs a lot of work, and he does not know who would willingly choose to do that work without a way to access the property. He believes that materials deliveries would require a portion of Deer Valley Drive to be closed, which would not be practical.

In response to a question raised by Board Member Stafsholt, City Attorney, Mark Harrington, reported that the property owner can authorize another party to apply on their behalf, as was done in this matter.

Board Member Schulman asked if the Applicant had reviewed the approved plans for a garage under the structure. Mr. Martino stated that they had not reviewed the plans, but it was his understanding that the proposal was for a six-plex with an enclosed parking structure. He believed that was more intrusive than his proposal, as the structure encroached on the front and side yard setbacks.

Planner Covey confirmed that the Variance approved decreased front and side yard setbacks for the parking structure. The previous applicant's request to add stairs and retaining walls was denied. In response to a follow-up question from Board Member Schulman, she stated that she was unsure if the sidewalk was affected by that Variance.

Board Member Gezelius stated that she realizes that the lot is challenging, but it is also wider and deeper than average. Maintaining the Historic Site is always the priority. She believes Staff did an excellent job of analyzing the application and applying the required criteria for issuing a Variance, and she concurred with the conclusion that the request did not meet those criteria. She hoped that a plan could be developed to allow parking without the negative impacts of the current proposal.

Board Member Stafsholt stated that any Variance granted for a front parking area, as outlined in the application, would be temporary because it would have to be removed when Deer Valley Drive is expanded.

MOTION: Board Member Gezelius moved that the Board of Adjustment DENY the Variance from the Regulations for Parking Areas for Historic Residential Sites Outlined in Land Management Code § 15-13-2(B)(1)(G) to Construct a Parking Area in Front of the Significant Historic Site subject to the following:

Findings of Fact

1. 560 Deer Valley Drive is a metes and bounds Significant Historic Site on Park City's Historic Sites Inventory. The existing Structure was constructed circa 1912, and the property is in the Residential – Medium Density (RM) Zoning District.
2. The Board of Adjustment previously approved Variance for below-grade parking on site. On March 6, 1984, the Board of Adjustment reviewed a requested Variance at 560 Deer Valley to construct a below-grade parking Structure in the Front and Side yard Setbacks, as well as a fireplace, stairway and additional above-grade encroachments into the Front and Side Setbacks for a six-plex. The Board granted the Variance to construct the below-grade Parking Structure and denied the request for the fireplace, stairway and additional above-grade encroachments.
3. The Board outlined the proposed encroachments as being inimical to the best interest of the Zoning District and contrary to the spirit and intent of the zoning ordinance. The Board was not able to find any unusual condition attached to the property that would deprive the owner of a substantial property right or use of their property.
4. No Building Permit was issued, and the Structure was not constructed.
5. Earlier this year, the Applicant submitted a Historic District Design Review (HDDR) Pre-Application (PL-25-06570) to the Planning Department to construct a Parking Area in the Front Setback that encroaches into City Right-of-Way.
6. The proposed paved Parking Area is 21 feet in depth and 19 feet in width. The proposed area to be disturbed is 22 feet 11 inches in depth and 30 feet 5 inches in width.
7. The proposed disturbed area impacting Steep Slopes between the Historic Structure and Deer Valley Drive is 505 square feet.
8. The Applicant proposes 6-foot-tall retaining walls to retain the Parking Area within the Steep Slopes.
9. The proposed Parking Area encroaches 6 feet 3 inches into the Deer Valley Drive Right-of-Way and requires driving across and parking along an existing public pedestrian pathway that is proposed to be improved.
10. Because the Applicant proposes to construct a three-foot retaining wall in the Right-of-Way, and exclusive private use of a portion of public Right-of-Way,

they would be required to obtain approval from City Council for the proposed encroachment.

11. Additionally, the Bicycle and Pedestrian Plan for Park City includes a proposed future improvement on Deer Valley Drive to construct a 10-foot-wide trail with a buffer on the north side of the street. The proposed improvement would result in a revocation of the Encroachment Agreement and would render the proposed Parking Area non-compliant with Parking Area dimensions. The Applicant would at that time be required to remove the Parking Area.
12. Pursuant to LMC § 15-13-2(B)(1)(g)(2), Parking Areas at Significant Historic Sites should be located within the rear yard. When this is not possible, the Parking Area may be located along a side yard but must be visually buffered. Additionally, LMC § 15-13-2(B)(1)(g)(1) requires that the visual impacts of on-site parking be integrated in a comprehensive, complementary design.
13. Planning Staff reviewed the proposal and requested that the Applicant consider shifting the Parking Area in order to comply with LMC § 15-13-2(B)(1)(g). Staff requested that the Parking Area be moved to a location where it was not directly in front of the Historic Structure in order to reduce the visual impact of the proposed Parking Area on the site.
14. Additionally, the Planning Staff requested that the Parking Area be shifted to be entirely on the Applicant's property and eliminate the dependence on City Right-of-Way to satisfy the required Parking Area dimensions outlined in LMC Chapter 15-3. Planning Staff also notified the Applicant that they would be required to obtain an Encroachment Agreement for the utilization of City Right-of-Way and that should the Encroachment Agreement be revoked the Applicant would be responsible to completely remove the Parking Area.
15. The Applicant stated that based on the site they felt locating the Parking Area in the proposed location was the most feasible and submitted a request for a Variance to LMC § 15-13-2(B)(1)(g).
16. The Applicant seeks a Variance from the Regulations for Parking Areas for Historic Residential Sites outlined in Land Management Code § 15-13-2(B)(1)(g) to construct a Parking Area in front of the Significant Historic Site.
17. Goal 15 of the Park City General Plan is to preserve the integrity, mass, scale, compatibility and historic fabric of the nationally and locally designated historic resources and districts for future generations. Objective 15B is to maintain character, context, and scale of local Historic Districts with compatible infill development and additions. Community Implementation Strategy 15.7 is to "[e]ncourage pedestrian-oriented development to minimize the visual impacts of automobiles and parking on Historic Buildings and Streetscapes."

18. LMC § 15-11-9 establishes the Preservation Policy for Sites of Historic Significance in Park City, stating, “It is deemed to be in the interest of the citizens of Park City, as well as the State of Utah, to encourage the preservation of Buildings, Structures, and Sites of Historic Significance in Park City. These Buildings, Structures and Sites are among the City’s most important cultural, educational, and economic assets. In order that they are not lost through neglect, Demolition, expansion, or change within the City, the preservation of Historic Sites, Buildings, and Structures is required.”
19. LMC § 15-13-2(B)(1)(g) establishes the requirements for Parking Areas at Historic Residential Sites.
20. The proposed Parking Area does not comply with the provisions outlined in LMC § 15-13-2(B)(1)(g) that require Parking Areas to reduce the visual impacts on site, to be located along a side yard, to be complementary and integrated in design. As a result, the Applicant requests a Variance to LMC § 15-13-2(B)(1)(g).
21. In order to grant the requested Variance, the Board of Adjustment must find that all five criteria in LMC § 15-10-8(C) are met. The Applicant bears the burden of proving that all the conditions justifying a Variance have been met.
22. The Applicant did not meet their burden to demonstrate that literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is necessary to carry out the general purpose of the Land Management Code.
23. LMC § 15-2.15-1(F) outlines that a purpose of the RM Zoning District is to minimize the visibility of Parking Areas. The Applicant would be permitted to construct a Parking Area on site if it complies with the provisions of the code outlined in LMC § 15-13-2(B)(1)(g). However, the ability to park a vehicle on the Site is able to be satisfied elsewhere on the property and it is not necessary to locate it directly in front of the Historic Site.
24. LMC § 15-2.15-1(B) outlines new Development as being required to be Compatible with Historic Structures in the surrounding Area. When looking at Historic Structures in surrounding Zoning Districts, including the Historic Residential – 1 (HR-1) Zoning District and the Historic Residential Low Density (HRL) Zoning District existing Historic Structures are exempt from Off-Street parking requirements pursuant to LMC § 15-2.2-4 and LMC § 15-2.1-4 respectively.
25. LMC § 15-2.15-1(F) outlines that a purpose of the RM Zoning District is to minimize the visibility of Parking Areas. The Applicant would be permitted to construct a Parking Area on site if it complies with LMC § 15-13-2(B)(1)(g). The ability to park a vehicle on the Significant Historic Site may be satisfied

elsewhere on the property – for example, within the west Side yard, and it is not necessary to locate it directly in front of the Significant Historic Site disturbing 505 square feet of Steep Slopes and requiring 6 foot-tall retaining walls, portions of which that are 3 feet in height that encroach into the Right-of-Way.

26. LMC § 15-2.15-1(B) outlines new Development as being required to be Compatible with Historic Structures in the surrounding Area. Historic Structures in Historic Zoning Districts are exempt from Off-Street parking requirements pursuant to LMC § 15-2.2-4 and LMC § 15-2.1-4 respectively. As a Significant Historic Site in the RM Zoning District, 560 Deer Valley Drive is a Non-Complying Structure because it was built in 1914 prior to any on-site parking requirements and is therefore not required to provide Off-Street parking.
27. LMC § 15-10-8(D)(1) states “In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship (...), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the Variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood.” 560 Deer Valley Drive, like all Historic Structures listed on Park City’s Historic Sites Inventory, are not required to provide parking on site.
28. LMC § 15-10-8(D)(2) states “[i]n determining whether or not enforcement of the [LMC] would cause unreasonable hardship ...the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.” Literal enforcement of the LMC, which in this case would require the Applicant to relocate the proposed Parking Area along the side yard, does not create unreasonable hardship for the Applicant. The Applicant is permitted to construct a Parking Area provided it is compatible with the LMC and Historic Residential Site regulations. Additionally, the Applicant would be permitted to submit an HDDR to construct a garage under the existing Historic Structure to provide parking for the site. This proposal would be reviewed by the Historic Preservation Board (HPB) and the Planning Director. Compliance with the Historic Residential Site regulations is necessary to carry out the general purpose of the LMC to minimize the impact of Parking Areas and to support development that is compatible with Historic Structures.
29. The Applicant did not meet their burden to demonstrate that there are special circumstances attached to the Property that do not generally apply to other properties in the same zone.
30. The Applicant claims that the special circumstance for the property is that it does not have easily accessible parking. As noted above, Historic Structures

are exempt from Off-Street parking requirements. However, parking on site is a possibility in less impactful locations.

31. The Applicant is permitted to construct a Parking Area so long as it complies with the LMC and Historic Residential Site regulations. Denying the request does not infringe on the Applicant's ability to enjoy their property in a manner that is inconsistent with the ability of other properties in the same Zoning District, specifically Historic Sites in the Zoning District. The requirements in the LMC are applied consistently to Historic Residential Sites to maintain the character of the Historic District.
32. The Variance request is inconsistent with the General Plan goals because the proposed Parking Area is to be located directly in front of the Historic Structure and will alter the streetscape and impact of automobiles on the Structure along Deer Valley Drive. Additionally, the installation of retaining walls will create a visual impact on the Historic Structure as viewed from the public Right-of-Way. The surrounding Structures with retaining walls are not Historic Sites and altering the site to be "compatible" with these properties will alter the Historic character of the site. The proposal will be contrary to the public interest.
33. Goal 15 of the Park City General Plan is to preserve the integrity, mass, scale, compatibility and historic fabric of the nationally and locally designated historic resources and districts for future generations. Objective 15B is to maintain character, context, and scale of local Historic Districts with compatible infill development and additions. Community Implementation Strategy 15.7 is to "[e]ncourage pedestrian-oriented development to minimize the visual impacts of automobiles and parking on Historic Buildings and Streetscapes."
34. Maintaining the integrity of the Historic Site is important to the historic fabric of the nationally and locally designated Historic District and is integral to the goals of the General Plan.
35. As analyzed in the above sections, the proposed Parking Area is contradictory to the purposes outlined for the RM Zoning District in LMC § 15-2.15-1 that aim to encourage development that is Compatible with Historic Structures and to minimize the visual impact of Parking Areas on the Streetscape.
36. Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on August 5, 2025. Staff mailed courtesy notice to property owners within 300 feet on August 5, 2025. *The Park Record* published courtesy notice on August 5, 2025.

Conclusions of Law

1. Literal enforcement of the Land Management Code for this Property does not cause unreasonable hardship and is not necessary to carry out the general purpose of the Land Management Code.
2. No special circumstances are attached to the Property that do not generally apply to other properties in the same district.
3. Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other Properties in the same zone.
4. The proposal is not consistent with the General Plan.
5. The spirit of the zoning ordinance is not observed, and substantial justice is not done.
6. The Applicant did not meet the burden that all the conditions justifying a Variance have been met.

Board Member Stafsholt seconded the motion. The motion passed with the unanimous consent of the Board.

B. 243 Woodside Avenue – Variance – The Applicant Requests a Variance from the Regulations for Porches on New Residential Infill in the Historic District Outlined in Land Management Code § 15-13-8(B)(2)(I) to Extend a Porch on the Front Façade from 6 Feet to 9 Feet 11 Inches in Depth. PL-25-06601.

Planner Covey presented the Staff Report and indicated that the subject property is located in the HR-1 Zoning District. Historic District Design Review (“HDDR”) and Steep Slope Conditional Use Permit (“SSCUP”) applications to construct a new single-family home on the property were approved in 2023. The applicant now requested a Variance from LMC to extend the approved six-foot second-story porch to a depth of approximately 10 feet to create a hybrid porch/deck. Approved and proposed concepts were displayed.

LMC § 15-13-8(B)(2)(i) establishes the following for new residential porches in Historic Districts:

- Over-scaled, monumental, and under-scaled entries shall be avoided.
- Porches shall be compatible with a building’s style and respect the scale and proportions found on Historic Buildings in the Historic District.
- The height of porch decks shall be similar to those found on Historic Buildings in the Historic District and the streetscape.

LMC § 15-13-8(B)(2)(7) regarding decks on new infill in the Historic District states:

- Decks shall be constructed in inconspicuous areas where visually minimized from the primary public right-of-way.
- The visual impact of a deck should be minimized by limiting its size and scale.

Planner Covey explained that the LMC is very clear that porches in the Historic District are meant to be modest and compatible in scale with the historic precedent, and decks are inappropriate on front facades because they alter the historic streetscape. As outlined in the Staff Report, a memo is on file that analyzes historic porches and decks in the Historic District and is used to apply LMC to new residential infill. Historic porches are typically modest, inset, covered, and maintain a depth of four to five feet. Reference photographs were shown, indicating that second-story porches were historically tucked under the main roof.

Staff analysis of the Variance Criteria determined the following:

- 1. Literal enforcement of the LMC would not cause an unreasonable hardship that is necessary to carry out the general purpose of the LMC.**
A front porch is permitted, subject to LMC and HDDR approval that is compliant with the massing and scale required in the Historic District and was already approved. The proposed extension and creation of a hybrid porch/deck with an improved view shed on the front façade is self-imposed.
- 2. There are not special circumstances attached to the property that do not generally apply to other properties in the same zone.**
All properties in the HR-1 Zoning District are required to comply with the LMC in effect at the time of construction. While there are non-complying structures in Old Town, that does not absolve this property of the LMC regulations.
- 3. Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other properties in the same zone.**
The applicant is permitted to have a porch on the front façade. Denying the request would not infringe on the Applicant's ability to enjoy their property or utilize their front porch in a manner that is inconsistent with other properties in the same Zoning District.
- 4. The Variance would substantially affect the General Plan and be contrary to the public interest.**
The General Plan clearly outlines the City's goals for preservation of the Historic District, and the proposed extension did not comply with those goals.
- 5. The spirit of the LMC is not observed, and substantial justice is not done.**
The standards of the LMC are applied consistently to all property owners and projects. To grant an exception to one property owner that is contrary to those

regulations would not be equitable to other property owners that are required to install compliant porches on the front façade.

Based on Staff analysis, it was recommended that the Board of Adjustment consider denying the request based on the Findings of Fact and Conclusions of Law outlined in the Staff Report.

Planner Covey reported that one property owner had contacted the City in support of the proposal.

The Applicant, Tim Suter, stated that his request was to have a balcony adjacent to the living area to provide room for outdoor dining with a view of Old Town. He believed there was some confusion over the definition of a porch versus a balcony or patio, which is why he referred to the request as a “feature.” The request was denied following an Administrative Public Hearing where owners of three neighboring properties presented letters in support of the request. An owner of two nearby properties had sent an additional letter of support for the Variance request.

Mr. Suter stated that his request was to add three feet, 11 inches to the approved six-foot width of the porch and noted that Ms. Ward had offered a width of seven feet at the public hearing. The design of the extension is a cantilevered, uncovered balcony similar to the eight-foot balcony on the Historic Structure at 505 Woodside Avenue. He offered to cover the balcony or move the columns so there is no cantilever. He displayed a photograph of the balcony, which had already been framed by the builder, showing the extensions over the approved area.

Mr. Suter stated that he disagreed with all five Staff findings. He believes denial would cause unreasonable hardship; 90% of the uphill neighbors on the street have a similar feature and 46 homes on the Historic Registry have an outside dining area adjacent to the living area, many of which are uncovered decks above garages. He indicated that the Technical Memorandum only considered data from before people had automobiles and garages and therefore was seeking to revert the historic nature of Old Town, not maintain it. He then presented addresses of six homes that have a similar feature to the requested balcony.

Mr. Suter presented a photograph of the home at 245 Woodside Avenue, which has stairs and a 14-foot deck that protrude past the normal setback and into the sidewalk. He stated that those items were approved under a Variance and part of what was referred to as “general conditions of the neighborhood” in the Staff Report, despite encroaching five inches onto his property. He believes that this condition is a special circumstance of the property.

Mr. Suter believed that granting the Variance was essential to his enjoyment of a substantial property right possessed by other property owners in the zone. He then provided comments from neighboring property owners and indicated that the decks at 245 Woodside Avenue and 232 Woodside Avenue feature prominently in their vacation rental listings.

Mr. Suter did not believe the Variance would affect the General Plan or be contrary to the public interest, as the three-foot, 11-inch extension would be barely visible. He believed the spirit of the LMC would be observed and substantial justice done by granting the Variance, as his interpretation was that his home was constructed to complement existing houses. He then presented an image of Woodside Avenue, indicating which homes have a similar balcony feature and noted that his home cannot be seen from the road. He then presented photographs of those homes.

In response to a question raised by Board Member Stafsholt, Planner Covey confirmed that the plans were originally submitted with a much larger deck. During the design review process, they were asked to reduce the depth of the deck on the front façade because it did not comply with the LMC. The applicant then updated the plans to decrease the deck size and went through the SSCUP and HDDR process.

Board Member Stafsholt noted that a condition of the prior approval was that the final plans reflect substantial compliance with the plans reviewed on February 14, 2025, by the Planning Commission. He asked the Applicant why the deck was not built to the approved plans. Mr. Suter stated that it was denied based on the Technical Memorandum, which he requested several times but only received approximately one month before the Staff hearing. He visited Park City over the holidays and noticed that other homes had large porches, and he then decided to challenge the decision because he believed it was an injustice.

Board Member Stafsholt asked if Mr. Suter believed his neighbor's stairs being five inches over the property line would give him the right to do the same to his other neighbor, as that was essentially his argument regarding decks. Mr. Suter stated that he brought it up because the Staff Report refers to the neighboring property as "a condition general to the neighborhood" rather than specific to his property, which he disagreed with. He has signed an Encroachment Agreement with that property owner that allows the stairs to remain.

Board Member Schulman stated that she understood why the Applicant made the request. She visited the street and saw the houses he mentioned in his application. She asked if the decks on the properties he referenced were of a similar size to his request. Mr. Suter stated that they range in size from seven to 14 feet. At the public hearing, Ms. Ward offered to allow a width of seven feet.

Director Ward stated that the LMC is written to the original dimensions and types of porches on Historic Structures and is applied to all new infill development. The Technical Memorandum evaluated the Sanborn maps and photographs of Historic Structures to set the baseline. She confirmed that they had discussed allowing the applicant's porch to be seven feet wide.

Board Member Schulman stated that she understood why the Applicant wanted a large deck, but the LMC has changed since some of the properties he referenced were approved and she was not in favor of setting a new precedent by granting the Variance. Mr. Suter stated that his neighbors enjoy this benefit, and some Historic Structures in Old Town have larger porches. He believed the Technical Memorandum is flawed and should be ignored because

it considers how Historic Homes used to be, not how they are. Board Member Shulman disagreed.

Board Member Gezelius stated that the Board of Adjustment tries to be fair. Rules change over time, and people make expansions and alterations to their properties. All the City can do is enforce the current rule and treat everyone fairly under that rule. It was her opinion that the deck expansion did not meet the requirements for an exception.

Chair Franklin agreed with Board Member Gezelius and asked if it would be possible to approve a seven-foot-wide porch. Director Ward stated that the allowed width had already been increased from five to six feet. The conversation during the Administrative Public Hearing was in the context of what is compatible, and their finding was that six feet was the correct width. If the Board of Adjustment found that the Applicant met the five criteria for specific exceptions for the site, they could direct Staff to draft a Final Action Letter indicating that the Applicant had met the burden of proof to allow an additional one foot.

It was noted that the home will have an extensive fourth-floor deck, as well as a second-floor deck, which is not typical of the neighborhood.

MOTION: Board Member Gezelius moved that the Board of Adjustment DENY the Variance from the Regulations for Porches on New Residential Infill in the Historic District Outlined in Land Management Code § 15-13-8(B)(2)(I) to Extend a Porch on the Front Façade from 6 Feet to 9 Feet 11 Inches in Depth, subject to the following:

Findings of Fact

1. 243 Woodside Avenue is an 1,875-square-foot Lot in the Historic Residential – 1 (HR-1) Zoning District and Lot 2 of the 239 Woodside Replat Lot Line Adjustment recorded with Summit County on July 25, 2007.
2. In 2023, the Applicant submitted a Steep Slope Conditional Use Permit and Historic District Design Review (HDDR) to construct a new Single-Family Dwelling (SFD) on the site.
3. Planning Staff worked with the Applicant to process the applications and to bring the proposal into compliance with the regulations in the Land Management Code (LMC) for the HR – 1 Zoning District and New Residential Infill in the Historic District. In doing so, Planning Staff reviewed the proposed porch and rooftop deck on the front façade.
4. Goal 15 of the Park City General Plan is to preserve the integrity, mass, scale, compatibility and historic fabric of the nationally and locally designated historic resources and districts for future generations.1 Objective 15B is to maintain character, context, and scale of local Historic Districts with compatible infill development and additions.

5. 243 Woodside Avenue is in the HR-1 Zoning District. The purposes of this Zoning District include:
 - a. Preserving present land uses and character of the historic residential areas of Park City.
 - b. Encouraging construction of historically compatible structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods.
6. The LMC does not define “porch.” LMC § 15-15-1 states that words not defined in the LMC “shall have a meaning consistent with Webster’s New Collegiate Dictionary, latest edition,” and Webster’s defines “Porch” as “a covered area adjoining an entrance to a building and usually having a separate roof.”
7. LMC § 15-13-8(B)(2)(i) establishes the following for new residential porches in Historic Districts:
 - a. Porches shall be used to define front entrances. Porches typically cover the entrance and usually extend partially or fully across the main façade. Over-scaled, monumental and under-scaled entries shall be avoided.
 - b. Porches on primary and secondary facades shall be compatible with a building’s style and shall respect the scale and proportions found on historic buildings.
 - c. The height of porch decks shall be similar to those found on historic building(s) in the Historic District.
 - d. Locate porches on new infill construction in a way that follows the predominant pattern of historic porches along the street, maintaining traditional setbacks, orientation of entrances, and alignment along the Streetscape or character area to reinforce the visual rhythm of the buildings and site elements.
 - e. The height of porch decks shall be similar to those found on historic building(s) within the Streetscape or character area
8. The Applicant proposes extending the covered porch to create an uncovered deck extension nearly 10 feet in depth. LMC § 15-15-1 defines “deck”:
 - a. Platform Deck: open structure above the ground that is in the front yard, rear yard, or side yard of a site.
 - b. Deck, Rooftop: open structure located on or above the roof framework and the enclosed gross floor area of a structure.
9. SWCA Lead Architectural Historian completed a technical memorandum to outline appropriate dimensions for compatible porches and decks in the Historic Districts. The technical memorandum states that although the LMC provides some direction regarding historically compatible porches, balconies,

and decks, the purpose of this technical memorandum is to review those guidelines and provide clarification and supplemental guidance.

10. On November 8, 2023, as part of the HDDR process, the proposed SFD was reviewed by the Design Review Team (DRT) with the City's historic preservation consultant and Planning Staff for compliance with the LMC. The Applicant's original proposal contained a porch that did not comply with the requirements of LMC § 15-13-8(B)(2)(i) because it was:
 - a. Over-scaled.
 - b. Disproportionate to historic buildings, as demonstrated by the technical memorandum.
 - c. Inconsistent with the predominant pattern of historic porches along the street, and it did not align with the streetscape or character area to reinforce the visual rhythm of the buildings and site elements.
11. Based on the review of the LMC requirements regarding porches, the Planner for the project sent comments to the Applicant requiring that the depth of the porch be reduced to no more than six feet.
12. The Applicant updated their plans to comply with the LMC and reduced the depth of the porch to six feet.
13. On February 14, 2024, the Planning Commission approved a Steep Slope Conditional Use Permit (PL-23-05842) for the construction of the SFD. Condition of Approval 1 from the SSCUP states "[f]inal building plans and construction details shall reflect substantial compliance with the plans reviewed February 14, 2024, by the Planning Commission."
14. On March 7, 2024, the Planning Director approved the HDDR (PL-23-05841) for the new SFD.
15. On July 23, 2024, the City issued Building Permit 24-605 for the construction of the SFD.
16. On February 19, 2025, the Applicant applied to modify the HDDR to increase the front porch depth from six feet to nearly 10 feet to create a hybrid second-story porch/deck that is cantilevered over the driveway.
17. On May 15, 2025, the Planning Director opened a public hearing and continued the item to May 29, 2025.
18. On May 29, 2025 the Planning Director denied the request for a modification to the HDDR because the Applicant's proposed hybrid Porch/Deck extension did not comply with the porch regulations outlined in LMC § 15-13-8(B)(2)(i) or the Deck regulations outlined in LMC § 15-13-8(B)(2)(7).

19. On June 26, 2025 the Applicant applied for a Variance from the requirements of the LMC.
20. Literal enforcement of the Land Management Code would not cause an unreasonable hardship for the Applicant that is necessary to carry out the general purpose of the Land Management Code.
21. Goal 15 of the Park City General Plan is to preserve the integrity, mass, scale, compatibility and historic fabric of the nationally and locally designated historic resources and districts for future generations. Objective 15B is to maintain character, context, and scale of local Historic Districts with compatible infill development and additions. The LMC is enacted to implement the goals and policies of the General Plan (LMC § 15-1-2). The purposes of the HR-1 Zoning District outlined in LMC § 15-2.2-1 are to:
 - a. Preserve present land Uses and character of the Historic residential Areas of Park City;
 - b. Encourage the preservation of Historic Buildings and/or Structures;
 - c. Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods;
 - d. Define Development parameters that are consistent with the General Plan policies for the Historic core; and
 - e. Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.
22. LMC § 15-10-8 states “In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship (...), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the Variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood.”
23. In 2019 the City Council adopted Ordinance 2019-06 approving updated Design Regulations for Historic Districts and Historic Sites. These regulations are applied consistently to properties in the Historic District. All new residential infill is required to comply with the standards outlined in LMC § 15-13-8 Regulations for New Residential Infill in the Historic District. Properties in the Historic District with decks that do not comply with the updated Design Regulations are not the standard by which new residential infill is to be reviewed under. The proposed deck at 243 Woodside must be reviewed under the code in effect at the time as established by LMC § 15-1-17 and must be compliant with current code standards, not existing Non-Complying properties.

24. In the HR-1 Zoning District and the Old Town neighborhood many Historic Structures do not comply with setbacks due to their date of construction and Historic Character. While these homes would not be permitted under current LMC regulations, their impact on the subject Property is not associated with circumstances peculiar to the subject Property and is a condition that is general to the neighborhood.
25. Literal enforcement of the LMC, which in this case would require the porch to be installed in a manner consistent with the regulations outlined in LMC § 15-13-8(B)(2)(i) (a depth of six feet) and would not allow for a deck on the front façade as outlined in LMC § 15-13-8(B)(7), does not create unreasonable hardship for the Applicant. A front porch is permitted subject to LMC and HDDR approval that is compliant with the massing and scale required in the Historic District. The proposed extension and creation of a hybrid porch/deck with an improved view shed on the front façade is self-imposed. Compliance with the approved plans is necessary to carry out the general purpose of the LMC to encourage construction of Historically Compatible Structures that contribute to the Historic character and scale in the Historic District.
26. There are not special circumstances attached to the Property that do not generally apply to other properties in the same zone.
27. Properties in the HR-1 Zoning District are required to comply with the LMC in effect at the time of construction. Prior to 2019, when the Historic District Design Guidelines were updated, other properties in the HR-1 Zoning District may have elements that were approved and that are now Non-Complying under today's LMC. Properties within the Historic District that conformed with the requirements of the LMC at the time they were constructed do not change the requirements of the LMC for current projects.
28. There are other properties in Old Town that are adjacent to Sites with Non-Complying Structures, and this does not absolve the property of the regulations of LMC compliance. There are no special circumstances attached to the property that do not apply to other properties in the same district.
29. Granting the Variance is not essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.
30. The Applicant is permitted to have a porch on the front façade so long as it complies with the LMC Regulations and HDDR approval. Denying the request to create a hybrid porch/Deck that is over-scaled in the Historic District does not infringe on the Applicant's ability to enjoy their property or utilize their front porch in a manner that is inconsistent with the ability of other properties in the same Zoning District. The requirements in the LMC are applied consistently to properties in the HR-1 Zoning District, does not infringe on a substantial property right, and reflects the requirements at the time of construction.

31. The Variance will substantially affect the General Plan and will be contrary to the public interest.
32. Goal 15 of the General Plan is to preserve the integrity, mass, scale, compatibility and historic fabric of the nationally and locally designated historic resources and districts for future generations. Objective 15B is to maintain character, context, and scale of local Historic Districts with compatible infill development and additions. While the Applicant states the extension will be “barely visible” it will be visible from the Primary Public Right-of-Way, will impact the streetscape and character area of Woodside Avenue, and a front porch and Deck is a prominent feature on a residential Structure. It is important, as outlined in the General Plan, for new residential infill to be designed in a way that is compatible with the context, character, and scale of Historic Sites. As outlined in the technical memorandum decks were not seen on the front façade of Historic homes in Park City, porches were traditionally limited to a depth of around 5 feet and were inset under the main roof when located on a second story.
33. Maintaining the integrity of the historic fabric of the nationally and locally designated Historic District is integral to the goals of the General Plan. The proposed extension does not comply with these goals.
34. The Spirit of the Land Management Code is not observed, and substantial justice is not done.
35. LMC § 15-13-8(B)(2)(i)(1) outlines that over scaled and monumental porches shall be avoided. The proposed expansion does not reflect the spirit of the LMC that dictates new porches shall be compatible with Historic porches seen within the district.
36. LMC § 15-13-8(B)(7) dictates that “Decks shall be constructed in inconspicuous areas where visually minimized from the primary public right-of-way, usually on the tertiary façade.” The proposed expansion and creation of a hybrid porch/deck conflicts with the spirit of the LMC that regulates the location of decks so as to not detract from the streetscape of the Historic District when viewed from the Primary Public Right of Way.
37. As stated above the purpose of the HR-1 Zoning District is to:
 - a. Preserve present land Uses and character of the Historic residential Areas of Park City;
 - b. Encourage the preservation of Historic Buildings and/or Structures;
 - c. Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods;

- d. Define Development parameters that are consistent with the General Plan policies for the Historic core; and
 - e. Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.
38. The proposed expansion and creation of a hybrid deck/porch is contradictory to the purposes outlined for the HR-1 Zoning District in LMC § 15-2.2-1. The proposed expansion does not contribute to the character and scale of the Historic District. The technical memorandum created by SWCA is utilized by Planning Staff in applying the code for porches and decks in a consistent manner. The memorandum provides historic context and technical specifications that aid in encouraging construction of decks and porches that contribute to the scale of the Historic District in compliance with LMC § 15-2.2-1. The memorandum allows for the purpose of the HR-1 Zoning District to be implemented when reviewing proposed decks and porches within the Zoning District.
39. The standards of the LMC are applied consistently to all property owners and projects based on the code that is in effect at the time. To grant an exception to one property owner that is contrary to the regulations outlined in the LMC does not support the consistent application of the code. An exception in this manner is not equitable to other property owners that have and will be required to comply with the LMC.
40. Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on August 5, 2025. Staff mailed courtesy notice to property owners within 300 feet on August 5, 2025. *The Park Record* published courtesy notice on August 5, 2025.

Conclusions of Law

1. Literal enforcement of the Land Management Code for this Property does not cause unreasonable hardship and is not necessary to carry out the general purpose of the Land Management Code.
2. No special circumstances are attached to the Property that do not generally apply to other properties in the same district.
3. Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other Properties in the same zone.
4. The proposal is not consistent with the General Plan and will be contrary to public interest.
5. The spirit of the zoning ordinance is not observed.

6. The Applicant did not meet the burden of proof that all the conditions justifying a Variance have been met.

Board Member Schulman seconded the motion. The motion passed unanimously with one abstention. Board Member Armstrong abstained from the vote.

- C. **1884 Three Kings Drive – Variance – The Applicant Requests a Variance from the 28-Foot Height for the Urban Park Zoning District in Land Management Code § 15-2.26-4 to 50 feet in Height for a 100-Foot-Long Net at the Three Kings Water Treatment Plant in the Urban Park Zoning District and a 600-Foot-Long Net Along the Thaynes Pathway in the Urban Park Zoning District. PL-25-06630.**

Planner I, Jaron Ehlers, reported that the application was for a Variance to allow two nets up to 50 feet in height at 1885 Three Kings Drive in the Urban Park Zoning District (“UPZ”). An aerial map was displayed, identifying the locations of the proposed nets. The Thaynes net would be located along Thaynes Canyon Drive and would be 600 feet in length, with heights ranging from 20 to 50 feet from final grade. The second proposed net at the Three Kings Water Treatment Plant would be 100 feet long and a maximum of 50 feet tall. A rendering of the net was also reviewed.

Planner Ehlers reported that the Urban Park Zone has a 28-foot maximum height, and the Variance would allow a height of 50 feet for both nets.

Staff analysis of the Variance Criteria determined the following for the Thaynes net:

1. **Literal enforcement of the LMC would not cause an unreasonable hardship that is necessary to carry out the general purpose of the LMC.**
The proposed net would provide a buffer between the public golf course and the multi-use pathway. Literal enforcement of the LMC would not allow for sufficient protections for pedestrians and bicyclists on the pathway.
2. **There are not special circumstances attached to the property that do not generally apply to other properties in the same zone.**
The Thaynes Canyon Drive multi-use pathway is the only proposed multi-use pathway in the UPZ because it runs along the golf course, and there is a unique risk of users of the pathway being struck by golf balls.
3. **Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other properties in the same zone.**
The Variance would create safer conditions for users and increase the enjoyment of the multi-use path and property.
4. **The Variance would substantially affect the General Plan and be contrary to the public interest.**

Strategy 3.4 of the General Plan encourages the creation of multi-use pathways between all public spaces within City limits. The golf course is a public space. The proposed net would provide increased safety to users of the pathway.

- 5. The spirit of the LMC is not observed, and substantial justice is not done.** The Thaynes pathway provides for better pedestrian and bicyclist circulation with the wider context of the City, and the proposed net would provide safety to users of the pathway.

Staff analysis of the Variance Criteria determined the following for the Three Kings net:

- 1. Literal enforcement of the LMC would not cause an unreasonable hardship that is necessary to carry out the general purpose of the LMC.** Strict enforcement of the LMC would limit the ability of the net to provide protection for public utility operations.
- 2. There are not special circumstances attached to the property that do not generally apply to other properties in the same zone.** The expansion of the Three Kings Treatment Plant was required due to State and Federal water quality regulations. The Park City Golf Course is the only golf course in the UPZ with a public facility inside the course.
- 3. Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other properties in the same zone.** The danger of golf balls creates a potential hazard to the facility and its operators, a hazard that is not shared by other public utilities in the UPZ.
- 4. The Variance would substantially affect the General Plan and be contrary to the public interest.** Objective 14. C of the General Plan is to provide safe drinking water for residents and visitors, which is the goal of the water treatment plant. The proposed net would help protect the plant and its workers.
- 5. The spirit of the LMC is not observed, and substantial justice is not done.** The proposed Three Kings net would prevent damage to infrastructure at the water treatment plant.

Staff recommended that the Board of Adjustment review and consider approving the Variance based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the draft Final Action Letter.

Capital Projects Manager, Steven Dennis, stated that Park City residents enjoy their recreation facilities, which include the multi-use pathways. The Bike and Pedestrian Plan adopted in 2024, looks at identifying different network types. The area is flagged for a high comfort network, and golf balls coming onto the pathway would diminish its efficacy. Staff

consulted with Judge Netting, a local firm that specialized in nets, to create the recommendation for an appropriate amount of protection that will uphold Park City's values of high health, safety, and welfare standards for its municipal property.

Public Utilities Engineer, Harrison Holley, stated that he met with Judge Netting regarding the netting for the water treatment plant. There are existing trees on the property, and four additional trees were planted earlier that day that will be outside of the netting. When the trees mature, they may provide enough protection that the netting can be removed. The water treatment plant is the first of its kind; not many municipalities treat their water for heavy metals. As a result, architects, school groups, and others tour the plant, and those visitors also need to be protected.

In response to a question raised by Board Member Gezelius, Manager Dennis stated that the holes in the net will be approximately one inch. They are made from black high-density nylon. The nets will not be removed in the winter, and the expected lifespan is 15 to 20 years. Engineer Holley noted that the poles will last much longer, so only the net would need to be replaced at that time. Ongoing maintenance expenses for the Thaynes net would be paid through the Golf Course Enterprise Fund, and expenses for the Three Kings net would be paid through the Water Fund.

Director Ward stated that a recommended Condition of Approval for a previous application was that the net be removed when the golf course is not in operation. Chair Franklin asked if the Board should consider adding that condition.

Board Member Stafsholt stated that the golf course did not have this problem until the pathway was installed, so the condition was created by the City. He asked why the funding would come from the Golf Course Enterprise Fund and instead of Capital Projects, since that is the department that created the issue. Manager Dennis clarified that the initial installations would be paid through the Capital Projects Fund, but ongoing maintenance and replacement would be paid through the other enterprise funds.

Board Member Stafsholt asked if a committee designed the nets and if the conceptual drawings included in the Staff Report were accurate. Manager Dennis stated that the concepts were advancing through the design process and would be reviewed by structural and civil engineers. Engineer Harrison clarified that the projects were separate. They had consulted with Judge Netting for the Three Kings net, but no final designs had been supplied. If the Variance was approved, the project would move into the appropriate procurement pathway.

Board Member Stafsholt stated that the maintenance facility has an existing horizontal net and asked if a similar design was considered. Engineer Harrison confirmed that canopy netting was considered. However, the golf maintenance team indicated that the canopy netting experiences snow buildup that degrades the material. Board Member Stafsholt noted that the poles and netting are shown on the wrong side of the fence in the concept drawing. Engineer Harrison confirmed that they would be installed on the correct side of the fence. Board Member Stafsholt also described issues he found with the Thaynes net

drawing, including pole location and spacing. Manager Dennis clarified that the concepts were not finalized, and equipment movement would be considered in the final design.

Board Member Stafsholt asked if fencing was considered along the back rail. Manager Dennis stated that it was being contemplated for phase two of the pathway.

Board Member Schulman stated that she was surprised to learn that no neighbors had objected to the 50-foot height. Manager Dennis stated that neighbors have expressed support for the height because they are negatively impacted by errant golf balls. The item was presented to the City Council for budget approval, and at that meeting, several residents spoke in support of the projects. Extensive landscaping will also be installed to help hide the netting. The fully mature trees will be 50 to 60 feet tall. Other visual mitigations will include decreasing the diameter of the poles, spacing them behind mature trees, etc. Staff is cognizant of the impact on the neighborhood, but they also want to ensure residents' safety.

Director Ward reported that if the Board of Adjustment approved the Variance, the Applicant would be required to submit a Conditional Use Permit application to the Planning Commission. A public hearing would be part of that review, and property owners within 300 feet of the property would receive notice of that hearing.

Board Member Stafsholt stated that the location of the netting would mitigate the problem, but he was surprised that no members of the public had requested that the net be removed in the winter. Manager Dennis explained that there were operational concerns with removing and reinstalling the netting yearly. It would require extensive effort and could be damaged in storage. Netting can also stretch over time, so reinstallation would be difficult and may not provide the same level of protection year over year. The vendor was chosen for their expertise, and it was not reasonable to expect that same level of expertise from the golf and water maintenance teams.

Chair Franklin referred to Figure 5 and asked if the water treatment facility had impact-resistant windows. Engineer Harrison confirmed that the materials are impact-resistant. The net was proposed to extend beyond the building to achieve the required height and protect the site from balls flying over the building and into the pedestrian area. The net will not extend beyond the hammerhead turnaround, as they have not found golf balls in that area. Some protection will be provided by the two mature trees and four new trees. Chair Franklin noted that the tree branches do an excellent job of stopping errant golf balls. The Board Members discussed the length of the driving range and its history.

Chair Franklin asked if the Thaynes and Three Kings nets should be considered separately. Board Member Gezelius asked if the Findings of Fact and Conditions of Approval would need to be revised to separate the items. Board Member Wilson stated that she did not see a need to separate them. Board Member Stafsholt noted that the criteria for approval were the same for both nets. Board Member Schulman stated that she was comfortable with the motion as written because neighbors will have the opportunity to participate in a public

hearing regarding the net they may find objectionable. It was noted that the Planning Commission would consider the seasonality of the nets.

Director Ward asked that Condition of Approval 1 be amended to replace “existing” with “final” grade.

MOTION: Board Member Gezelius moved that the Board of Adjustment APPROVE the from the 28Foot Height for the Urban Park Zoning District in Land Management Code § 15-2.26-4 to 50-Feet in Height for a 100-Foot-Long Net at the Three Kings Water Treatment Plant in the Urban Park Zoning District and a 600-Foot-Long Net Along the Thaynes Pathway in the Urban Park Zoning District, subject to the following:

Findings of Fact

1. The Applicant proposes two safety nets, both up to 50 feet in Height, at the Park City Golf Course and Three Kings Water Treatment Plant at 1884 Three Kings Drive. The nets are requested to provide protection from errant golf balls.
2. 1884 Three Kings Drive is a 67.75-acre Lot in the Park City Golf Course Back Nine Subdivision and Urban Park Zoning District (UPZ). The property is part of the Hotel Park City Master Planned Development (MPD).
3. The net proposed along Thaynes Canyon Drive is 600 feet long, and ranges in height from 20 to 50 feet from Final Grade, to provide protection for users of the new multi-use pathway installed along Thaynes Canyon Drive.
4. The net proposed for the Three Kings Water Treatment Plant is 100 feet long and a maximum of 50 feet tall and is located northeast of the Three Kings Water Treatment Plant to provide protection for the facility.
5. On June 26, 2025, the City Council authorized a construction agreement for a 50-foot-tall net along the new Thaynes Canyon Drive multi-use pathway.
6. On July 25, 2025, the Applicant applied for a Variance from maximum UPZ height for two nets—one for the multi-use pathway and one for the Water Treatment Plant—at 1884 Three Kings Drive.
7. The Applicant seeks a Variance from the Urban Park Zone Building Height maximum outlined in Land Management Code Section 15-2.26-4 to install safety nets along the Park City Golf Course.
 - a. LMC § 15-15-1 defines a Fence as “A Structure to separate or divide outdoor Areas. The term Fence includes, but is not limited to, net Screening for golf balls, and masonry walls. A Fence need not be sight obscuring or light tight.”

- b. LMC § 15-2.26-2(C)(14) establishes that Fences greater than six-feet in Height above Final Grade are Conditional Uses and require a Conditional Use Permit (CUP). Both golf nets are proposed to reach a maximum of 50-feet in Height above Final Grade.
 - c. Land Management Code (LMC) § 15-2.26-4 establishes the UPZ Height at 28 feet from Existing Grade. The Applicant is proposing golf nets with a maximum Height of 50-feet above Final Grade, which is not allowed unless granted a Variance. The Applicant requests a Variance to allow two nets, both up to 50 feet in height from Final Grade, to provide protection from errant golf balls.
8. In order to grant the requested Variance, the Board of Adjustment must find that all five criteria in LMC Section 15-10-8(C) are met. The Applicant bears the burden of proving that all the conditions justifying a Variance have been met.
- a. **Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code.**
 - i. Pursuant to LMC § 15-2.26-1 The purpose of the UPZ is to:
 - 1. Promote the preservation of Historic Buildings, Structures, Sites, or Objects;
 - 2. Preserve the vegetation and habitat of natural Areas;
 - 3. Provide for careful review of low-intensity recreational Uses and environmentally-sensitive, non-motorized trails;
 - 4. Establish and preserve districts for land Uses requirements substantial Areas of Open Space covered with vegetations that are substantially free from Accessory Buildings, Streets, and Parking Lots;
 - 5. Permit recreational Uses and preserve recreation land;
 - 6. Encourage parks, golf courses, trails, and other compatible public or private recreational Uses, and preserve and enhance park amenities; and
 - 7. Encourage sustainability, conservation, and renewable energy.
 - ii. **Thaynes net:** The purposes of the UPZ include permitting recreational uses and preserving recreation land, while also encouraging golf courses and other compatible recreational uses, enhancing park amenities. The proposed net provides a buffer between the public golf course and the multi-use pathway, which enhances bike and pedestrian access along Thaynes Canyon Drive. Literal enforcement of the LMC would not allow for sufficient multi-use pathway protections that serve a public benefit.
 - iii. **Three Kings Net:** Essential public utilities are a Conditional Use in the UPZ (LMC § 15-2.26-2(C)(1)). On October 24, 2018, the Planning Commission approved the Master Planned

Development, Conditional Use Permit (CUP), and Subdivision for the Three Kings Water Treatment Plant. The net is proposed to be installed to protect these public utility buildings, equipment, vehicles, and in some cases, operational zones, where staff and visitors are present. Strict enforcement of the LMC would require the Three Kings net to be reduced to 28 feet in Height, reducing the effectiveness of protection for public utility operations.

- b. There are special circumstances attached to the Property that do not generally apply to other properties in the same zone.**
- i. **Thaynes Net:** The Thaynes Canyon Drive multi-use pathway is uniquely positioned within the UPZ because it runs along the golf course. The other properties in the UPZ are primarily parks where the risks of nearby pedestrians and bikers being struck by golf balls are minimal to non-existent.
 - ii. **Three Kings Net:** The Three Kings Treatment Plant is a uniquely located public facility within the golf course and errant golf balls could impact operations and equipment. The expansion of the Three Kings Treatment Plant was required due to State and Federal regulatory matters regarding water quality. The Park City Golf Course is the only golf course within the UPZ with a public facility located within.
- c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.**
- i. **Thaynes Net:** LMC § 15-2.26-3(A) establishes that paths are an allowed Setback exception in the UPZ. Creating safe conditions for users of the path would increase the enjoyment of the use of the property and the multi-use path. Other properties in the UPZ do not include golf courses, so these properties do not have the same need for safety netting that exceeds the Zone Height.
 - ii. **Three Kings Net:** Public utilities are a Conditional Use in the UPZ. This establishes the right for the City to build and operate, as Conditioned, those public utilities. The danger of golf balls creates a potential hazard to the facility and its operators, a hazard not shared by other public utilities in the UPZ, as the Park City Golf Course is the only Golf Course located within the UPZ.
- d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest.**
- i. **Thaynes Net:** Strategy 3.4 of the General Plan states “Create safe bike/pedestrian pathways between all public spaces within City limits.” The Golf Course is a public space, often used by the community for their recreation needs. The Thaynes pathway is a step towards the Strategy of having pedestrian pathways between all public spaces. The proposed net provides increased safety to users of the pathway.

- c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone;
- d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest; and
- e. The spirit of the Land Management Code is observed and substantial justice done.

Conditions of Approval

1. The Maximum Height from Final Grade for the nets is 50 feet.
2. The Variance is limited to the outlined request. No other modifications are proposed or approved.
3. Prior to construction, the Applicant must receive approval for a CUP from the Planning Commission.
4. Any other construction will require compliance with LMC Chapter 15-2.26.

Board Member Stafsholt seconded the motion. The motion passed with the unanimous consent of the Board.

- D. **Parcel PC-SS-88 (Southeast Quinn’s Junction East of HWY 40, South of the Rail Trail) – Variance – The Applicant Requests a Variance from the 28-Foot Height for the Recreation and Open Space Zoning District in Land Management Code § 15-2.7-4 to 76Feet in Height and a Variance from the Land Management Code § 15-4-14(F)(4)(c) Requirement Limiting Panel Antennas to Five-Square-Feet in Area Per Face to 5.02Square Feet of Area to Allow Replacement of Telecommunications Equipment. PL-2506624.**

Planner Ehlers presented the Staff Report and displayed aerial photos indicating that the property is located near Highway 40 and south of the Rail Trail in the Recreation and Open Space (“ROS”) Zoning District. The existing facility consists of ground equipment and antennas mounted on utility poles. The proposal would remove six existing antennas and replace them with three smaller antennas. Elevations and antenna diagrams were reviewed.

A Site Lease was signed in 2000 between the then-owners of the property and T-Mobile. As Summit County was unable to locate the original approvals, the date the facility was built is unknown. In 2013, T-Mobile was allowed to replace six antennas without Building or Land Use Permits. In 2021, Summit County allowed the installation of a new micro-antenna, which required a Building Permit. The property was annexed into Park City in 2022. The applicant then applied for a CUP on December 16, 2024, but the proposal would not meet the height requirements for the zone. A Variance application was received on July 22, 2025.

The ROS Zoning District allows a maximum height of 28 feet, and the Applicant requested a Variance to allow for a height of 76 feet. Panel antennas are also limited to five square feet per space, and the Applicant requested a Variance to allow 5.02 square feet per face.

Staff analysis of the Variance Criteria determined the following:

1. **Literal enforcement of the LMC would not cause an unreasonable hardship that is necessary to carry out the general purpose of the LMC.**
Literal enforcement would cause an unreasonable hardship as the Applicant would not be able to maintain or upgrade the structure without a Variance and CUP and would therefore have to construct a new facility in an unknown location instead of using the existing facility.
2. **There are not special circumstances attached to the property that do not generally apply to other properties in the same zone.**
This is the only Telecommunications Facility of its size and scale identified in the annexed area. It was constructed in and allowed to be maintained by another jurisdiction for over a decade.
3. **Granting the Variance is not essential to the enjoyment of a substantial property right possessed by other properties in the same zone.**
If the Variance was denied, the Applicant would be unable to upgrade and maintain the existing Telecommunications Facility, which would decrease the quality of service and prevent them from taking advantage of technological advancements.
4. **The Variance would substantially affect the General Plan and be contrary to the public interest.**
Goal 1 of the General Plan is to protect undeveloped lands, discourage sprawl, and direct growth inward. The proposed Variance supported this goal by maintaining an existing structure, eliminating the visual potential impacts of a new facility, and reducing the existing visual impact.
5. **The spirit of the LMC is not observed, and substantial justice is not done.**
Although the existing facility is visually impactful, approval of the Variance would reduce those impacts.

Staff recommended that the Board of Adjustment review and consider approval of the proposed Variance based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Final Action Letter.

In response to a question from Board Member Stafsholt, Planner Ehlers clarified that a Telecommunications Facility is a Conditional Use in the ROS Zone. Board Member Stafsholt asked if granting the Variance would set a precedent for additional 76-foot-high telecommunications equipment in the zone. Director Ward indicated that a Condition of

Approval of the draft Final Action Letter would limit the approval to this specific request. If additional equipment was proposed, it would require a new Variance.

MOTION: Board Member Stafsholt moved that the Board of Adjustment DENY the Variance from the Regulations for Parking Areas for Historic Residential Sites Outlined in Land Management Code § 15-13-2(B)(1)(G) to Construct a Parking Area in Front of the Significant Historic Site subject to the following:

Findings of Fact

1. Parcel PC-SS-88 is a 145.59-acre metes-and-bounds Parcel in the Recreation and Open Space (ROS) Zoning District and Sensitive Land Overlay (SLO).
2. The Applicant proposes to upgrade an existing Telecommunications Facility east of HWY-40 and south of the Rail Trail.
3. While reducing the overall size of the existing Telecommunications Facility, the Applicant requests a Variance to allow upgrades to a Telecommunications Facility that exceeds the ROS Zone Height and size limitations for panel antennas.
4. The Applicant also proposes changes to ground-level telecommunications equipment but not to the Structure's footprint.
5. In 2000, a site lease was signed between United Park City Mines, the then-owner of PC-SS-88, and VoiceStream PCS II Corporation, the tenant at the time, for the creation of a Telecommunications Facility. At the time, PC-SS-88 was in unincorporated Summit County. VoiceStream was later rebranded as T-Mobile.
6. Although land use and building permits were required under the Summit County Code at the time of the Telecommunication Facility installation, the Summit County Planning Department was unable to locate any initial approvals.
7. In a May 28, 2013, email, Summit County informed T-Mobile that it did not need land use or building permits for a scope of work to replace six existing antennas with six new antennas.
8. In a September 30, 2021, email, Summit County informed T-Mobile that it did not need a land use permit for the replacement of the microwave dish antenna at this location. On December 16, 2021, Summit County issued a building permit for the antenna.

9. On June 16, 2022, the City Council of Park City approved Ordinance No. 2022-18 annexing Southeast Quinn's Junction, including PC-SS-88. The parcel was zoned ROS and SLO.
10. Park City's Land Management Code (LMC) requires a Conditional Use Permit for a Telecommunications Facility.
11. On December 16, 2024, the Applicant submitted a Conditional Use Permit application for the proposed upgrades to the Telecommunications Facility. Because there are no documented land use approvals for the original facility, Planning staff determined a Variance is required pursuant to the requirements of the Land Management Code.
12. On July 22, 2025, the Applicant submitted PL-25-06224 requesting a Variance for the Telecommunications Facility.
13. The Applicant seeks a Variance from the Building Height regulations in the ROS outlined in Land Management Code Section 15-2.7-4.
 - a. Land Management Code (LMC) § 15-2.7-4 establishes that the ROS Zone Height is 28 feet from Existing Grade. The Applicant requests a Variance to allow upgrades to an existing Telecommunications Facility with a height of 76 feet from Existing Grade. Proposed work is limited to the installation of replacement panel antennas and does not include increasing the height of the existing Structure.
14. The Applicant seeks a Variance from the Site Requirements for Telecommunications Facilities outlined in LMC § 15-4-14(F)(4)(c).
 - a. LMC § 15-4-14(F)(4)(c) limits panel antennas to five square feet per face. The Applicant requests a Variance to allow panel antennas with 5.02 square feet per face.
15. To grant the requested Variance, the Board of Adjustment must find that all five criteria in LMC Section 15-10-8(C) are met. The Applicant bears the burden of proving that all the conditions justifying a Variance have been met.
 - a. Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code.
 - i. Pursuant to LMC § 15-2.7-1 The purpose of the ROS Zoning District is to:
 1. Establish and preserve districts for land uses requiring substantial Areas of open land covered with vegetation and substantially free from Structures, Streets and Parking Lots,
 2. Permit recreational Uses and preserve recreational Open Space land,

3. Encourage parks, golf courses, trails and other Compatible public or private recreational Uses, and
 4. Preserve and enhance environmentally sensitive lands, such as wetlands, Steep Slopes, ridge lines, meadows, stream corridors, and forests.
 5. Encourage sustainability, conservation, and renewable energy.
- ii. LMC § 15-4-14 establishes the goal of the Telecommunications Facility regulations: “[T]o ensure that Telecommunications Facilities are Compatible with the unique characteristics of each Zoning District of Park City, and that adverse impacts on community quality and safety in residential, commercial and industrial Areas, are mitigated. The intent of these requirements is to locate Telecommunications Facilities and related equipment where they are least visible from Public Streets, public Areas and designated view corridors and, to the best extent possible, provide Screening from adjacent Property Owners.”
 - iii. The proposed Telecommunication Facility updates:
 1. The Telecommunications Facility is existing.
 2. Neither the footprint nor height of the existing facility are proposed to be expanded. Instead, the proposal reduces the number of antennas from nine to six. The overall square footage of the antennas is also reduced, from 120 square feet to 63.6 square feet. This results in an overall reduction to the adverse visual impacts created by the existing facility.
 3. In contrast, literal enforcement would create a situation where the Applicant is unable to maintain the existing Structure. It may also lead to the need to create additional Telecommunications Facilities in residential, commercial, and industrial areas to compensate for the loss in coverage if this facility were required to be removed, potentially impacting Open Space areas.
 - b. There are special circumstances attached to the Property that do not generally apply to other properties in the same zone.
 - i. Telecommunications Facility is the only one of its size and scale identified in the annexed area. Although staff were unable to find initial land use approvals from Summit County, the facility has existed for over a decade and was allowed to be maintained by Summit County.
 - c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.
 - i. Telecommunications Facilities are a Conditional Use in the ROS Zoning District (LMC § 15-2.7-2(C)(22)). If the Variance is denied, the Applicant would not be able to upgrade and maintain the existing facility, leading to decreased quality of service and

- preventing the facility from taking advantage of any advancements in telecommunications technology.
- d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest.
 - i. Goal 1 of the General Plan is to “protect undeveloped lands, discourage sprawl, and direct growth inward to strengthen existing neighborhoods.” The proposed Variance supports this goal by maintaining an existing Structure, eliminating the need for new facilities on undeveloped lands. The proposed project also reduces the visual impacts of the facility by incorporating fewer and smaller panel antennas.
 - e. The Spirit of the Land Management Code is observed, and substantial justice done.
 - i. A Telecommunications Antenna is a Conditional Use in the ROS Zoning District. Although the existing facility is visually impactful, proposed upgrades will reduce visual impacts. The Variance would allow the Telecommunications Facility to be upgraded and provide improved service to Park City with no increase in adverse impacts.
16. The Development Review Committee reviewed the proposal on July 1, 2025, and confirmed that it meets their standards.
17. Staff published notice on the City’s website and the Utah Public Notice website and posted notice to the property on August 5, 2025. Staff mailed courtesy notice to property owners within 300 feet on August 5, 2025. *The Park Record* published courtesy notice on August 5, 2025.

Conclusions of Law

- 1. The Applicant proved their request meets the five criteria outlined in Land Management Code Section 15-10-8:
 - a. Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code;
 - b. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone;
 - c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone;
 - d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest; and
 - e. The spirit of the Land Management Code is observed and substantial justice done.

Conditions of Approval

1. The maximum height for the existing Telecommunications Facility is 76 feet from Existing Grade.
2. The maximum area per face allowed for panel antennas at the existing Telecommunications Facility is 5.02 square feet.
3. The Variance is limited to the outlined request. No other modifications are proposed or approved.
4. Prior to construction, the Applicant must receive Conditional Use Permit approval from the Planning Commission.
5. Future construction requires compliance with LMC Chapter 15-2.7, LMC Chapter 15-2.21, and LMC § 15-4-14.

Chair Franklin seconded the motion. The motion passed with the unanimous consent of the Board.

Director Ward reported that there were currently no pending applications for Board of Adjustment review at a future meeting.

7. ADJOURN

MOTION: Board Member Gezelius moved to ADJOURN. Board Member Stafsholt seconded the motion. The motion passed with the unanimous consent of the Board.

The Board of Adjustment Meeting adjourned at 6:45 PM.