

PARK CITY MUNICIPAL CORPORATION
ADMINISTRATIVE PUBLIC MEETING MINUTES
PLANNING DEPARTMENT
<https://us02web.zoom.us/j/88167820277>
October 24, 2024

STAFF:

Elissa Martin, Assistant Planning Director; Alec Barton, Senior Planner; Virgil Lund, Planner II; Jacob Klopfenstein, Planner I; Meredith Covey, Planner I; E. Roman, Administrative Assistant.

PUBLIC:

Hannah Tyler (Virtual), Josh Hockman (Virtual).

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The Assistant Planning Director called the meeting to order at 12:00 PM.

REGULAR AGENDA/PUBLIC HEARINGS/POSSIBLE ACTION

9200 Marsac Avenue – Administrative Conditional Use Permit – PL-24-06197
– Proposing two Yurts Totaling 1,020 Square Feet and Outdoor Dining in the Residential Development Zoning District and Sensitive Land Overlay.

Planner Virgil Lund presented the application. He indicated that the proposal complies with all Zoning District Requirements, Outdoor Dining Criteria, Criteria for Temporary Structures, CUP criteria and the Sensitive Land Overlay. Planner Lund also stated that the Applicant will submit a Building Permit for review and approval prior to installation of the Yurts and Decks. He also noted that the Use of the Yurt is restricted to day-skiers.

At 12:05 PM, the Assistant Planning Director opened a public hearing. There was no public input.

At 12:06 PM, the Assistant Planning Director closed the public hearing.

MOTION: The Assistant Planning Director **APPROVED** the Administrative Conditional Use Permit in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact

1. The Applicant proposes to install two Yurts and tables for Outdoor Dining, as a Temporary Improvement, on a permanent 2,930-square-foot deck to be constructed adjacent to the Empire Canyon Lodge at 9200 Marsac Avenue. The permanent deck will be reviewed at Building Permit submittal. The Yurts are proposed to be installed for no longer than 180 days. The Yurts must be removed 180 days after Building Permit issuance.
2. According to the Applicant's Narrative "the intent of the Temporary Structure is to provide food and beverage service for our existing day-skier guests in support of the Empire Canyon Lodge operation. The hours of operation will be consistent with the resort operations and associated events that may occur at Empire Canyon Lodge as a part of our normal business."
3. One Yurt will be 706.86 square feet and will have tables and chairs for dining, and the second Yurt will be 314.14 square feet and will be used by Empire Lodge staff. There will also be an enclosed connector hallway constructed with materials similar to the Yurts between the two Yurts that is 36.9 square feet.
4. The Applicant proposes 17 two-, three-, and four-top tables for Outdoor Dining, between the Yurt and the uncovered area on the deck, for a total outdoor seated capacity of 41 people.
5. 9200 Marsac Avenue (Empire Canyon Lodge) is part of the Flagstaff Mountain Resort Large Scale Master Planned Development and Pod B2 West of the Empire Pass Master Planned Development.
6. The Flagstaff Annexation and Development Agreement allowed for a new Day Lodge. Section 2.5 of the Development Agreement states: "Subject to Conditional Use review, Deer Valley may construct a skier day lodge of a maximum of 35,000 square feet."
7. On May 10, 2000 the Planning Commission approved a Conditional Use Permit (CUP) for the Empire Canyon Lodge. Condition of Approval 5 from the CUP Final Action Letter states: "If Deer Valley desires to use Empire Canyon Lodge for other than just skier day use, an MPD modification will be required which will address the proposed uses and associated parking impacts."
8. On May 23, 2004, the Plat for the Empire Canyon Lodge, Parcel B2 of the Empire Village Subdivision, was recorded with Summit County (Recorder Entry No. 814178) and created a 1.57-acre Lot for the Empire Canyon Lodge. The

Empire Canyon Lodge is a 20,000-square-foot lodge on the upper mountain of Deer Valley Resort with a restaurant and conference rooms.

9. The proposed Yurts comply with the Empire Canyon Lodge CUP and Flagstaff Annexation Development Agreement, with Condition of Approval 10 to restrict the Use of the Yurt to day-skiers; private events and uses not associated with the restaurant uses already on Site are prohibited.
 - a. The Flagstaff Annexation and Development Agreement allowed for a 35,000-square-foot day lodge (which included deck area). The existing Empire Canyon Lodge is 20,000 square feet and the proposed Yurts and Deck increase the total of the Empire Canyon Lodge to 22,930 square feet.
 - b. The MPD allowed for a “skier day lodge”; the lodge would be accessed by ski-in, rather than car, and as such, did not require parking. Thus, the CUP approval for the Empire Canyon Lodge limits the Use to day-skiers only.
 - c. If Deer Valley desires to use the Empire Canyon Lodge or the proposed Yurts and Deck for other than just skier day use, an MPD modification and Planning Commission review will be required to address the proposed uses and associated parking impacts.
10. The proposed Yurts comply with the Residential Development Zoning District Requirements outlined in LMC Chapter 15-2.13
 - a. Setbacks
 - i. The proposed Yurts and Deck will be approximately 29 feet from the Front Lot Line, 14 feet from the Side Lot Line, and 45 feet from the Rear Lot Line,
 - b. Building Height
 - i. The proposed Yurts will be approximately 15.5 feet in height from the Final Deck Grage, and 17.5 feet in height from Existing Grade.
 - c. Significant Vegetation
 - i. According to the proposed plans, the proposed Yurts and Deck will be installed in an area on the existing grass lawn and will not affect Significant Vegetation
11. The proposed Yurts comply with the Sensitive Land Overlay Requirements outlined in LMC Chapter 15-2.21
 - a. The location of the proposed Yurts is on Lot 1 of Parcel B-2 Empire Village Subdivision, and within Pod B2 West of the Empire Pass Master Planned Development. As part of the Flagstaff Annexation, the Planning

Commission approved development Pods where limited development was allowed. These areas designated for development are within the SLO. A comprehensive SLO analysis was conducted as part of the Flagstaff MPD, which identified locations for development, considered the least impactful to the surrounding sensitive lands, and the remaining acreage was left as Open Space. The proposed Yurts are located within Pod B2 West of the designated Development Pods of the Empire Pass MPD. The temporary Yurts and Outdoor Dining Use comply with the SLO Analysis that was completed as part of the Flagstaff development. There are no Steep Slopes, Significant Vegetation or wetlands identified at the proposed site.

12. The proposed Yurts comply with the Temporary Structures, Tents, and Vendors Requirements outlined in LMC Section 15-4-16.
 - a. The Applicant shall provide written notice of the Property Owner's permission
 - i. The submitted application form is signed by Hannah Tyler, Vice President of Resort Planning for Deer Valley Resort.
 - b. The proposed Use should not diminish existing parking. Any net loss of parking shall be mitigated in the Applicant's plan.
 - i. There is no on-site parking for guests or users of the Empire Canyon Lodge. All employees currently use the provided Resort shuttle service and The lodge and Yurt will be used by day-skiers already at the Resort.
 - c. The proposed Use shall not impede pedestrian circulation, emergency Access, or any other public safety measure.
 - i. The proposed Yurts will be located adjacent to the Walker Ski Run and will maintain an approximately 15-foot buffer from the Ski Run. On August 6, 2024 and October 15, 2024, the Development Review Committee reviewed the proposal and confirmed the Yurts and Deck conform to their requirements. The Park City Fire District requires the Applicant to resolve any emergency fire access issues prior to Building Permit issuance (Condition of Approval 9).
 - d. The Use shall not violate the Noise Ordinance, Municipal Code Chapter 6-3
 - i. Condition of Approval 4 requires adherence to the Noise Ordinance found in municipal Code Chapter 6-3.

- e. The Use shall comply with the LMC, the signage shall comply with the Sign Code, Title 12, and the lighting shall comply with Illumination Section 12-4-9.
 - i. No Signs or Outdoor Lighting are proposed or approved with this Application.
 - f. The Use shall not violate the Summit County Health Code, the Fire Code, or State Regulations on mass gathering
 - g. The Use shall not violate the International Building Code
 - i. Condition of Approval 6 requires the Applicant to submit a Building Permit for review and approval prior to installation of the Yurts and Deck
 - h. The Applicant shall adhere to all applicable City and State licensing ordinances
13. The proposed Yurts comply with the Outdoor Dining Requirements outlined in LMC Section 15-4-21(B)(1) *Outdoor Dining*.
- a. The proposed seating Area is located on private Property or leased public Property and does not diminish parking or landscaping
 - i. The proposed deck and Yurts are located on property owned by Deer Valley Resort. There is no on-site parking for guests or users of the Empire Canyon Lodge. All employees currently use the provided Resort shuttle service and the lodge and Yurts will be used by day-skiers already at the Resort. Condition of Approval 10 restricts the use of the Yurts to day-skiers. Private events and uses not associated with the restaurant uses already on site are prohibited. The deck will be constructed on the existing lawn area.
 - b. The proposed seating Area does not impede pedestrian circulation
 - i. The proposed Yurts will be located adjacent to the Walker Ski Run and will not affect the pedestrian circulation system. Guests will be able to access the Yurts via the front Deck, and staff will access the Yurts via the rear Deck connected to the Empire Canyon Lodge.
 - c. The proposed seating Area does not impede emergency Access or circulation
 - i. The Development Review Committee reviewed the proposal on August 6, 2024 and October 15, 2024 and confirmed the proposal conforms with their requirements. The Park City Fire District

- requires the Applicant to resolve any emergency fire access issues prior to Building Permit issuance (Condition of Approval 9).
- d. The proposed furniture is Compatible with the Streetscape
 - i. The Applicant has not finalized the type of furniture to be used for the Outdoor Dining. Staff recommends Condition of Approval 12 requiring the furniture to be compatible with the Streetscape. Furniture details must be submitted concurrent with the Building Permit submittal.
 - e. No music or noise is in excess of the City Noise Ordinance, Title 6
 - i. Condition of Approval 4 requires adherence to the Noise Ordinance outlined in municipal Code Chapter 6-3
 - f. No Use after 10:00 pm
 - i. See Condition of Approval 13.
 - g. Review of the Restaurant's seating capacity to determine appropriate mitigation measures in the event of increased parking demand
 - i. The restaurant at the Empire Canyon Lodge has an indoor seating capacity of 612 people. The proposed Outdoor Dining would add 42 additional seats, for a total capacity of 654. The use of Outdoor Dining is restricted to day skiers already at the resort and will not increase parking demand.
14. The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).
- a. Size and location of the Site
 - i. The Empire Canyon lodge is on 1.57 acres and has a Building Footprint of approximately 20,000 square feet. The Yurts and Deck will result in an additional 2,930 square feet of built area on the site. The proposed additional built area is compliant with the Empire Pass Master Planned Development. The location of the proposed Yurts adjacent to the Walker Ski Run is convenient for day-skiers using the Resort. The proposed Deck will connect to the existing Empire Canyon Lodge exterior decks and will provide staff with access to the Yurts.
 - b. Traffic considerations including capacity of the existing Streets in the Area
 - i. The proposed Yurts will be used by existing day-skiers at Deer Valley Resort and will not increase traffic on the existing streets.
 - c. Utility capacity, including Storm Water run-off

- i. The Development Review Committee reviewed the proposal on August 6, 2024 and October 15, 2024 and confirmed the proposal conforms with their requirements.
- d. Emergency vehicle Access
 - i. The Development Review Committee reviewed the proposal on August 6, 2024 and October 15, 2024 and confirmed the proposal conforms with their requirements. The Park City Fire District requires the Applicant to resolve any emergency fire access issues prior to Building Permit issuance.
- e. Location and amount of off-Street parking
 - i. There is no on-site parking for guests or users of the Empire Canyon Lodge. All employees currently use the provided Resort shuttle service and the lodge and Yurts will be used by day-skiers already at the Resort. Condition of Approval 10 restricts the use of the Yurts to day-skiers. Private events and uses not associated with the restaurant uses already on site are prohibited.
- f. Internal vehicular and pedestrian circulation system
 - i. The proposed Yurts will be located adjacent to the Walker Ski Run and will not affect the pedestrian circulation system. Guests will be able to access the yurt via the front Deck, and staff will access the Yurt via the rear Deck connected to the Empire Canyon Lodge.
- g. Fencing, Screening, and landscaping to separate the Use from adjoining Uses
 - i. Adjacent uses (ski resort and lodging) are compatible with the proposed Yurts and no additional Fencing, Screening, or Landscaping is proposed.
- h. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots
 - i. The proposed Yurts will be oriented towards the existing ski base area and will be used by skiers on the resort. The proposed Yurts are appropriate in size and scale for the Site because it will not impede the existing Ski Runs or pedestrian circulation system.
- i. Useable Open Space
 - i. The original development of Pods A, B-1, and B-2 of the MPD were limited to 87 acres of Open Space, or 5% of the land area, with the rest of the land area (1,550 acres) dedicated as Open Space. The

proposed Structures will not decrease the required amount of Open Space from the approved MPD.

- j. Signs and Lighting
 - i. No Signs or Lighting are proposed with this Application.
- k. Physical Design and Compatibility with Surrounding Structures
 - i. The proposed Yurts are appropriate in size, scale, and design for the intended use. The Yurts will total approximately 1,106 square feet and constructed of a solid wood lattice wall surrounded by flame retardant vinyl/polyester fabric.
- l. Noise, Vibration, Odors, Steam, or Other Mechanical Factors
 - i. No Signs, speakers, or Outdoor Lighting are proposed or approved with this Application.
- m. Control of Delivery and Service Vehicles, Loading and Unloading Zones, and Screening of Trash and Recycling Pickup Areas
 - i. The proposed location of the Yurts will not affect any loading or unloading zones, and all trash and recycling will be located inside the Empire Canyon Lodge.
- n. Expected Ownership and Management
 - i. The submitted application form is signed by Hannah Tyler, Vice President of Resort Planning for Deer Valley Resort.
- o. Within and Adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, and Park City Soils Ordinance, Steep Slopes, and Appropriateness of the Proposed Structure to the Existing Topography of the Site
 - i. The location of the Yurts is not on or near Steep Slopes, Physical Mine Hazards, or Mine Waste, and is outside of the Park City Soils Ordinance. The proposed Yurts are located within Pod B2 West of the Development Pods and complies with the Sensitive Lands Analysis that was completed as part of the Flagstaff development
- p. Reviewed for Consistency with the Goals and Objectives of the Park City General Plan
 - i. The proposed Use of the Site is consistent with the objectives of the Upper Deer Valley Neighborhood in the General Plan, as it provides a comfortable visitor experience and supports the resort economy.

15. The Development Review Committee reviewed the proposal on August 6, 2024 and October 24, 2024 and does require Conditions of Approval. The Park City Fire District requires the Applicant to resolve any emergency fire access issues prior to Building Permit issuance.
16. Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on October 14, 2024.
17. Staff mailed courtesy notice to adjacent property owners on October 14, 2024.

Conclusions of Law

1. The proposal complies with the Land Management Code requirements outlined in LMC Chapter 15-2.13 Residential Development Zoning District, Chapter 15-2.21 Sensitive Land Overlay Regulations, Section 15-4-16 Regulations for Temporary Structures, Tents, and Vendors, and Section 15-1-10(E) Conditional Use Permits.
2. The Use will be compatible with surrounding Structures in use, scale, mass, and circulation.
3. The effects of any difference in use or scale have been mitigated through careful planning.

Conditions of Approval

1. Any changes, modifications, or deviations from the approved plans that have not been approved in advance by the Planning Department may result in a stop work order.
2. The Applicant is responsible for notifying the Planning Department prior to making any changes to the approved plans.
3. 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 or designee prior to construction.
4. The Applicant is required to adhere to the Noise Ordinance outlined in municipal Code Chapter 6-3. No outdoor speakers or Outdoor Lighting are approved.
5. The Yurts shall not violate the Summit County Health Code, the Fire Code, or State Regulations on mass gathering.
6. The Applicant shall submit a Building Permit for review and approval prior to installation of the Yurts and Deck.
7. The Applicant shall adhere to all applicable City and State licensing ordinances.
8. The Yurts must be removed 180 days after Building Permit issuance, and all disturbed vegetation shall be replaced to existing or improved conditions.

9. The Park City Fire District requires the Applicant to resolve any emergency fire access issues prior to Building Permit issuance.
10. The Use of the Yurts is restricted to day-skiers. Private events and uses not associated with the restaurant uses already on Site are prohibited.
11. All trash and recycling must be located inside the Empire Canyon Lodge.
12. The proposed furniture must be compatible with the Streetscape. The Applicant shall submit furniture details with Building Permit submittal.
13. No Use of the Outdoor Dining is allowed after 10:00 PM.

751 Main Street – Modification of an Administrative Conditional Use Permit – PL-24-06286 – Proposing a Modification of an Administrative Conditional Use Permit to Replace an Outdoor Dining Yurt in the Historic Recreation Commercial Zoning District.

Planner Jacob Klopfenstein presented the application and noted that the proposal, as conditioned, complies with requirements for Temporary Structures, Outdoor Dining and Standards for Temporary Structures in Historic Districts. Planner Klopfenstein also gave an overview of the Conditions of Approval.

At 12:11 PM, the Assistant Planning Director opened a public hearing. There was no public input.

At 12:12 PM, the Assistant Planning Director closed the public hearing.

MOTION: The Assistant Planning Director **APPROVED** the Administrative Conditional Use Permit in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact

1. Butcher's Chop House is located at 751 Main Street in units C-101A, C-101, and C-107 of the Caledonian Condominiums Plat.
2. Butcher's Chop House has had Outdoor Dining since 2003. The following permits are related to Outdoor Dining at Butcher's Chop House:
 - a. On November 24, 2020, the Applicant submitted Building Permit #20-1399 to install a yurt for Outdoor Dining.
 - b. On December 14, 2020, the Applicant submitted Building Permit #20-1462 to install three Alpenglobes for Outdoor Dining.

- c. On December 9, 2021, the Planning Director approved the Applicant's request to install a yurt and three Alpenglobes for Outdoor Dining during the 2021-2022 Winter season.
 - d. On December 16, 2022, the Planning Director approved an ACUP to install a yurt and three Alpenglobes for Outdoor Dining during the 2022-2023 Winter season.
 - e. On July 20, 2023, the Planning Director approved an ACUP for permanent, year-round Outdoor Dining on the patio to the west of Butcher's Chop House, utilizing Temporary Structures in the winter months and tables, chairs, and umbrellas in the warmer months to accommodate restaurant patrons.
- 3. The Outdoor Dining area is located on the northwest side of the Caledonian Condo building, adjacent to Town Lift and Park Avenue.
 - 4. The applicant currently utilizes Temporary Structures in the winter months, including a yurt and three alpenglobes, for Outdoor Dining in this area. The applicant utilizes tables, chairs, and umbrellas in warmer months to accommodate restaurant patrons.
 - 5. The Outdoor Dining Area is considered limited common area on the Caledonian Condominiums plat, and the Applicant's lease agreement allows the use of the outdoor plaza.
 - 6. The plaza area is approximately 1,500 square feet..
 - 7. The Applicant proposes to replace an outdoor dining yurt with three additional alpenglobes, for a total of six alpenglobes.
 - 8. The alpenglobes can seat a maximum of eight people. The applicant's proposal to utilize a total of six alpenglobes in the Outdoor Dining Area would accommodate a maximum of 48 people.
 - 9. The proposal to modify the ACUP approval to replace an Outdoor Dining yurt with three new Outdoor Dining alpenglobes complies with Land Management Code (LMC) Chapter 15-2.5, Historic Recreation Commercial (HRC) Zoning District.
 - a. The Outdoor Dining use at Butcher's Chop House promotes the purposes of the HRC Zoning District by activating an outdoor patio that serves as a pedestrian-oriented, walkable space. The outdoor patio at Butcher's Chop House is also adjacent to the pedestrian-oriented Town Lift Plaza, and further enhances the pedestrian experience of the Town Lift area by

providing an adjacent area that is an active, vibrant space and is populated with people.

- b. The Outdoor Dining use of the restaurant is also consistent with the resort bed base and enhances the long-term viability of the downtown core as a destination for residents and tourists by providing residents and tourists with a dining experience that is located near the ski lift and allows them to continue to experience the outdoors as they dine.
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10. The proposal to modify the ACUP approval to replace an Outdoor Dining yurt with three new Outdoor Dining alpenglobes complies with LMC § 15-4-16 Temporary Structures, Tents, and Vendors.
- a. A "Temporary Structure" is defined in LMC § 15-15-1 as "a standalone Structure, or a Structure that is partially affixed to an existing Building on a temporary basis not to exceed 180 days as set forth by the International Building Code." Based on this definition, alpenglobes are considered a Temporary Structure.
 - b. LMC § 15-4-16 outlines required standards for Temporary Structures, Tents, and Vendors:
 - i. The Applicant shall provide written notice of the Property Owner's permission.
 - 1. The Applicant's lease agreement allows for the use of common area, including the Outdoor Dining Area, for restaurant customers.
 - ii. The proposed Use should not diminish existing parking. Any net loss of parking shall be mitigated in the Applicant's plan.
 - 1. The Outdoor Dining Area is located in a pedestrian plaza area and does not preclude any use of parking. Off-Street Parking for the Caledonian Condo building is located underground, per the recorded plat.
 - iii. The proposed Use shall not impede pedestrian circulation, emergency Access, or any other public safety measure.
 - 1. The alpenglobes have one door and a maximum capacity of eight people. They will not impede any existing pedestrian circulation.
 - iv. The Use shall not violate the Noise Ordinance, Municipal Code Chapter 6-3

1. Condition of Approval 2 requires the Outdoor Dining Use to comply with the Noise Ordinance.
 - v. The Use shall comply with the LMC, the signage shall comply with the Sign Code, Title 12, and the lighting shall comply with Illumination Section 12-4-9.
 1. Condition of Approval 3 requires exterior lighting to be down-directed, fully shielded, and a maximum of 3,000 degrees Kelvin. The applicant does not propose any signage.
 - vi. The Use shall not violate the Summit County Health Code, the Fire Code, or State Regulations on mass gathering. The Use shall not violate the International Building Code. The Applicant shall adhere to all applicable City and State licensing ordinances.
 1. Condition of Approval 4 requires compliance with all state and local codes, as well as building codes and licensing requirements.
11. The proposal to modify the ACUP approval to replace an Outdoor Dining yurt with three new Outdoor Dining alpenglobes complies with LMC § 15-4-21(B)(1) Outdoor Dining.
 - a. The proposed seating Area is located on private Property or leased public Property and does not diminish parking or landscaping.
 - i. The proposed seating area is located in common area of the Caledonian Condos Plat. The applicant's lease agreement allows for use of the common area by the Butcher's Chop House restaurant and its patrons.
 - b. The proposed seating Area does not impede pedestrian circulation.
 - i. As outlined above, the proposed alpenglobes will not impede pedestrian circulation and will have one door for ingress and egress, and a maximum capacity of eight people.
 - c. The proposed seating Area does not impede emergency Access or circulation.
 - i. As outlined above, Temporary Structures require a fire permit prior to installation that will require emergency Access.
 - d. The proposed furniture is Compatible with the Streetscape.
 - i. Each alpenglobe will include one wood table with a metal base. This furniture is consistent with the alpenglobes that have been previously approved for use at Butcher's Chop House and is

consistent with alpenglobes used at other restaurant locations in the Main Street area.

- e. No music or noise is in excess of the City Noise Ordinance, Title 6.
 - i. Condition of Approval 2 requires the Outdoor Dining Use to comply with the Noise Ordinance. The applicant does not propose any amplified outdoor music.
 - f. No Use after 10:00 p.m.
 - i. Butcher's Chop House is open from 4-10 PM daily. Condition of Approval 5 requires the Applicant to ensure the Outdoor Dining Area is vacant and the music turned off after 10:00 PM.
 - g. Review of the Restaurant's seating capacity to determine appropriate mitigation measures in the event of increased parking demand.
 - i. The six proposed alpenglobes will seat a maximum of 48 people, so the alpenglobes will not produce additional parking demand.
12. The proposal, as conditioned, complies with LMC § 15-13-10 Standards For Temporary Structures In Historic Districts.
- a. Location
 - i. The proposed location of the structures will not impede pedestrian circulation.
 - ii. Condition of Approval 9 requires that the Applicant shall have the locations of the proposed Temporary Structures reviewed and approved by the Chief Building Official, Fire Marshal, and Park City Fire District prior to installation.
 - iii. The property at 751 Main has three front setbacks. In the HRC Zoning District the Front Setback is 10 feet pursuant to LMC § 15-2.5-3(A). Per the recorded plat (Exhibit C) the existing patio on which the Temporary Structures are proposed to be placed, is set back approximately seven feet at the narrowest point.
 - iv. Pursuant to LMC § 15-9-6 "Any Non-Complying Structure may be repaired, maintained, altered, or enlarged, provided that such repair, maintenance, alteration, or enlargement shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such Structure". The proposed installation of the Temporary Structures will not increase the non-compliance of the Structure into the Front Setback.

Condition of Approval 10 requires that the Alpenglobes shall be set back 10 feet from the front property line.

b. Materials

- i. The Alpenglobes are constructed of all weather materials that are able to withstand heavy wind and snow loads.
- ii. The Alpenglobes are constructed of wood, glass, and have a metal roof. The roof has a matte plastic cover covering the steel. The materials are non-reflective.
- iii. Per the Applicant the materials are to be wood and polycarbonate. The stain is a matte natural earth toned in color.
- iv. The Alpenglobes are not constructed of more than three different materials
- v. The Primary Structure is stone and brick in material. The Alpenglobes material are compatible with the Primary Structure.
- vi. The proposed additional three Alpenglobes are uniform and are the same as the three Alpenglobes that are approved on the site.

c. Glazing

- i. The glazing is to be clear. Condition of Approval 11 requires that there shall be no metallic, frosted, tinted, stained, textured, and/or reflective finishes.

d. Lighting

- i. Condition of Approval 3 requires exterior lighting to be down-directed, fully shielded, and a maximum of 3,000 degrees Kelvin.

e. Signage

- i. The Applicant does not propose any signage as part of this installation.

f. Ornamentation

- i. The Applicant does not propose any ornamentation on the Alpenglobes.

g. Installation on Historic Sites

- i. The Alpenglobes will not be connected to historic materials.

h. Energy Efficiency

- i. Per the Applicant the Alpenglobes will utilize energy only during the hours of operation which will be from 4:00 pm to 10:00 pm.

i. Ongoing Maintenance

- i. Condition of Approval 12 requires that damaged materials shall be replaced or repaired as necessary.
 - j. Dates of Installation
 - i. Condition of Approval 8 requires that the Temporary Structures be installed only from November 15th to April 30th.
 - k. Review
 - i. Condition of Approval 13 requires that after five years the Applicant shall submit a new Administrative Permit Application.
 - ii. Condition of Approval 7 requires that the Applicant shall go through the Historic District Review Pre-Application process prior to installation.
- 13. The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).
 - a. Size and Location of the Site
 - i. the proposed Outdoor Dining Area is located in common area of the Caledonian Condos Plat. The applicant's lease agreement allows for use of the common area by the Butcher's Chop House restaurant and its patrons.
 - ii. Condition of Approval 8 requires the Applicant to install the Temporary Structures no earlier than November 1 and to remove the Temporary structures within 180 days in accordance with the International Building Code.
 - b. Traffic considerations including capacity of the existing Streets in the Area
 - i. The proposed outdoor dining use is located on private property and does not impact any public Rights-of-Way.
 - c. Utility capacity, including Storm Water run-off
 - i. The proposed alpenglobes will not affect utility capacity.
 - d. Emergency Vehicle Access
 - i. Condition of Approval 6 requires the Applicant to obtain a fire permit prior to installation of the alpenglobes and to maintain emergency access for the Site.
 - e. Location and amount of off-Street parking
 - i. Pursuant to LMC § 15-3-6(B), "Restaurant, Standard and Bar" Uses require 1 parking space per 100 square feet of net leasable Area, including kitchen Areas. Units C-101A, C-101, and C-107 of the Caledonian Condos Plat, in which Butcher's Chop House is

located, total 4,890 square feet. This requires Butcher's Chop House to provide 49.83 Off-Street Parking spaces.

- ii. Parking requirements for Outdoor Dining Uses are based on a site-specific review. However, the Outdoor Dining Area is 1,500 square feet, which would require 15 additional spaces, for a total of 64.83 parking spaces required for Butcher's Chop House.
 - iii. There are 318 Off-Street, public parking spaces available at lower Main Street that are not reserved for hotel guests, condo owners, or paid monthly parking patrons. The commercial uses of the Caledonian Condominiums, including Butcher's Chop House and other commercial tenants, require 74 spaces, leaving 244 Off-Street public parking spaces available.
- f. Internal vehicular and pedestrian circulation system: No unmitigated impacts
- i. The proposed alpenglobes will not impede pedestrian circulation and will have one door for ingress and egress, and a maximum capacity of eight people.
- g. Fencing, Screening, and landscaping to separate the Use from adjoining Uses
- i. The Outdoor Dining Area is located in an elevated patio area that is above the Park Avenue Right-of-Way. A stone wall and metal railings screen the Area from Park Avenue. Additionally, the Applicant has implemented planters around the outdoor dining area.
- h. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots
- i. The alpenglobes are approximately 9 feet tall and will be subordinate to the Caledonian Condo building. The Outdoor Dining Area is 1,500 square feet and is adjacent to the building.
- i. Usable Open Space
- i. The Applicant does not propose any changes to public Open Space.
- j. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing
- i. Condition of Approval 7 requires the Applicant to obtain permission from the Planning Director or their designee prior to installing the

- temporary structures, in accordance with Historic District Design Review guidelines.
- k. Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site
 - i. Condition of Approval 2 requires the Outdoor Dining Use to comply with the Noise Ordinance.
 - ii. Condition of Approval 5 requires the Outdoor Dining Area to be vacant and music turned off after 10 PM.
 - l. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas
 - i. The additional alpenglobes will not affect the current delivery and service procedures for the restaurant.
 - m. Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities
 - i. The property is owned by JP's Nevada LLC, the restaurant is owned by Jesse Shelter, and the restaurant is managed by Ronnie Wedig. The Applicant has provided a copy of the lease agreement for the restaurant.
 - n. With and Adjoining Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, Park City Soils Ordinance, Steep Slopes
 - i. 751 Main Street is within the Park City Soils Ordinance boundary and is compliant with the Ordinance.
 - o. Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding.
 - i. Goal 11 of the General Plan outlines the goal to support the continued success of the multi-seasonal tourism economy while preserving the community character that adds to the visitor experience.
 - ii. As outlined above, year-round Outdoor Dining within the HRC Zoning District is consistent with the goals of the General Plan and balances the need to support the tourist economy and local residents. Activation of Outdoor Dining brings a feeling of vibrancy, especially within the Commercial areas of Old Town. Many

restaurants in the vicinity also have Outdoor Dining at various times throughout the year.

Conclusions of Law

1. The proposal to modify Administrative Conditional Use Permit (ACUP) to replace an Outdoor Dining yurt with three new alpenglobes complies, as conditioned, with the Land Management Code.
2. The Use is compatible with surrounding Structures in Use, scale, mass, and circulation.
3. The effects of any difference in use or scale have been mitigated through careful planning.

Conditions of Approval

1. All Conditions of Approval from the July 20, 2023 Administrative Conditional Use Permit Final Action Letter for 751 Main Street remain in effect.
2. The Use shall comply with Municipal Code of Park City Chapter 6-3, Noise.
3. All outdoor lighting must be down-directed, fully shielded, with bulbs 3,000 degree Kelvin or less. A fully shielded light is installed in such a manner that all light emitted either directly from the bulb, or indirectly by reflection or refraction, is below the horizontal plane through the fixture's lowest light-emitting part. The top and sides of a Fully Shielded fixture are made of completely opaque material such that light only escapes through the bottom of the fixture. Final lighting details shall show compliance with this condition and shall be reviewed by the Planning Staff prior to installation.
4. The Use shall comply with all applicable state and local codes and licensing requirements, including the Summit County Health Code, the Fire Code, State Regulations on mass gathering, and the International Building Code.
5. The Applicant shall ensure the Outdoor Dining Area is vacant and the music turned off after 10:00 PM.
6. Use of the Temporary Structures require an operations (fire) permit prior to installation. The Applicant shall maintain fire lane and emergency access for personnel, vehicles and equipment in the vicinity of the Outdoor Dining Area and adjacent permanent structures to the satisfaction of the Fire Marshal.
7. The Applicant shall obtain permission from the Planning Director or their designee prior to installing the temporary structures, in accordance with Historic District Design Review guidelines.

8. The Temporary Structures shall be installed only from November 15 to April 30.
9. The Applicant shall have the locations of the proposed Temporary Structures reviewed and approved by the Chief Building Official, Fire Marshal, and Park City Fire District prior to installation. The applicant shall place the Alpenglobes in a location that does not block exiting from the structure and shall maintain an aisle width for the Alpenglobes that is greater than the width of the structure's exit doors, pursuant to Chapter 10 of the International Fire Code.
10. The Alpenglobes shall be set back 10 feet from the front property line.
11. There shall be no metallic, frosted, tinted, stained, textured, and/or reflective finishes.
12. Damaged materials shall be replaced or repaired as necessary.
13. After five years the Applicant shall submit a new Administrative Permit Application.
14. The Applicant shall submit occupancy information for the restaurant that is consistent with Building Department requirements as part of the Building Permit application. If a Building Permit cannot be issued for this proposal, this Administrative Conditional Use Permit approval shall be voided.

501 Park Avenue – Administrative Conditional Use Permit – PL-24-06296 –
Proposing a Retaining Wall Greater Than 6 Feet in Height in the Historic Residential (HR-1) Zoning District.

Planner Jacob Klopfenstein presented the application for the replacement of a Retaining Wall, he indicated that the new wall will be partially visible from Park Avenue, but this will be addressed by one of the Conditions of Approval. Planner Klopfenstein also highlighted the rest of the Conditions of Approval.

At 12:15 PM, the Assistant Planning Director opened a public hearing. There was no public input.

At 12:15 PM, the Assistant Planning Director closed the public hearing.

Assistant Planning Director Martin asked that an additional Condition of Approval be added to require prior review and approval by the Engineering Department of any work being done within the Right-of-Way, and also to require the applicant to work with the Building Department to set up an access agreement for the construction during the Building Permit phase for any work being done within 5 feet of the property line.

MOTION: The Assistant Planning Director **APPROVED** the Administrative Conditional Use Permit in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact

1. The Applicant proposes to replace a failing wood retaining wall in the rear of the Structure with a board-formed concrete retaining wall reaching a maximum height of 7 feet 6 inches and spanning approximately 28.5 feet across the entire Rear Lot Line, within both the Rear and Side Yard Setbacks.
2. 501 Park Avenue is a Single-Family Dwelling (SFD) in the HR-1 Zoning District.
3. The Site is directly north of the 5th Street Right-of-Way and is not designated as a Significant or Landmark Historic Site on Park City's Historic Sites Inventory.
4. The existing wood retaining wall is failing. The proposed retaining wall height of 7 feet 6 inches does not represent a significant change relative to the existing retaining wall.
5. The Applicant proposes board-formed concrete, a typical treatment for retaining walls in the City's Historic District.
6. Retaining walls greater than six feet in height from Final Grade require an ACUP or Administrative Permit in the HR-1 Zoning District pursuant to LMC § 15-2.2-2(B). Retaining walls are permitted in the Rear Setback pursuant to LMC § 15-2.2-3(H) and within the Side Setback pursuant to LMC § 15-2.2-3(J).
7. The ACUP for a retaining wall greater than six feet in height, as conditioned, complies with LMC Chapter 15-2.2 Historic Residential – 1 (HR-1) District.
 - a. The proposed retaining wall at 501 Park Avenue will not change the Use of the Site from an SFD.
 - b. The Applicant proposes board-formed concrete, a typical treatment for retaining walls in the City's Historic District.
8. The proposal, as conditioned, complies with the criteria for retaining walls in Historic Districts as outlined in LMC § 15-13-8.
9. The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).
 - a. Size and location of the Site
 - i. The retaining wall is within the Side and Rear Setbacks.
 - ii. The Lot is 75 feet deep and approximately 28.5 feet wide.
 - iii. The minimum Rear Setback is 10 feet and the minimum Side Setback is 3 feet.

- iv. The wall will be visible from Park Avenue and the adjacent 5th Street Right-of-Way, which includes public access stairs.
- b. Traffic considerations including capacity of the existing Streets in the Area
 - i. No changes are proposed. The retaining wall and landscaping changes will not generate any additional traffic needs beyond the Use of the property as an SFD.
- c. Utility capacity, including Storm Water run-off
 - i. The Applicant is required to obtain Engineering Department approval for drainage and storm water management plans prior to issuance of a building permit.
- d. Emergency vehicle Access
- e. Location and amount of off-Street parking
- f. Internal vehicular and pedestrian circulation system
 - i. No changes are proposed. The proposed retaining wall will not affect emergency vehicle Access to the Site and will not generate any additional traffic or off-Street parking needs beyond the Use of the property as an SFD.
- g. Fencing, Screening, and landscaping to separate the Use from adjoining Uses
 - i. The retaining wall is proposed in the rear of the SFD along the Rear Lot Line.
 - ii. The retaining wall will be partially visible from the Park Avenue Right-of-Way.
 - iii. The project is conditioned to implement additional landscaping to screen the retaining wall from the Park Avenue Right-of-Way.
- h. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots
 - i. The proposed retaining wall exceeds six feet in height and is within the Rear and Side Setbacks.
 - ii. The project is conditioned to require the Applicant to confirm property lines and ensure the retaining wall installation does not encroach onto adjacent property or the City Right-of-Way.
- i. Usable Open Space
 - i. No changes are proposed to Open Space at the Site.
- j. Signs and lighting
 - i. No signs or lighting are proposed.

- k. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing
 - i. The retaining wall will be constructed out of simple board-formed concrete.
 - ii. Simple board-formed concrete is recommended over other modern concrete treatments for non-Historic residential Sites within the HR-1 Zoning District.
 - iii. The project is conditioned to require masonry to be maintained in its natural finish and to not allow paint, stain, or stucco over the concrete retaining wall.
- l. Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site
- m. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas
 - i. No changes are proposed that would affect noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site. No changes are proposed that would affect control of delivery and service vehicles.
- n. Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities
 - i. No changes are proposed. 501 Park Avenue is a privately owned SFD. The Applicant has had Nightly Rental business licenses for 501 Park Avenue in the past, but as of 2022 does not have an active Nightly Rental business license for this address.
- o. Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site
 - i. The Site is not within the Sensitive Lands Overlay or within the boundary of the Park City Soils Ordinance. The retaining wall will be constructed on Steep Slopes to prevent erosion. Per LMC § 15-2.2-6(A), a Steep Slope CUP is not required.
- p. Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding

- i. Old Town Goal 6.1 in the Park City General Plan states that infill and new additions should be compatible in the neighborhood context and subordinate to existing Historic structures.
 - ii. The SFD at 501 Park Avenue is not a Historic structure, but the retaining wall will be located behind the SFD and will be subordinate to the structure and surrounding structures.
 - iii. Old Town Goal 6.4 notes that the character of Historic sites should be retained and preserved and states that retaining walls contribute to the character of Historic sites.
10. The Development Review Committee reviewed the proposal on October 1, 2024, and requires a Condition of Approval (included herein as Condition of Approval 9).
11. Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on October 2, 2024.
12. Staff mailed courtesy notice to property owners within 300 feet on October 2, 2024.
13. The *Park Record* published courtesy notice on October 3, 2024.

Conclusions of Law

1. The retaining wall over 6 feet in height and within the Rear and Side Setbacks complies, as conditioned, with the requirements of the LMC.
2. The retaining wall will be compatible with surrounding Structures in Use, scale, mass, and circulation.
3. The effects of any difference in Use or scale for the retaining wall has been mitigated through careful planning.

Conditions of Approval

1. The Applicant shall obtain Engineering Department approval for drainage and storm water management plans prior to building permit issuance. Drainage and storm water management shall comply with Municipal Code of Park City Chapter 13-5 *Regulation and Enforcement of Storm Water Discharges Associated with Post-Construction Activities*.
2. To abate retaining wall failure, drainage behind the new retaining wall shall be maintained so water drains away from the walls.
3. The Applicant shall implement additional landscaping to screen the retaining wall from the Park Avenue Right-of-Way. At least 50 percent of the Landscaped Area

- shall be Water Wise Landscaping containing approved non-invasive drought tolerant plants, and/or minimal irrigation, pursuant to LMC § 15-5-5(N).
4. Prior to construction, the Applicant shall confirm property lines and ensure the retaining wall installation does not encroach onto adjacent property or the City Right-of-Way.
 5. The retaining wall shall be composed of board-formed concrete. Masonry shall be maintained in its natural finish. Applying paint, stain, or stucco over the concrete retaining wall is not permitted.
 6. The Applicant shall obtain a building permit for the retaining wall and complete Engineering Department review for the retaining wall prior to construction.
 7. The Applicant is responsible for notifying the Planning Department prior to making any changes to the approved retaining wall. Any changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review in accordance with the applicable standards by the Planning Director or designee prior to construction.
 8. Any changes, modifications, or deviations from the approved scope of work that have not been approved in advance by the Planning Department may result in a stop work order.
 9. The Applicant shall submit plans for the retaining wall to the Engineering Department for review and any necessary approvals. Any work within the Right-of-Way requires prior review and approval by the Engineering Department in the form of an Encroachment Permit.
 10. For construction being done within 5 feet of the property line, the Applicant shall work with Building Department to set up an access agreement for the construction during the Building Permit phase.

The Park City Administrative Public meeting adjourned at 12:17 PM.

Approved by Assistant Planning Director:

A handwritten signature in blue ink, reading "Elissa Martin". The signature is written in a cursive, flowing style.