PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 14, 2026

COMMISSIONERS IN ATTENDANCE: Chair Christin Van Dine, John Frontero, Rick Shand, Grant Tilson, Seth Beal, Henry Sigg (attending virtually)

EX OFFICIO: Rebecca Ward, Planning Director; Alec Barton, Senior Planner; Jacob Klopfenstein, Planner II; John Robertson, City Engineer; Becky Gutknecht, Assistant City Engineer; Nan Larsen, Senior Planner; Jaron Ehlers, Planner I; Elissa Martin, Planning Project Manager; Mark Harrington, Senior City Attorney

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1. ROLL CALL

Chair Christin Van Dine called the Planning Commission Meeting to order at 5:30 p.m. All Commissioners are present with the exception of Commissioner Bill Johnson.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from December 10, 2025.

MOTION: Commissioner Shand moved to APPROVE the Planning Commission Meeting Minutes from December 10, 2025. The motion was seconded by Commissioner Beal. The motion passed with the unanimous consent of the Commission.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

There were no communications or disclosures.

4. PUBLIC COMMUNICATIONS

Chair Van Dine shared information about the public comment process. She informed those present that there would not be public comment taken on Item 6D for 220 King Road.

There were no public communications.

5. WORK SESSION

A. Land Management Code Amendments – The Planning Commission Will Conduct a Work Session Regarding Updates to the Traffic Impact Study Guidelines and Potential Code Amendments Regarding Transportation Demand Management. PL-25-06513.

Senior Planner, Alec Barton, and Planner II, Jacob Klopfenstein, presented the Staff Report and stated that the Work Session item is related to Land Management Code ("LMC") amendments. Planner Barton reported that there will first be a presentation from Staff. Representatives from the Engineering Department are present, as well as Corey Mack from WCG. Planner Barton explained that the goal of the Work Session is to provide a high-level overview of the current status of the Transportation Demand Management ("TDM") toolbox. This item was last before the Commission at a Work Session in August. There will now be updates shared on the status of the project. Staff will explain how the TDM toolbox is intended to work and how it will be used. In addition, there is a desire to gather Commissioner feedback on several specific questions.

In August 2025, the Planning Commission held a Work Session on this project. Some of the specific directions provided at that meeting involved a mechanism to assess the effectiveness of a TDM strategy as land uses change over time. The Commission also identified the Traffic Impact Study ("TIS") and TDM updates as a place to start, rather than the end goal. The intention is to have a final product in the form of a code that is easy to manage and amend. Planner Barton outlined the goals for a TDM toolbox:

- Establish objective standards for how trips generated from development must be mitigated/credited;
- Determine the number of new trips that development/redevelopment will generate;
- Require all development projects that generate more than 10 peak hour trips to mitigate/credit at least 50% of new trips generated;
- Provide developers with a menu of TDM strategies from which they could choose to mitigate/credit at least 50% of the new trips;
- Assign a level of credit to each TDM strategy, with higher levels of credit assigned to more impactful strategies;
- Allow developers to pick and choose multiple TDM strategies they can implement to mitigate/credit a minimum of 50% of the new trips generated;
- Recommend regular monitoring of TDM strategies to ensure they remain effective; and
- Recommend regular updates to the TDM toolbox process to ensure it includes the most effective strategies and includes new strategies.

Planner Barton reported that in the current TIS guidelines, any trips under 25 at the peak hour are exempt from the TIS requirement. The new TDM toolbox is based on 10 peak-hour trips to more closely align with the Master Planned Development ("MPD") Code.

Planner Klopfenstein reported that the consulting partner at WCG prepared a flow chart to explain how this process would work as new developments are evaluated. He shared the flow chart and explained that it visualizes the process and how the toolbox could be applied. The first step would be the proposed development application. From there, the question is whether the project generates more than 10 peak-hour trips. If the answer is no, it would be considered a minor project and would not be required to progress further through the TDM toolbox process. He noted that Table 1 on the flow chart presentation slide includes several examples of uses that might be considered minor projects.

Commissioner John Frontero asked for clarification about the language on Table 1, which states: "Approximate size of developments that generate 10 peak hour trips." Planner Klopfenstein clarified that anything greater than 10 would require the TDM toolbox process to occur. The examples in the table shown would generate 10 peak-hour trips and would not fall under the threshold of more than 10 weekday peak-hour trips.

Commissioner Rick Shand believed that a hotel with 16 rooms would generate more than 10 peak-hour trips, because the table shows a hotel with 15 rooms would generate 10 peak-hour trips. This was confirmed. Planner Klopfenstein explained that in that example, a hotel with 16 rooms would be required to continue to progress through the flow chart. He clarified that the examples are simply estimates. Staff would assess these kinds of applications on a case-by-case basis. He continued to review the flow chart and explained that if the project was not considered a minor project, it would continue through the TDM process. Those projects would be required to draft a Project Scoping Memo, including:

- Description;
- Occupancy Date;
- Site Plan and Access Location(s);
- Estimated Trip Generation:
    - Existing Site Trips;
    - Proposed Site Base Vehicle Trips;
    - Internally/Locally Captured Trips;
    - Pass-by Trips;
    - Net New External Trips.

Planner Klopfenstein reported that from there, the TDM requirement would be that all projects would need to credit or mitigate at least 50% of the new net external trips using the strategies identified in the toolbox. There are a variety of strategies that have been put into the toolbox. What the developer would then have to prepare is a plan that shows that they have credited at least 50% of those net new external trips through the use of the strategies. There is also an incentive to credit 100%. If the development decides to credit 100% of the net new external trips that have been generated by the development, there would not be a requirement to complete a TIS. Planner Klopfenstein explained that a TIS

is a more substantial transportation study that includes an analysis of traffic impacts on several local intersections in Park City as well as other traffic-related information.

If there is a decision made to have the 100% credit, it would be considered a Transportation Site Assessment ("TSA") project. The developer would then complete a TSA, which includes transportation impact information, but it is less substantial than the full TIS. The TSA would include an analysis of parking, traffic safety, and site access.

Commissioner Henry Sigg asked about the establishment of the number of trips generated. He wanted to know if this is done through a traffic study from a consultant or if there is an estimate. Planner Klopfenstein reported that the Project Scoping Memo would be prepared by the developer. That would create the estimate of the net new external trips. Commissioner Sigg wanted to know how that information would be verified. City Engineer, John Robertson, reported that engineering firms refer to the Institute of Traffic Engineers. There is an associated trip generation for each proposed use. Staff would verify that the estimated trips included in the Project Scoping Memo are accurate.

Commissioner Shand mentioned Table 1 in the presentation slides. He asked about a possible exception where there was a 50-room hotel with only 10 parking spaces, and visitors were encouraged not to access the site with a personal vehicle. The inclusion of a hotel shuttle could be something taken into consideration. Engineer Robertson explained that a circumstance like that would be taken into consideration, and there would be work done to determine what the true trip generation would be for that kind of site.

Commissioner Sigg noted that the way the toolbox is presented in the Staff Report, there may be an element of subjectivity. He thinks it is important for applicants to have specificity and some level of certainty. The more specific the toolbox list can be, the better. He suggested that subjectivity be removed from the list of items in the toolbox.

Planner Klopfenstein reported that the list has many specific strategies and categories. There will also be a "none of the above" category, where if there is a strategy that is not on the list that a developer would like to propose, it could be evaluated by Staff. Work is being done to create a list that has specific strategies but also has some level of flexibility.

Commissioner Seth Beal believed the goal should be traffic mitigation from the project itself. Once there is a shift to something like implementing elements of Park City Forward, it essentially allows someone to spend money in order to avoid traffic mitigation for a project. He is interested in reducing trips rather than funding projects around the City. Commissioner Frontero has similar thoughts about the list. He would not be in favor of a cash contribution as a way to meet the toolbox requirements. Planner Klopfenstein thanked them for that feedback and noted that there have been internal discussions.

Several questions were posed to the Commission about the TIS and TDM updates:

- Are there priority land uses, such as affordable housing or childcare, that should have a reduced trip mitigation requirement? If so, how should these land uses be defined or identified?
- Should new developments and redevelopments within certain priority development areas or zoning districts have a reduced trip mitigation requirement? If so, how should these development areas or zoning districts be defined or identified?

Commissioners addressed the first question. Commissioner Beal does not think it should be made more expensive to build affordable housing in Park City. For market-rate housing and commercial developments, having a traffic mitigation strategy that puts the cost on those who can afford it makes sense. However, affordable housing is already expensive to build here, and he is in favor of keeping the costs as low as possible on that. He clarified that this does not mean there should be no traffic mitigation, but it should be different than simply adding costs, as would be seen with market-rate housing or commercial developments. Commissioner Frontero agreed with that overall assessment. He would be in favor of a sliding scale on affordable housing projects because not all affordable housing projects have 100% affordable units. It would make sense to have a sliding scale that is based on the number of actual affordable units in the development.

Commissioner Frontero noted that a lot of projects, depending on the size, have a requirement to build affordable housing. He wondered whether there should be a further incentive provided. Planning Director, Rebecca Ward, reported that for inclusionary zoning for an MPD, there are some exceptions in the code if those units are built on-site. There are many ways developers can satisfy the affordable housing obligations. As the affordable housing exception is looked into, there could be consideration of projects that exceed the requirement for inclusionary housing. For an Affordable Master Planned Development (“AMPD”), there could be a sliding scale that takes into consideration the balance of affordable to market-rate units. Commissioner Frontero stated that in an MPD, the required housing should be built without any further incentive provided. However, he is in favor of anything above the requirement having some sort of reduction.

Commissioner Shand would not be completely opposed to a sliding scale, but he would be in favor of finding other ways to make affordable housing pencil in for a developer rather than give them a break on the traffic impact. He is in favor of looking into other options. Commissioner Sigg is leaning toward having it scaled to the density.

Commissioner Grant Tilson would like to see the complete list of mitigation strategies. He noted that the values assigned to those strategies could be altered for an affordable housing project. There could be more credit given to affordable strategies. He would still like to see some traffic mitigation strategies in every project, but the values assigned to the strategies could shift depending on the details of that project. Planner Klopfenstein thanked Commissioners for sharing their thoughts on the first question posed by Staff.

It was requested that feedback on the second question be shared. Commissioner Frontero did not support this suggestion. Chair Van Dine stated that she could see this, but in combination. Commissioner Beal stated that there are certain types of projects where he would increase the requirement rather than decrease it. There are certain locations that will impact a larger portion of the town than others. Planner Klopfenstein asked if there are particular areas that come to mind. Commissioner Beal mentioned Upper Deer Valley, where someone would need to drive all the way through town to access the area. If there was an incentive to see fewer trips in developments there, that would be beneficial to everyone in the community. Commissioner Shand looks at zoning districts as being all-encompassing for one particular area, where development areas are more focused. He would support reduced trip mitigation in development areas.

Commissioner Sigg asked if proximity to transit stops should be considered. If there is a workforce project that is within a certain proximity to an existing bus route or bus stop, there could be additional incentives there. Planner Klopfenstein reported that proximity to transit is considered in the list of strategies. The level of credit is still being considered.

Additional questions from Staff were posed to the Planning Commission:

- Does the proposed TDM program give the City the tools to require and incentivize investment in non-vehicle capacity infrastructure to achieve the City's transportation goals? If not, what changes are necessary, or what strategies will achieve the goals?
- What other requirements or information should be included in this TDM process to help Planning Commissioners and City Staff effectively apply this tool and mitigate traffic impacts from new developments and redevelopments?

The third question was discussed. Planner Klopfenstein explained that while there is hope that this program will improve conditions around the City, it is not anticipated that this will completely solve the traffic impacts. This is a program that is designed to create a more robust and varied transportation system and network by providing more options to reduce single-occupancy vehicle use. This system will take some time to mature as more developers utilize it. It is intended to create a well-rounded transportation system with more variety and options. Commissioner Frontero noted that it is difficult to answer the third question without seeing the items in the toolbox. He felt that for any new hotels in Park City, there should be a strong incentive to provide airport shuttles for guests.

Planner Klopfenstein reported that Page 7 of the Staff Report has the overall categories listed, but the full list is still being refined and has not been presented to the Planning Commission at this time. Commissioner Shand asked for additional information about “non-vehicle capacity.” Planner Klopfenstein explained that it is meant to describe anything that is not a single-occupancy vehicle. Commissioner Shand liked the suggestion from Commissioner Frontero about incentivizing hotel shuttle service to the airport. That would further incentivize visitors not to use a personal vehicle during a stay.

Commissioner Shand stated that what creates traffic is people coming into town and leaving town at the end of the day. There are certain categories that create traffic. Commissioner Sigg noted that there are a lot of vehicles coming into town, and a lot of those are related to trades. He would like to see more mitigation on those types of single-occupancy vehicles. Commissioner Sigg stated that he is disheartened by the Uber Ski model. It is important not to overlook this, because that kind of use is a driver of traffic.

Engineer Robertson reported that this will not take the place of a requirement for traffic mitigation plans. Those are still in effect and will be required of any new project that comes in. Chair Van Dine believes that what is proposed is a framework. Once there is a framework established, it will be possible to continue to refine what is in place. She looks forward to seeing the actual strategies when this comes back to the Commission.

The fourth question was discussed. Planner Klopfenstein mentioned the flow chart, which outlined the process. He asked if there are any additional steps Commissioners believe should be added for a more effective process. Chair Van Dine would like this to be somewhat prescriptive to developers, while still allowing there to be some Planning Commission flexibility. There is a desire to have some predictability but still be able to have case-by-case discussions about a proposal. Commissioner Shand agreed that a framework is what is needed, but there should be some latitude. Commissioner Beal thought there should be an objective framework. Chair Van Dine noted that there is a lot that is subjective, so it would be beneficial for some of the traffic mitigation strategies to have more objective goals that need to be met. Commissioner Frontero is also supportive of an objective framework, while still allowing the Commission to review the proposals.

Commissioner Frontero noted that WCG was hired to assist with this work. He asked if they have any experience implementing this kind of toolbox in other areas, specifically resort towns. Mr. Mack introduced himself to the Commission and explained that he is the Project Engineer from WCG who has been working on this project. There has been close work with communities across the country as similar programs have been implemented. He reported that Aspen, Colorado, has a similar credit-based system to mitigate and address trip generation from new projects. WCG has been looking at other communities as well. Commissioner Frontero asked if the Aspen plan could be shared. Mr. Mack confirmed this. A lot of what has been developed is built on that tool.

Planner Klopfenstein reported that the next steps are to continue to refine the tool. In the future, there will be an ordinance drafted to amend the LMC and implement this toolbox.

6. REGULAR AGENDA

A. 221 Park Avenue – Steep Slope Conditional Use Permit – The Applicant Proposes to Construct a 1,647 Square Foot Single-Family Dwelling on a Steep Slope in the Historic Residential – 1 Zoning District. PL-25-06768.

Senior Planner, Nan Larsen, presented the Staff Report and explained that this is a Steep Slope Conditional Use Permit ("SSCUP") for 221 Park Avenue. The site is in the Historic Residential – 1 ("HR-1") Zoning District and is on a vacant lot. It is part of the Houston Park Avenue Plat Amendment that was recorded with the County in 2015. The site is proposed to house a 1,647 square foot single-family dwelling. The lot has Very Steep Slopes, measuring between 30% and 60%. Planner Larsen noted that an SSCUP is required, as the applicant is proposing 290 square feet of the dwelling footprint on slopes greater than 30% and a required access driveway on slopes greater than 30%.

During the Staff analysis of the SSCUP, it was found that the proposal complies with the building footprint maximums and the required front, rear, and side yard setbacks. It was also found that the single-family dwelling proposed on the site will comply with the requirements of the SSCUP, with the Conditions of Approval recommended in the Draft Final Action Letter. This includes the location of the building, visual analysis of the site and design, access to the site and terracing, building form and scale, and dwelling volume. It is recommended that the Planning Commission review the proposed SSCUP and consider approval based on Conditions of Approval in the Draft Final Action Letter.

The applicant representative, Jonathan DeGray, stated that there is agreement with the Staff Report and the Conditions of Approval included in the Draft Final Action Letter.

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

Commissioner Shand asked if there was ever a home on this parcel. Mr. DeGray reported that there was no historic record of one, but there is an old set of stairs in the front and a concrete mass in the back. It looks like something was there at one point, but there is no record. Commissioner Shand believed the stairs at the back of the parcel are to access a terrace in the back, which was confirmed. Commissioner Frontero noted that the applicant does not appear to be seeking any exceptions to the Building Code for this project. Planner Larsen confirmed that there are no exceptions being requested. Commissioner Frontero finds the analysis to be well done. He also finds the Conditions of Approval to be appropriate and expressed support for the SSCUP application.

MOTION: Commissioner Beal moved to APPROVE the 221 Park Avenue Steep Slope Conditional Use Permit, according to the following:

Findings of Fact:

1. The Applicant proposes to construct a 1,647 square foot Single-Family Dwelling (SFD) in the Historic Residential – 1 (HR-1) Zoning District at 221 Park Avenue.

2. 221 Park Avenue is Lot 6R in the Houston Park Avenue Plat Amendment.

3. On December 3, 2015, the City Council approved the 217 and 221 Park Avenue Plat Amendment for a property line adjustment between the two lots through the adoption of Ordinance 15-51 to create two Lots. The plat was recorded on October 28, 2016, as Houston Park Avenue Plat Amendment (Summit County Recorder Entry No. 1056807).

4. The property owner submitted an SCCUP application for 221 Park Avenue to construct a 1,647-square-foot SFD with portions on a slope over 30% in accordance with Land Management Code (LMC) § 15-2.2-6, and a proposed Access driveway located on or projecting over an existing Slope of 30% or greater, triggering the required SSCUP review.

5. The SSCUP for an SFD at 221 Park Avenue is being processed concurrently with the Historic District Design Review (HDDR) application.

6. The proposed SFD meets the HR-1 Zoning District Use, Lot and Site, and Height requirements, pursuant to LMC § 15-2.2-2, 15-2.2-3, 15-2.2-4, and 15-2.2-5, according to the following:

Requirement	**Analysis of Proposal**
Use.	Complies: An SFD is an allowed use.
Lot Size Minimum 1,875 square feet; Maximum 3,750 square feet.	Complies: The Lot contains 1,857 square feet and was approved through the Houston Park Plat Amendment.
Lot Width Minimum 25 feet.	Complies: 211 Park Avenue has a 25.17-foot lot width.
Building Footprint Maximum MAX FP = (A/2) x 0.9 A/1875 FP=maximum Building Footprint and A=Lot Area	Complies: The Maximum Building Footprint allowed is 843.75 square feet. The proposed Building Footprint is 838.22 square feet.

Max FP: 843.75 sq. ft.= (1,875/2) x 0.9 1,875/1,875	
Lots that are up to 75 feet in depth require 10-foot Front and Rear Setbacks.	Complies: 20-foot Front and Rear Setback total.
Side Setbacks for Lots up to 37.5 feet in width require 3-foot Setbacks on each side.	Complies: 3-foot South and North Side Setback.
Building Height maximum 27 feet from Existing Grade.	Complies: Proposed maximum Building Height 27 feet from Existing Grade.
Internal Building Height: maximum 35 feet measured from the Lowest Floor Plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.	Complies: Proposed Internal Building Height is 32 feet.
10' minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish grade on all sides of the Structure. The horizontal step shall take place at a maximum height of 23 feet from where the Building Footprint meets the lowest point of existing Grade.	Complies: A horizontal step of 16 feet is proposed 23 feet above where the Building Footprint meets the lowest point of existing Grade.
Roof Pitch between 7:12 and 12:12 at the minimum horizontal distance of 20'. Secondary Roof Forms may be below the 7:12 pitch.	Complies: Contributing Roof Form measures 7:12 where visible from the primary public Right-of-Way.

7. The proposed SFD, as conditioned, complies with the HR-1 Zoning District requirements Development on Steep Slopes, pursuant to Land Management Code Chapter 15-2.2-6.

    a. Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Design Regulations for Historic Districts and Historic Sites Chapter 15-13 and Architectural Review Chapter 15-5.1.

b. Pursuant to LMC § 15-.2-6, “a Steep Slope Conditional Use Permit is required for construction of any Structure with a Building Footprint in excess of two hundred square feet (200 Sq. ft.) if said Building Footprint is located on or projecting over an existing Slope of 30% or greater”, or “a Steep Slope Conditional use Permit is required for any Access driveway located on or projecting over an existing Slope of 30% or greater”.

c. The proposed SFD is on a Lot that contains 30% at the rear and front and over 40% slopes at the rear of the Lot, highlighted in blue and red in Figure 1. The Building Footprint measures approximately 178 square feet within those areas with greater than 30% Slope; the required Access driveway is located on an existing Slope of 30% or greater. Therefore, the proposed new SFD construction requires review of a Steep Slope Conditional Use Permit.

8. The proposed SFD meets the HR-1 Zoning District Steep Slopes requirements, pursuant to LMC § 15-2.2-6, according to the following findings:

Requirement	**Analysis of Proposal**
Geotechnical Analysis. Structures that create a change from Existing Grade or elevation greater than four feet, cut into the Steep Slope, or require retaining walls to construct the Structure require a geotechnical report.	Mitigating Condition of Approval Recommended: On November 21, 2025, the Applicant submitted a Geotechnical Analysis prepared by a licensed geotechnical engineer. Recommendations from the geotechnical engineer who conducted the study are found on pages 4-15 of the Geotechnical Analysis. Condition of Approval 8 requires drainage is sloped away from the Structure and discharge is beyond the limit of backfill as recommended in the Analysis.
Slope/Topographic Map. Certified boundary survey depicting contours at an interval of two feet (2’) or less that identifies: Greater than fifteen percent (15%), but less than or equal to thirty percent (30%) (shown in yellow) Greater than thirty percent (30%) but less than or equal to forty percent (40%) (shown in orange) Very Steep Slopes, greater than forty percent (40%) (shown in red).	Complies: The Slope Map is depicted in Figure 1.

Location of Development. Development is located and designed to reduce visual and environmental impacts of the Structure.	Complies: The proposed SFD is located and designed on the site to reduce visual and environmental impacts of the Structure where the Maximum Building Footprint of 843 square feet is being met, the Structure is designed to step up the hillside that is similar in character to adjacent Properties, and the proposed Setbacks are compliant to the HR-1 District. The areas identified as Steep Slopes are within the Building Envelope and alterations to these spaces have been minimized as the majority of the Structure is outside of these areas.
Visual Analysis. A visual analysis of the project from key Vantage Points is required to determine potential impacts of the proposed Access, Building mass and design; and to identify the potential for Screening, Slope stabilization erosion mitigation, vegetation protection, and other design opportunities.	Mitigating Condition of Approval Recommended: The Applicant provided a Streetscape analysis of the project along Park Avenue and a Vantage Point analysis from Ontario Avenue, superimposing a rendering to illustrate the proposed project from different Vantage Points, included as Figures 2 and 3 respectively. Screening. The proposed retaining walls will be minimally visible from the public right-of-way and are proposed to be located toward the rear of the site. Soil Stabilization. The City Engineer reviewed the Geotechnical Analysis during the Development Review Committee meeting and did not require any modification to the proposed plans. During Building Permit review, if additional modifications to the structural components are required, the Applicant will need to make those modifications prior to Building Permit issuance. The recommended Condition of Approval 7 addresses this. Vegetation Protection. The project site is vacant and no Significant Vegetation was

	identified on the site. Condition of Approval 4 requires that where areas are disturbed during construction surrounding the Structure shall be revegetated to meet the landscaping and revegetation standards.
Access. Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Shared Driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible.	Complies: Driveway access is from Park Avenue fronting the Site. While re-grading the site is needed to provide access to the garage, it is not extensive and is consistent with other driveway accesses along the street. The driveway access will cross the Steep Slope area. However, retaining walls less than 3 feet in height are proposed, and the driveway will be a 6% slope from the front façade of the SFD down to Park Avenue. The proposed driveway is ten feet wide and approximately ten feet deep, when measured from the front property line to the start of the entryway covered porch.
Terracing. Retaining walls shall be terraced to return to Natural Grade. The Plans shall include detailed information, including height from existing Grade, width, and length of all proposed retaining walls. A Building Permit, including drawings stamped by a licensed engineer, is required for any retaining wall or combination retaining wall with a total or combined height greater than four feet in height.	Complies: Detailed information on retaining wall height from Existing Grade was submitted with the Application. The proposed retaining walls do not exceed four feet in height from Final Grade, as shown in Figures 4 and 5. The proposed SFD and accompanying retaining walls are designed to integrate with the existing Natural Grade of the site.
Building Location. Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Sign design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.	Complies: The site is a buildable Lot consisting of 1,875 square feet, limiting the location and size of the proposed SFD. The proposed SFD placement, access, and needed infrastructure placement is compatible with adjacent Structures fronting along the west side of Park Avenue while providing enough front façade variation to distinguish between the different Structures.

Building Form and Scale. Where Building masses orient against the Lot's existing contours, the Structures must be stepped back with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Commission may require a garage separate from the main Structure or no garage.	Complies: The proposed Building front Setback is compatible with the adjacent structures on the same side of Park Avenue. The Building is stepped back with the Grade and broken into individual smaller components that are like the existing Structures in the District, as shown in Figures 4 and 5. The garage is subordinate in design to the main Building and is set back further from the front property line than the front entry.
Setbacks. The Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.	Complies: The Building Setback proposed complies with the required Setbacks of the HR-1 Zoning District, as reviewed in Section I. The proposed Setback of the Structure is like adjacent properties; the properties to the north and south of the site have approximately 13- to 15-foot Front Setbacks from the sidewalk. The proposed Front Setback on the subject site is approximately 12 feet.
Dwelling Volume. The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.	Complies: The Lot is 25 feet wide and 74 feet deep. The proposed SFD will be 19 feet wide to comply with the required Setbacks of the HR-1 Zoning District. The proposed Structure will be narrower than the adjoining Structures along the west side of Park Ave, as indicated in Figure 3. The Building Height is overall consistent with the block face on Park Avenue; the Structure will be stepped back with the grade of the site to minimize its visual mass and bring the proposed SFD into compliance with the scale and volume of adjoining development.
Building Height (Steep Slope). The Zone Height in the HR-1 District is 27 feet and is restricted as stated above in Section 15-2.2-5. The Planning Commission may require a reduction in Building Height for	Complies: The proposed SFD height is 27 feet at the height of the roof ridgeline on the gabled portion of the Structure, located approximately 19 feet from the front façade. The front façade of the

all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and the Historic character of the neighborhood's existing residential Structures.	Building is stepped back intermittently, following the Slope of the Grade. The proposed Building Height and step-backs are consistent and compatible with adjoining Structures along the street face and is compatible with the Historic character of the neighborhood.

9. The SFD complies with the Off-Street Parking Requirements pursuant to LMC Chapter 15-3 according to the following findings:

Requirement	**Analysis of Proposal**
Driveway Width: 10 feet.	Complies: The driveway width is 10 feet.
SFD Single Car Garages: minimum 11 feet by 20 feet.	Complies: The interior garage is 11 feet by 20 feet.
Two Parking Spaces: exterior 9 feet by 18 feet; interior 11 feet by 20 feet.	Complies: Two Parking Spaces are provided, one interior to a garage, and one tandem space in the Driveway. Both spaces comply with dimension requirements for Parking Spaces.

10. The Development Review Committee reviewed the proposal on December 2, 2025 and did not require Conditions of Approval.

Conclusions of Law:

1. As conditioned, the proposal complies with the LMC requirements in Chapter 15- 2.2, *Historic Residential - 1 (HR-1) Zoning District.*

2. As conditioned, the proposal complies with the Steep Slope Conditional Use Permit criteria outlined in LMC § 15-2.2-6, *Development on Steep Slopes.*

3. As conditioned, the proposal complies with the LMC requirements in Chapter 15-3, Off-Street Parking.

Conditions of Approval:

1. Final building plans and construction details shall reflect substantial compliance with the plans reviewed January 14, 2026, by the Planning Commission, with required modifications in the Conditions of Approval of this Final Action Letter and pending additional design modifications required as part of the Historic District Design Review.

2. The proposed SFD shall meet all applicable standards outlined in LMC § 15-13-8. Prior to application for a Building Permit the Applicant shall obtain approval of the Historic District Design Review application, which may require additional modifications to the design of the SFD to comply with LMC Chapter 15-13, *Regulations For New Residential Infill Construction (and Non-Historic Residential Sites) In Historic Districts.*

3. If the Applicant does not obtain a building permit within one year of the date of this approval, this SSCUP approval will expire unless the Applicant submits a written extension request to the Planning Department prior to the expiration date and the Planning Director approves an extension.

4. Impacts to existing vegetation shall be minimized. Prior to HDDR approval, a landscape plan shall be submitted that shows all Significant Vegetation within twenty feet (20') of proposed Development, pursuant to LMC § 15-2.2-10 *Vegetation Protection*; any areas disturbed during construction surrounding the proposed work shall be brought back to their original state.

5. The landscape plan, submitted prior to HDDR Final Action, shall include vegetative screening to reduce visibility of the retaining walls.

6. If the height of any retaining walls is proposed to be modified by more than twelve inches in height, width, length, or location, the Applicant shall file a modification application with the Planning Department and return to the Planning Commission for review and Final Action. Additionally, modifications of pervious material to impervious material or changes to excavation depths require a modification application and Planning Commission review and Final Action.

7. Additional modifications to the structural components may be required based on Engineering review and approval of the Geotechnical and Soils Investigation Report, prior to applying for a Building Permit.

8. Grading of the Site will be sloped to drain away from the Structure in all directions; roof downspouts and drains will discharge beyond the limited by backfill.

9. The Applicant will be required to provide intermediary shoring plans at the Building Permit phase.

10. If a heated driveway is installed in the portion of the driveway that encroaches into the City ROW, an encroachment agreement with the City is required.

11. For the sides of the SFD that are adjacent to another property, a Snow Shed Agreement and Access Agreement are required to be submitted to the Building Department, along with the Applicant's Building Permit.

12. The Applicant is responsible for notifying the Planning Department prior to making any changes to the approved plans; any changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review and approval/denial in accordance with the applicable standards by the Planning Director or designee prior to construction.

13. Any changes, modifications, or deviations from the approved design that have not been approved in advance by the Planning and Building Departments may result in a stop work order.

The motion was seconded by Commissioner Tilson. The motion passed with the unanimous consent of the Commission.

B. 7715 Village Way Unit 403 – Condominium Plat Amendment – The Applicant Proposes to Amend the Shooting Star Lodge Condominiums to Expand the Mezzanine Level Private Area by 164 Square Feet in the Residential Development Zoning District. PL-25-06737.

Planner Larsen presented the Staff Report and explained that this is a Condominium Plat Amendment application for 7715 Village Way, Unit 403. This is in the Shooting Star Lodge Condominium development. The Shooting Star Lodge is a 21-unit residential development. Unit 403 is a condominium on the fourth floor that consists of 1,609 square feet. It includes a fifth mezzanine level that is open to the floor below, which measures 181 square feet. The condominiums are in the Village at Empire Mass MPD, and received approval for a Conditional Use Permit ("CUP") in 2004. The plat was recorded with the County in 2004 as well. An image of the mezzanine level was reviewed.

The applicant is requesting a Plat Amendment to expand the private area of the mezzanine by an additional 164 square feet. This is in addition to the 181 square feet of private space that currently exists. The 164 square foot expansion area was highlighted on the presentation slides in yellow. The resulting Condominium Plat Amendment would measure 1,773 square feet. The size of the unit is found in other units in the Shooting Star Lodge Condominiums, so the request is not unusual for this condominium.

The mezzanine that is currently open to the floor below will need to be maintained that way in order to comply with the Building Code. Planner Larsen reported that this has been listed as a Condition of Approval in the Draft Final Action Letter. The proposed amendment is to allow private access to a common exterior HVAC space for improved temperature control in the mezzanine level. The mechanical equipment common area was highlighted to illustrate where the applicant is seeking access. After review of the

proposed Condominium Plat Amendment, it was found that there will be no exterior alterations and no additional parking is required. The number of units in the Shooting Star Lodge Condominium will remain the same and all changes comply with the Residential Development ("RD") Zoning District. There is Good Cause for the amendment. Staff recommends that the Planning Commission review the proposed Plat Amendment and consider approval based on the Draft Final Action Letter.

The applicant representative, Megan Blosser, explained that she is with Alliance Engineering. The attorney for the applicant, Lauren Bolger, introduced herself to the Commission. Commissioner Shand asked if the objective is to expand the living space of the residence or to provide private access to the HVAC equipment. It was clarified that the expansion provides both. The loft does not have air conditioning and becomes very warm. Expanding the area makes it possible to use the common wall and put in an air conditioning unit that will be for Unit 403. There were no additional questions.

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

Commissioner Frontero asked if this request went before a Homeowners Association ("HOA") Board. Ms. Blosser confirmed that there was a vote and 20 out of 21 votes were in favor of the request. Since there is a conversion of common area, the approval was needed. There is a letter from the HOA in the Meeting Materials Packet.

MOTION: Commissioner Shand moved to APPROVE the Shooting Star Lodge Condominium, Unit 403, Condominium Plat Amendment, according to the following:

Findings of Fact:

1. The Shooting Star Lodge Condominiums are a 21 unit residential condominium development in the Residential Development (RD) Zoning District.

2. Unit 403 is located on the fourth level of the four-story structure.

3. Unit 403 encompasses 1,609 square feet that includes an unenclosed deck and a fifth level mezzanine – open to the level below. The square footage of the mezzanine measures approximately 181.

4. The applicant proposes a Plat Amendment to expand the private area of Unit 403 mezzanine to include an additional 164 square feet to allow private access to a common HVAC space, for a total of 1,773 square feet.

5. On June 24, 1999, the City Council adopted Ordinance No. 99-30 and Resolution No. 20-99 approving the Flagstaff Mountain area annexation

and development agreement for the 1,655-acre area. The Ordinance and Resolution granted a "large-scale" Master Planned Development (MPD) outlining the allowed land use, densities, timing of development, and conditions and amenities for each parcel. On July 28, 2004, the Planning Commission approved an MPD for the Village at Empire Pass, granting the Shooting Star Lodge a height exception. The Shooting Star Plat Amendment proposes no exterior changes, the number of units within the lodge will remain the same, and no additional parking as a result of the Plat Amendment is required.

6. On August 25, 2004, the Planning Commission approved a Conditional Use Permit for the Shooting Star Lodge for 21 units plus an ADA unit, totaling 36,481 square feet and 18.3 Unit Equivalents.

7. On September 30, 2004, the City Council approved a Final Subdivision Plat for the Village at Empire Phase, Phase I. The Shooting Star Lodge is located on Lot 8 of the Village at Empire Pass Subdivision (Summit County Recorder Entry No. 718084).

8. On November 4, 2004, the City Council approved the Shooting Star Lodge Condominium Plat.

9. On November 3, 2005, the City Council adopted Ordinance 05-66 to amend the Shooting Star Lodge Condominium Plat to enclose a 221-square-foot exterior deck on the first level (Summit County Recorder Entry No. 7667411).

10. Utah State Code § 57-8-7 requires a 2/3rd Homeowners Association (HOA) vote to amend a condominium plat. On October 7, 2025, 90% of the Shooting Star Lodge HOA voted to approve the proposed Plat Amendment.

11. Development in the RD Zoning District must comply with the Lot and Site requirements in LMC § 15-2.13-3 Lot and Site Requirements, and LMC § 15- 2.13-4 Building Height, outlined in the Table below:

Requirement	**Analysis of Proposal**
Setback: Front – 20 feet Rear – 15 feet Interior Side – 12 feet	Complies: The Shooting Start Lodge Subdivision was initially approved in 2004 by City Council with the Setbacks indicated in the plat and within the Village at Empire Pass MPD. No exterior changes to the existing structure are proposed.

Building Height: 28 feet Zone Height from Existing Grade. Gabled Roof: May extend up to five feet above Zone Height.	Complies: The Shooting Star Lodge Subdivision is part of the Village at Empire Pass MPD, in which the Planning Commission granted an increase in building height from the 2004 maximum building height in the Residential Development (RD) Zoning District subject to volumetrics established in the MPD at it relates to floor-to-floor height and architectural interest of the roof. No exterior changes are proposed.

12. The proposed Plat Amendment complies with LMC Chapter 15-3, Off-Street Parking Requirements.

Requirement	**Analysis of Proposal**
Multi-Unit Dwelling: Condominium unit greater than 1,000 square feet and less than 2,000 square feet requires 1.5 Parking Spaces per Dwelling Unit.	Complies: Unit 403 of The Shooting Star Lodge Condominium is 1,609 square feet. The proposed amendment will add 164 square feet for a total of 1,773. Two Parking Spaces are provided for Unit 403. No additional Off-Street parking is required.

13. Changes to platted property lines or plat notes requires the review and approval through the Plat Amendment process, pursuant to § 15-7.1-3(B). Plat Amendments are subject to the requirements of § 15-7.1-6, Final Subdivision Plat process.

Requirement	**Analysis of Proposal**
Plat Amendments require a finding of Good Cause.	Complies: LMC § 15-15-1 defines Good Cause as, “providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non- conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City, and

	furthering the health, safety, and welfare of the Park City Community." There is Good Cause for the proposed Plat Amendment because the amendment does not require any exterior expansion or external changes to the existing Unit, the internal private area expansion does not increase the parking requirements, and the proposed expansion corrects issues related to accessing mechanical equipment for repairs and updates from the subject unit. This includes installing an air conditioning unit that is dedicated to the loft space to provide adequate air circulation.
Plat Amendments require a finding that no Public Street, Right-of-Way, or Easement has been vacated or amended.	Complies: The proposed Plat Amendment of the Shooting Star Subdivision will not alter or vacate a Public Street, Right-of-Way or easement.

14. The Development Review Committee reviewed the proposal on November 18, 2025, and requires Conditions of Approval.

Conclusions of Law:

1. There is Good Cause for this Plat Amendment.

2. The Plat Amendment is consistent with Land Management Code § 15-7.1-3(B), § 15-7.1-6, Chapter 15-3 Off-Street Parking, and Chapter 15-2.13 Residential Development District.

3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.

4. Approval of the Plat Amendment, subject to the conditions below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval:

1. The extended private area, located on the mezzanine level of the Shooting Star Unit 403 Amended Plat, will remain open to the floor below.

2. As part of the final redline process before finalizing the plat, the Applicant shall:

   a. Add a plat note describing the purpose of the plat amendment.
   b. Add an area table that shows both the original unit square footage, the new additional, then a square footage total on the plat amendment.
   c. All limited common space must be hatched as Limited Common and give a square foot area on the amended plat.

3. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, the Conditions of Approval, and the amended Declaration of Condominium of Shooting Star Lodge Condominiums prior to recordation of the plat.

4. The Applicant shall record the plat at the County within one year from the date of Planning Commission approval. If recordation is not complete within one year, this approval will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the Planning Director.

The motion was seconded by Commissioner Frontero. The motion passed with the unanimous consent of the Commission.

C. 1765 Sidewinder Drive Suite R200 – Conditional Use Permit – The Applicant Proposes a 575 Square Foot Bar Within the Lespri in the General Commercial Zoning District. PL-25-06783.

Planner I, Jaron Ehlers, presented the Staff Report and explained that this is a CUP application for 1765 Sidewinder Drive, Suite R200. He explained that the proposal is for a 575 square foot bar in the General Commercial (“GC”) Zoning District. It would be located within the Club Lespri Condominium. There would be two ways into the bar, and it would have approximately 20 seats. Planner Ehlers shared background information.

On July 11, 2002, the City Council approved Ordinance No. 02-26, which converted the building into a condominium. As part of that Ordinance, Finding of Fact #6 stated that the parking required for the Club Lespri Condominiums was satisfied by the Prospector Square Subdivision common parking areas. That analysis was reconfirmed in December 2009, when the Planning Commission approved a CUP for a distillery at the location. There was a Finding of Fact that also stated the parking was satisfied by the shared parking. In the location where the bar is proposed to be, there used to be a restaurant, but that restaurant closed during the COVID-19 pandemic and did not reopen. Until now, nothing has been proposed to replace that restaurant.

The proposal complies with the requirements of the GC Zoning District. There are no proposed changes to the exterior of the project, and the proposal complies with the off-street parking requirements. There would be six parking spots required for a bar of this size, which is satisfied by the shared parking. Planner Ehlers noted that the proposal complies, as conditioned, with LMC Section 15-1-10 and is located within the commercial area of the plat. Staff recommends the Planning Commission review the proposed CUP, conduct a public hearing, and consider approval based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter.

The applicant, Dan Warren, clarified that there is a side entrance into the building. The front lobby of the building was shown in the presentation slides. That would only be used for wheelchair access, as there is exclusive control of the side door that feeds directly into the space. Commissioner Shand asked if there are any other commercial uses on the ground floor of the building. Mr. Warren reported that the restaurant used to be the entire ground floor, but the landlord has since subdivided and redeveloped the space. What was formally the dining room is now an office. The kitchen space is still a kitchen and there is a lease out for a caterer. In the back, there is a massage parlor, and the center of the lobby is a lounge seating area. There were no additional Commissioner questions.

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

Commissioner Frontero asked who the expected clients are. Mr. Warren explained that his intention is to make this a neighborhood cocktail bar. The idea is to draw crowds from Prospector, Park City Heights, and Park Meadows. He is not necessarily looking for a tourist clientele. The legal occupancy for the bar space is 36 people. Commissioner Frontero asked about the parking. Planner Ehlers reiterated that this is satisfied with the shared agreement. Commissioner Sigg wanted to know if the applicant already has a license. Mr. Warren reported that he was granted a conditional DABS liquor license.

Commissioner Sigg asked the applicant to discuss the food component. He wondered if that will make use of the existing kitchen. Mr. Warren clarified that his intention is not to be involved with the kitchen operation. The Utah DABS bar license requires food the entire time he is open, but there is no stipulation on revenue percentages or what that food is. He intends to make some relationships with local food purveyors. He does not anticipate people coming to the bar for dinner, but does not want to lose a guest who would like something to eat. Commissioner Sigg believed there would be food brought to the premises and into a preparation area. Mr. Warren explained that there is a back section with a counter and there will be an air fryer. There will be a restaurant license in place. He clarified that there will not be food made on site, but food prepared in a commercial kitchen will be reheated. Commissioner Sigg thanked him for the clarification.

MOTION: Commissioner Frontero moved to APPROVE the 1765 Sidewinder Drive, Suite R200, Conditional Use Permit, according to the following:

Procedural History:

1. 1765 Sidewinder Drive is within the Prospector Square Subdivision.

2. The Prospector Square Amended Plat was recorded on December 26, 1974 (Entry Number #125443).

3. On July 11, 2002, the City Council approved Ordinance No. 02-26 to convert the existing Structure at 1765 Sidewinder Drive to a 11-unit Condominium with a single Commercial unit on the Main Level and 10 Residential units on the second and third levels. The proposed Bar is located within the Commercial unit. Finding of Fact 6 states, "[p]arking for the structure is provided by the Prospector Square Subdivision common parking areas."

4. On October 2, 2002, the Club Lespri Condominium Plat was recorded with Summit County (Entry Number #633765).

5. On December 9, 2009, the Planning Commission approved a Conditional Use Permit (CUP) for a distillery at 1765 Sidewinder Drive. Finding of Fact 5 states "[t]he parking requirements of the Prospector Square subdivision have been met."

6. On November 18, 2021, the City Council adopted Ordinance No. 2021-47 combining six residential Units into a single residential Unit on the second floor of Club Lespri. Finding of Fact 9 notes that the required Parking is satisfied by the Prospector Square Subdivision.

Findings of Fact:

1. The Applicant proposes a 575-square-foot Bar in Suite R200 at Club Lespri, 1765 Sidewinder Drive, in the General Commercial (GC) Zoning District and Prospector Square Subdivision. No amendments to Commercial Unit #1 are proposed nor approved.

2. No exterior changes are proposed.

3. Land Management Code (LMC) § 15-15-1 defines a Bar as a "Business that primarily sells alcoholic beverages for consumption on the premises; includes Private Clubs."

4. A Bar is a Conditional Use in the GC Zoning District (LMC § 15-2.18-2(B)(22)).

5. The primary purpose of the proposed Use is to sell alcoholic beverages with only appetizers served.

6. LMC § 15-3-6(B) *Parking Ratio Requirements for Specific Land Use Categories* establishes that the Parking Requirement is one Space per 100 square feet of net leasable floor Area.

    a. A 575-square-foot Bar requires six Parking Spaces.
    b. Ordinance No. 02-26 states that Parking for Club Lespri is satisfied by the Prospector Square shared parking lots.
    c. The proposed Bar is also in the same location and is smaller than the prior Restaurant Use, which has the same parking requirement as a Bar (LMC § 15-3-6(B)).

7. The proposal to establish a Bar, as conditioned, complies with the Conditional Use Permit criteria outlined in Land Management Code Section 15-1-10(E).

CUP Review Criteria	**Analysis of Proposal**
Size and location of the Site	No required mitigation. There will be no changes to the exterior of the Structure. The proposed Bar is in a commercial suite at Club Lespri in Prospector Square.
Traffic conditions including capacity of the existing Streets in the Area.	No required mitigation. The City's Traffic Impact Guidelines establish that the proposed Bar will not generate 25 vehicle trips during the weekday PM peak hour. The comparable land use of a sit-down restaurant requires 2,500 square feet to generate 25 vehicle trips, far greater than the proposed 575-square-feet.
Utility capacity.	No required mitigation. The proposed Bar will not increase Utility usage beyond what was required for prior Uses, as confirmed by the Development Review Committee (DRC) on January 6, 2026.
Emergency vehicle access.	No required mitigation. With no exterior changes or changes to Access compared to the prior Uses, Emergency vehicle

	Access is unchanged, as confirmed by the DRC on January 6, 2026.
Off-Street Parking.	No required mitigation. See Finding of Fact 6.
Internal vehicular and pedestrian circulation system.	No required mitigation. There are no proposed changes to the internal vehicular or pedestrian circulation system.
Fencing, Screening, and Landscaping.	No required mitigation. There is no Fencing, Screening, or Landscaping required or proposed with this application.
Building mass, bulk, and orientation.	No required mitigation. There are no proposed changes to the Building mass, bulk, or orientation.
Usable Open Space.	No required mitigation. There are no proposed changes to existing Open Space.
Signs and lighting.	Condition of Approval Recommended. Staff recommends Condition of Approval 2 requiring a Sign Permit for any proposed Signs. Any outdoor lighting must be down-directed and fully shielded, with bulbs 3000 degrees Kelvin or less (LMC § 15-5-5(J)).
Physical Design and Compatibility.	No required mitigation. There are no proposed changes to the exterior of the Building.
Noise, vibration, odors, steam, or other mechanical factors.	Condition of Approval Recommended Staff recommends Condition of Approval 3: “The Use of the Bar shall comply with Municipal Code Chapter 6-3 Noise.” Staff recommends Condition of Approval 4 which limits hours of operation to 4 PM to 1 AM.
Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas.	Condition of Approval Recommended Staff Recommends Condition of Approval 5: “The Applicant shall ensure that trash and recycling is disposed of properly onsite.”

Expected Ownership.	No mitigation required. The Applicant is leasing the space from the owner of 1765 Sidewinder Drive, Club Lespri, LLC.
Environmentally Sensitive Lands.	No mitigation required. 1765 Sidewinder Drive is not within the Sensitive Land Overlay. Because there are no proposed exterior changes, no Soils Ordinance review is required.
Reviewed for consistency with the goals and objectives of the General Plan.	No mitigation required The recommendations for the Prospector Neighborhood recommends supporting "a Vibrant Commercial District." An active neighborhood Bar would help bring vibrancy to the neighborhood.
Radon Mitigation.	No mitigation required. LMC § 15-1-10(E)(17) only applies to residential Conditional Uses.

8. The Club Lespri Condominium Plat designates Commercial and Residential Areas. The Commercial Area is located on the main level, and the proposed Bar is within the Commercial Area.

Conclusions of Law:

1. The 575-square-foot Bar complies with the requirements of the General Commercial Zoning District pursuant to Land Management Code Chapter 15-2.18.

2. The 575-square-foot Bar complies with the requirements of Off-Street Parking pursuant to Land Management Code Chapter 15-3.

3. The 575-square-foot Bar, as conditioned, complies with the Conditional Use Permit criteria outlined in Land Management Code Section 15-1-10(E).

4. The effects of any differences in Use or scale have been mitigated through careful planning.

5. The proposal to establish a Bar complies with the Club Lespri Condominium Plat.

Conditions of Approval:

1. The Bar shall be substantially similar to the plans reviewed on January 14, 2026, by the Planning Commission. Any significant changes, modifications,

or deviations from the approved plans that have not been approved in advance must be submitted in writing to the Planning Department.

2. The Applicant must apply for and receive a Sign Permit from the Planning Department prior to installation of any outdoor Signs.

3. The Use of the Bar shall comply with Municipal Code Chapter 6-3 Noise.

4. The Bar shall not operate outside the hours of 4 PM to 1 AM.

5. The Applicant shall ensure that trash and recycling is disposed of properly onsite

The motion was seconded by Commissioner Sigg. The motion passed with the unanimous consent of the Commission.

The Planning Commission took a short break before hearing the next item.

D. 220 King Road – Appeal of Conditional Use Permit Extension Approval – The Appellant Appeals the Planning Department's Approval on October 2, 2025, of Three Conditional Use Permit Extensions for Development at 220 King Road in the Historic Residential – 1 Master Planned Development Zoning District. PL-25-06721.

Chair Van Dine reminded those present that there will not be public comment on this item, per Utah State Code. There were no Commissioner disclosures or conflicts of interest shared. Chair Van Dine asked that the Staff presentation take place. Project Planning Manager, Elissa Martin, presented the Staff Report and explained that this item is related to 220 King Road. Due to changes in State Code, which became effective on May 7, 2025, local municipalities are prohibited from conducting public hearings for appeals. As a result, there will not be public comment taken on this item during the meeting.

Manager Martin shared background information. On February 21, 2024, the Planning Commission ratified the Final Action Letter approving three CUPs for a home at 220 King Road. On March 1, 2024, the appellant appealed the Planning Commission approval of the CUPs. On July 22, 2024, the Appeal Panel ratified the Final Action Letter denying the appeal and upholding the Planning Commission approval. On July 21, 2025, within one year of the Appeal Panel ratification of the Final Action Letter, the property owner of 220 King Road submitted a written extension request for the three CUPs. On October 2, 2025, the Planning Director approved the CUP extensions. On October 10, 2025, the appellant appealed the Planning Director's approval of the CUP extensions.

Pursuant to LMC 15-1-18, the Planning Commission is the Appeal Authority for appeals of the Planning Director's Final Action. The Planning Commission shall act in a quasi-

judicial manner and review factual matters on the record, with deference to the Land Use Authority. In this case, the Land Use Authority is the Planning Director. The Planning Commission shall determine the correctness of the Land Use Authority interpretation and application of the plain meaning of the land use regulations. The Commission shall also interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application. Manager Martin asked:

- Did the Planning Director err in approving the CUP extensions?

LMC 15-1-18(M) states that upon the filing of an appeal, an approval granted under the LMC is suspended until the appeal body has acted on the appeal. Based on this, the February 21, 2024, Planning Commission approval was suspended when the appeal of the CUPs were submitted in March 2024. The July 22, 2024, Appeal Panel ratification of the Final Action, denying the appeal of the CUPs, is the date when the one-year expiration of the CUPs began to run. The applicant submitted a written request for the CUP extensions on July 21, 2025, which was within one year of the written decision of the Appeal Panel. The Planning Director correctly approved the CUP extensions.

Manager Martin shared information about the change in circumstance requirement for CUP extensions. According to the CUP review process in the LMC, the Planning Director may grant a one year extension of a CUP when the applicant is able to demonstrate there has been no change in circumstance that would result in an unmitigated impact or would result in a finding of non-compliance with the CUP review criteria or other provision of the LMC in effect at the time of the request. In the Planning Director Final Action Letter, which approved the CUP extensions, Finding of Fact #20 states that there has been no change in circumstance that would result in an unmitigated impact or finding of non-compliance.

The homes within the Treasure Hill Subdivision are regulated pursuant to the HR-1-MPD Zoning District, memorialized in the Sweeney Properties MPD and Treasure Hill Subdivision Plats. Plat Note #5 of Treasure Hill Subdivision, Phase I, Lot 2, Second Amended Plat regulated building height at 220 King Road and supersedes the building height requirement in the LMC. While there have been amendments made to the HR-1 Zoning District building height requirements, there have been no amendments to the HR-1-MPD governing documents. As far as the appellant's allegation regarding construction drawings that show proposed improvements in the ski easement, and this being a change in circumstance, this is outside the purview of the appeal and will not be addressed.

Staff recommended that the Planning Commission review the appeal of the three CUP extensions for 220 King Road, deny the appeal, and affirm the approval based on the Findings of Fact and Conclusions of Law outlined in the Draft Final Action Letter. Manager Martin outlined the alternatives: deny the appeal, grant the appeal, grant the appeal in part and deny the appeal in part, grant the appeal in part, and continue.

Wade Budge introduced himself to the Planning Commission and explained that the motion to continue will be withdrawn, as an objection to that was received by Justin Keys. The reason for the withdrawal is that there is a code requirement that action be taken within a specific period of time. There is no desire to create an issue, so the request to continue the item will be withdrawn. Chair Van Dine noted that due to the withdrawal, the Planning Commission is not required to consider a continuation at this point.

Mr. Keys explained that he represents the appellants in this case. Charles Pearlman is also present at the Planning Commission Meeting. The appellants are Eric Hermann and Susan Fredston-Hermann, who own the property directly adjacent to 220 King Road.

Mr. Keys referenced LMC 15-1-10(G) and explained that this section applies specifically to CUPs. There is a unique circumstance in this case where there was an approval under a CUP, but there was a denial under a Historic District Design Review ("HDDR") application. The applicant was left in a situation where it was not possible to move forward with the build in full, because there was no HDDR approval. That resulted in a situation where an extension was needed. At least one Building Permit under the CUPs was obtained recently, related to the driveway, but there was also an application for an extension of the CUPs. In the first line of LMC 15-1-10(G), it states: "Unless otherwise indicated, Conditional Use Permits expire one year from the date of Planning Commission approval, unless the Conditional Use has commenced on the project or a Building Permit for the use has been issued." He shared information about a case, Bissland v. Bankhead.

It was stated that there are two different paths by which a denial is merited. One is if it was not timely, and the other is if there has been some change in circumstance that would warrant this coming back to the Planning Commission. Mr. Keys believed there had been a change in circumstances. The first occurred on March 18, 2024. Pesky Porcupine, LLC, sued his clients over their dogs walking on the trail easements. That complaint came into context after the construction documents came out. One of the primary allegations of the complaint had to do with certain trail easements. He shared an image of the easements and explained that they run in two different directions and are 30 feet wide.

The originally submitted Site Plan was shared, and the ski trail easements were noted. Mr. Keys stated that what is not apparent on any of the documents included in the February 14, 2024, submission is that there is a ski access easement that runs directly across. The 30-foot easement is not identified on the documents submitted to the Planning Commission for review and approval. In September 2024, when the applicant was looking to submit Building Permits, that was the first time the easement was somewhat identified. He noted that it was referred to as a 30-foot non-exclusive underground utility easement, but that is not how it is identified on the plat. In the submitted exhibit, the physical building encroaches directly into the easement.

In the construction submittals, it shows that there is a plan to block off the entire easement. Mr. Keys shared an image and explained that the red line shown is the construction fence, which goes past the entire easement. This will cut off access to the mountain for his clients. Once this was seen, the previous lawsuit made more sense to him. He discussed the detention basin and the encroachments into the easement. Mr. Keys reported that the location of the building did not change between February and September, but these items were not disclosed to the Planning Commission in the approval process. He believes this is a change in circumstance, as it has not been mitigated by the Planning Commission. If it had been disclosed to the Planning Commission during the approval process, the Commission would have discussed this.

An at-risk excavation permit was provided last year to the applicant so some work could be done to preserve the hillside. Mr. Keys shared an image and pointed out that the construction fencing goes directly across the easement. Additional images were shared. Mr. Keys reiterated that this is the first item believed to be a change in circumstance. The second item that is relevant is the HDDR denial. He explained that the Board of Adjustment reversed the HDDR approval, concluding that it did not meet the guidelines. This was largely due to the building mass and scale, as well as the size of the cuts. The proposed construction contemplates two 40-foot cuts to the mountain. The HDDR process requires an applicant to minimize cuts, which was not done in this case.

Mr. Keys explained that Pesky Porcupine, LLC, has made this a relevant issue. In their appeal of that denial, the prior approvals were one of the main grounds provided. It was stated that the Board of Adjustment denial was in contravention of the approval of this body. It is largely stated that because this body found the design, mass, and scale was appropriate, the Board of Adjustment should have found that it was appropriate as well. Mr. Keys noted that since the Board of Adjustment did not find it to be appropriate, this should be considered. The Board of Adjustment relied largely on the SWCA technical memorandum. It was the only independent third-party consultant retained to review the building. This situation represents a change in circumstances that merits review.

Mr. Keys reported that the third argument has to do with the requirement in 15-1-10(G). There has to be compliance with the code at the time the extension is applied for. There is at least one provision of the code that Pesky Porcupine, LLC, cannot comply with, which has to do with 15-2.2-5(A). This relates to building height limitations. There is an internal height limitation of 35 feet that applies. At the time of the original application, that language was different from what it is currently. Mr. Keys read both versions of the language:

- Prior version:
    - A structure shall have a maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.
- New version:

- A structure shall have a maximum height of 35 feet measured from the lowest floor plane to the point of the highest wall top plate and that supports the ceiling joists or roof rafters.

It was noted that the lowest floor plane was made a defined term. Mr. Keys read the following:

- Lowest Floor Plane:
  - The bottom level of a structure, regardless of material (dirt, concrete, etc.) or the lowest point of excavation (excluding footings).

Mr. Keys reported that the structure that was approved has two unfinished floors. He noted that there is a transcript included as an exhibit for the appeal. On Page 7 is the instruction from Director Ward at the time. That instruction was consistent with the Staff Report from January 2024. In several places, it was stated that the proposed structure does not comply with the internal height requirement. There were Planning Staff concerns expressed at that time. Mr. Keys highlighted plat notes and the previous discussions. He reviewed additional transcripts with the Planning Commission and reiterated that this body was uncomfortable with the idea of two unfinished floor planes.

Mr. Keys shared images of the side cuts from the approved plans to show how deep the cuts will be. As for the at-risk excavation permit, it states that there will be shoring of up to 25 feet. He provided some current condition photographs to show what a 25-foot cut looks like in this location. It is substantial, and that is only a fraction of what is contemplated in this case. This is the type of heavy excavation in Old Town that was meant to be avoided by creating an internal height limitation. This is what made the Board of Adjustment uncomfortable, as the proposal does not minimize cuts and retaining walls.

The City closed the loophole in the prior version of the language for 15-2.2-5(A) and this was done before Pesky Porcupine, LLC, submitted a motion to extend the deadline. The plain language of 15-1-10(G) requires them to comply with the current version of the code. Mr. Keys summarized his presentation and stated that he believes there are three valid grounds on which the Planning Commission could reverse the current extension and require the applicant to come back and show compliance. He feels that would be an appropriate outcome. He offered to answer outstanding Commissioner questions.

Director Ward asked what the building height would be under the existing plat notes, pursuant to the current Treasure Hill Subdivision. She wanted to know what the maximum building height would be for a pitched roof under the Treasure Hill Subdivision that would apply to Lot 1. Mr. Keys reported that the maximum height would be the HR-1 height. Director Ward asked to review Plat Note #4 of the Treasure Hill Subdivision. If the appellant were to submit a permit, she wanted to know what the maximum building height would be for Lot 1. Mr. Keys stated that he would start with the Sweeney Properties MPD, because there are several height limitations within it. Director Ward pointed out that it

has been amended over the years. Mr. Keys stated that there is disagreement about the premise that a plat note can amend an MPD. Director Ward reiterated her question.

Mr. Budge presented on behalf of the applicant. He stated that there is agreement with the Staff Report, because it addresses every issue. The issues that have been raised by the appellant are not well-founded. The appellants are not the property owner for purposes of interpreting the code. It is the applicant who is the property owner for purposes of the extension. Mr. Keys would have to show that an ambiguity does not exist, because where one exists, it works in favor of the applicant. Additionally, the Planning Director is the Land Use Authority for purposes of the extension request. As a result, the Planning Director is entitled to deference, as is the Planning Director's record.

In this case, it is clear that Mr. Keys has not been able to show that Director Ward erred in granting the extensions. Mr. Budge also stated that there was a failure to show that ambiguity can be applied in a way that would be contrary to the applicant. He reiterated that to the extent there is an ambiguity, it works in favor of the applicant. Mr. Budge shared information about the purpose of the extensions and the time limit. A lot has happened since the approval on February 14, 2024. After that date, there were two Appeal Authority hearings. The appeal was worked through, and then the Final Action Letter was obtained. The code is clear as to what governs, which is in the Staff Report on Page 5: “Final Action” is “[t]he later of the final vote or written decision on a matter.”

Mr. Budge reported that the written decision on the matter did not happen until July 22, 2024. It was not possible to do anything with the CUP that was granted until the Final Action Letter was delivered, which was in July 2024. Mr. Budge reported that after the Final Action Letter, on August 19, 2024, there was an application for HDDR approval. The next day, there was an application submitted for a demolition permit. The demolition moved forward based on the fact that there was a Final Action Letter and submitted HDDR application. After that, a permit set was submitted, but it has not been acted on, because a challenge was filed. The process moved forward and the plat was recorded. There was also an excavation permit applied for in order to ensure that the hillside was safe while these actions moved forward. Finally, there was a driveway permit obtained.

This is not a project that has sat still. Mr. Budge reported that this project has advanced ever since the February approval. There has been consistent effort and consistent activity. It is not possible to apply a termination to a project that is continuing to advance. There is no law that would permit an extension to be denied or a termination to be applied against a project that is moving forward. He pointed out that this appeal has to do with the extension and not the original approval. As for the change in circumstance, he outlined how the code describes it. One classification would be inactivity, which is not relevant in this case, but the other is if something drastic happened on the ground. Nothing has changed on the ground relative to this application since the approval.

Mr. Budge reported that there is no action that will be taken to prevent the easement from being used by the public. He clarified that it is not an easement that is specifically for the Hermann family, but it is public. Those public rights will continue to be recognized. When it comes to the detention facility, he explained that it is an underground detention facility.

Mr. Budge shared information about construction. Right now, there is fencing along the easement. There will be times during detention installation where there will need to be access underneath the easement, but easements are regularly rerouted to accommodate construction. However, none of that is relevant when talking about an extension request.

Mr. Budge next discussed building height. The project continues to have vested rights, and the fact that an extension is sought out does not require abandonment of the approvals obtained on February 14, 2024. Mr. Budge stated that the Planning Director appropriately, and with adequate support, granted the extensions. The extension requests were timely, and that was determined to be the case by the Planning Director.

Director Ward called attention to some of the requests that were previously made for additional information. This information was taken into consideration by the Planning Commission during the February 14, 2024, meeting. The information presented by the appellant does not take into account the broader discussion and analysis that was completed at the February 14, 2024, meeting. This was a CUP that was carefully considered by the Planning Commission and conditioned. There are plat notes and requirements that need to be met before any Building Permit or approval is issued to construct. If there are modifications proposed that go beyond the boundaries of the original approval, that is something that could return to the Commission for review.

Mr. Keys asked to respond to the comments made. The governing law is clear, which is 15-1-10(G). When anyone obtains a CUP and they do not act on it within the first year, the requirements of 15-1-10(G) must be complied with. He read the language from 15-1-10(G) and reiterated that there must be compliance with the LMC at the time of submittal, because it is a new application. If the code has changed, there has to be compliance with the code at the time of application. Given the new definition of interior building height, the approved project no longer complies with the interior building height.

Staff states this needs to be viewed in the lens of the Sweeney Properties MPD, but there is nothing in the plat notes or the Sweeney Properties MPD that states there does not need to be compliance with interior building heights. There have been exhibits submitted as part of the appeal. Mr. Keys reminded Commissioners of the previous discussions about height. He reiterated his belief that there has been a change of circumstance and asked that this matter be brought back to the Planning Commission for additional review. Mr. Budge responded to the comments and reported that there is compliance with 15-1-10(G). In addition, there is a clear definition in 15-15-1 about the date for final action.

Manager Martin shared a section of the Staff Report where Plat Note #5 was included for the Treasure Hill Subdivision Phase I Lot 2, which is the most recent plat that regulates 220 King Road. In bold, it states: "Building height shall only be measured as outlined in this Plat Note #5." The building height cannot be evaluated against the HR-1 building height requirements. Those were amended, but those amendments do not apply to this project, because building height for 220 King Road is not evaluated against them.

Director Ward reported that if the appellants were to construct on Lot 1, the maximum height that would be applied is 33 feet. The HR-1 Zone height is 27 feet. Through the HR-1-MPD Zoning District, there are regulations for the Treasure Hill Subdivision that are incorporated into the plat notes. She stated that the plat notes for these lots are distinct.

Commissioner Shand wanted to address the timing. The benchmark dates are February 21, 2024, which is the date of the Final Action Letter. On March 1, 2024, the appellants appealed and the official denial was almost five months later. It is not reasonable to have a five-month delay and have that count toward the one-year period for an extension request. He supports Director Ward in using the benchmark date of July 22, 2024.

Commissioner Sigg mentioned the argument that there has been continued work on the project and that the extension should be granted because of that. He would like to understand the difference between a CUP and a driveway permit or excavation permit. It seems that there are two governing bodies here. The body that approved the CUP was the Planning Commission and the Building Department approved the driveway permit and excavation permit. Senior City Attorney, Mark Harrington, reported that this is an on-the-record review. The Planning Commission review is limited to the Planning Director decision and whether that was an error. Commissioner Sigg agrees with the comments made by Commissioner Shand. The five-month delay was out of the control of the parties.

Commissioner Frontero believed that the Commission is following 15-1-18(M). This was confirmed. Attorney Harrington reported that Staff determined that 15-1-18 and 15-1-10 need to be read together. That establishes a new start date for the extension deadline to run. There is a fairness component about whether it is possible to hold someone to a timeline that is beyond their control. Staff determined that these need to be read together in order for there to be a fair one-year period for the extension. Commissioner Frontero believed that 15-1-10 is not being ignored, but is being read in conjunction.

Director Ward pointed out language in 15-1-10(G), which states: "…unless otherwise indicated." Commissioner Frontero is comfortable that 15-1-10 is not being ignored, but it is being read with 15-1-18. Commissioner Beal understands that the burden of proof and standard of review need to be taken into account. It is the burden of the appellant to prove that the Land Use Authority made an error. The Planning Commission is required to interpret and apply land use regulations to favor a land use application. There are provisions outlined in 15-1-18(G). He pointed out that this is not a new factual record being created, but it is a legal review with deference to the Planning Director.

MOTION: Commissioner Shand moved to DENY the 220 King Road CUP Extension Approval Appeal and AFFIRM the CUP Extension Approval, based on the following:

Findings of Fact:

1. 220 King Road is within the Treasure Hill Subdivision Phase I Lot 2, Second Amended and Sweeney Properties Master Planned Development (MPD).

2. On August 23, 1990, the City Council adopted Ordinance No. 90-24, zoning the property Historic Residential – 1 - Master Planned Development (HR-1-MPD), which established specific building requirements, lot and site standards, and design criteria for the Treasure Hill homes within the Sweeney Properties MPD.

3. On February 14, 2024, the Planning Commission conducted a public hearing and approved the Lot 2 Phase 1 Treasure Hill Subdivision Plat Amendment and CUPs to construct a home and pool at 220 King Road.

4. On February 21, 2024, the Planning Commission ratified the Final Action Letter approving the CUPs.

5. On March 1, 2024, the Appellant appealed the Planning Commission approval.

6. Pursuant to Land Management Code (LMC) § 15-1-18(M) *Stay Of Approval Pending* Review *Of Appeal,* the Planning Commission's approval was stayed until the Appeal Panel took Final Action.

7. LMC § 15-15-1 defines "Final Action" as "[t]he later of the final vote or written decision on a matter."

8. On July 15, 2024, the Appeal Panel reviewed the Final Action Letter denying the appeal and ratified the Final Action Letter on July 22, 2024.

9. The one-year period for expiration of the CUPs outlined in LMC § 15-1-10(G) began on July 22, 2024, when the Appeal Panel issued their written decision.

10. In accordance with LMC § 15-1-10(G), the Applicant timely submitted a written request for a CUP extension within one year of the Appeal Panel's written decision.

11. The Treasure Hill Subdivision Phase I, Lot 2 Second Amended Plat includes a plat note: "Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on the Plot or as consistent with the approved construction drawings of the driveways, Upper Norfolk turnaround, King Rood turnaround, ski bridge and utility plans) shall be limited to the building area limits noted on the plat."

    a. The platted Building Area Limits do not overlap or encroach into the ski easement.

12. The City issued an at-risk excavation permit for 220 King Road on August 15, 2025, authorized by the Stipulated Order dated June 30, 2025 in Third District Court Case No. 240500559. The two homes at 220 King Road were demolished in 2025 and the at-risk permit allows for the construction of a limited retaining wall – not a retaining wall for the proposed home.

13. The Planning Department has not issued any building permits for the home at 220 King Road.

14. The Treasure Hill Subdivision, Phase I Lot 2, Second Amended Plat regulates building height at 220 King Road according to note 5:

    - *Height. The building height shall be measured from existing grade to the top of the flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty-five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty-three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access and light features: no greater than 24 feet in length, i.e. stairways and/or elevators, between floor levels. In accordance with the Sweeney MPD, which was approved by the Park City Municipal Corporation on October 16, 1986, and as subsequently amended on October 14, 1987 and December 30, 1992. Building height shall only be measured as outlined in this Plat Note #5.*

15. No amendments to the HR-1-MPD Zoning District, which is memorialized in the Sweeney Properties MPD and Treasure Hill Subdivision Plat notes have been made since the Planning Commission's CUP approval.

Conclusions of Law:

1. The Appellant did not meet their burden of proving a change in circumstance that would result in a finding of non-compliance with the

review criteria in § 15-1-10(E) or other provisions of the LMC in effect at the time of the extension request.

2. The Planning Director correctly approved the extension pursuant to LMC § 15-1- 10(G) and § 15-1-18(M).

The motion was seconded by Commissioner Tilson. The motion passed with the unanimous consent of the Commission.

7. ADJOURNMENT

MOTION: Commissioner Shand moved to ADJOURN. The motion passed with the unanimous consent of the Commission.

The meeting adjourned at approximately 8:18 p.m.

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IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SUMMIT COUNTY, STATE OF UTAH

ERIC R. HERMANN and SUSAN T. FREDSTON-HERMANN, individually and in their capacity as Trustees of the FREDSTON-HERMANN FAMILY TRUST, Dated the 10th Day of October, 2016, Petitioners, v. PARK CITY, a municipal corporation of the State of Utah, Respondent. PESKY PORCUPINE, LLC, a Utah limited liability company Intervening Respondent.	**OPPOSITION TO "MOTION FOR STAY OF ADMINISTRATIVE PROCEEDING"** Civil No. 240500344 Judge: Richard Mrazik

Petitioners Eric R. Hermann and Susan T. Fredston-Hermann (the "Petitioners" or "Hermanns") oppose Respondent Pesky Porcupine, LLC's ("Pesky") Motion to Stay Administrative Proceeding.

INTRODUCTION

Pesky secured three conditional use permits related to its proposed construction at 220 King Rd. in Park City. After those CUPs expired, Pesky asked Park City to extend them and the City agreed. The Hermanns appealed that decision and the Planning Commission is scheduled to hear the appeal on January 14, 2026.

Pesky's motion asks this Court to step into that ongoing administrative appeal and prevent the Planning Commission from hearing the Hermanns' challenge to the CUP extensions. The motion should be denied for three reasons.

First, Pesky's motion rests on a jurisdictional theory that does not fit the posture of this case. The proceeding scheduled before the Planning Commission is not a rehearing on the legality of the original CUP approvals now before this Court. It is an appeal of a separate, later land use decision granting CUP extensions under the standards and criteria that govern extensions. Allowing the Planning Commission to decide that distinct issue does not intrude on this Court's jurisdiction over the petition for review.

Second, Pesky's tolling theory is contrary to governing law. The Park City Land Management Code sets a one-year expiration period measured from Planning Commission approval and requires extension requests to be submitted before expiration. Pesky's extension requests missed that mandatory deadline.

Finally, Pesky's argument that the Hermanns' petition for review of the CUPs somehow "suspended" the deadline for extending the CUPs is not supported by the Park City Land Management Code provision on which the argument relies. Moreover, the argument is contrary to Utah's land use statutes, which provide that filing a petition for judicial review does *not*

automatically stay a land use decision. Pesky's motion asks the Court to read an automatic stay and tolling rule into the Code and the statute where none exists.

For these reasons, and as explained below, the Court should deny the motion and allow the Planning Commission appeal on the CUP extensions to proceed.

STATEMENT OF RELEVANT FACTS

1. The property at issue is located at 220 King Road, Park City, Utah (the "Property") and is Lot 2 of the Treasure Hill Subdivision, Phase I plat.[1]

2. On February 21, 2024, the Planning Commission adopted its final action letter approving Pesky Porcupine's land use applications for the Property (the "Applications"), granting Pesky the CUPs at issue in this motion.[2]

3. On March 1, 2024, the Hermanns timely appealed the Planning Commission's approval of the Applications.[3]

4. On July 22, 2024, the Park City Appeal Panel issued its final decision on the Hermanns' appeal.[4]

5. On August 1, 2024, the Hermanns timely filed their petition for judicial review initiating this case.[5]

6. On August 15, 2024, the Planning Director conducted a public hearing and approved Pesky's Historic District Design Review ("HDDR") application with conditions.

7. On August 29, 2024, the Hermanns appealed the Planning Director's HDDR decision to the Board of Adjustment.

[1] R.4976–84.
[2] R.783–812; R.1114–33.
[3] R.1512–17.
[4] R.2312–2316; R.3440–44.
[5] Dkt. 1.

8. On November 12, 2024, the Board of Adjustment held a public hearing on the Hermanns' HDDR appeal and reversed the Planning Director's HDDR approval in part.

9. The Board of Adjustment approved its final action letter on November 19, 2024, which was signed on November 20, 2024.

10. LMC § 15-1-10(G) provides for expiration of a CUP if not used within a year, while providing an extension mechanism:

> Unless otherwise indicated, Conditional Use permits ***expire one (1) year from the date of Planning Commission approval***, unless the Conditional Use has commenced on the project or a Building Permit for the Use has been issued. The Planning Director may grant an extension of a Conditional Use permit for one (1) additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of noncompliance with the review criteria in Section 15-1-10 (E) or other provisions of the Land Management Code in effect at the time of the extension request. Change of circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the original Conditional Use permit approval per Section 15-1-12. ***Extension requests must be submitted in writing prior to the expiration of the Conditional Use permit.***[6]

11. While judicial review was pending, on July 21, 2025, Pesky submitted a written request to extend the CUPs' expiration deadline.

12. Park City provided notice that a hearing would be held on the extension request, and on October 2, 2025, Park City held a public hearing on that request.

13. The Hermanns opposed the extension request.

14. At the October 2, 2025 hearing, Park City approved the extension request.

15. On October 10, 2025, the Hermanns submitted an "Appeal of a Land Use Determination" to the Planning Department, appealing the CUP extension approval.

[6] LMC § 15-1-10(G). (emphasis added).

16. The Land Management Code requires that "All appeals shall be heard by the reviewing authority within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise."

17. Park City has scheduled a hearing on the Hermanns' appeal of the CUP extension approval for January 14, 2026.

ARGUMENT

Pesky's Motion to Stay rests on two related premises: that the pendency of this judicial review divests the Planning Commission of jurisdiction to hear an administrative appeal concerning the CUP extensions, and that the expiration period for those CUPs is tolled while this case is pending. Neither premise is correct. As explained below, the administrative appeal scheduled before the Planning Commission concerns a separate land use decision governed by the Park City Land Management Code, not the validity of the original CUP approvals before this Court. And neither the Code nor Utah law provides for an automatic stay or tolling of CUP expiration periods during judicial review. The Motion should therefore be denied.

I. The Planning Commission may proceed with the CUP-extension appeal because it concerns a separate land use decision and does not intrude on this Court's jurisdiction.

Pesky's primary argument is that the pendency of this judicial review strips the Planning Commission of authority to hear the Hermanns' appeal of the CUP-extension decision. That framing is flawed. The appeal scheduled before the Planning Commission does not ask the City to reconsider the legality of the original CUP approvals now before this Court or to apply the standards governing those approvals. Instead, it concerns a separate, subsequent land use determination—whether the CUPs were properly extended under the Land Management Code—which is governed by a different application, a different review standard, and a different set of

factual and legal questions. Allowing the Planning Commission to decide that administrative appeal does not intrude on this Court's jurisdiction or require the City to decide issues committed to the judiciary.

A. The CUP-extension appeal addresses whether the extension criteria were satisfied, not whether the original CUP approvals were lawful.

The Planning Commission may proceed because the appeal scheduled for January 14 concerns a separate land use decision—whether Pesky's later CUP-extension application satisfied the extension criteria in LMC § 15-1-10(G)—not the legality of the original CUP approvals now before this Court.

Park City's Land Management Code treats CUP extensions as a separate approval determination governed by distinct criteria: conditional use permits expire one year from the date of Planning Commission approval unless the conditional use has commenced or a building permit issues. An extension may be granted, but only if the request for the extension is made in writing before the CUP expires, and the applicant demonstrates no change in circumstance that would result in an unmitigated impact or a finding of noncompliance with the applicable review criteria and code provisions.[7]

That is exactly the posture here. The Planning Commission approved Pesky's underlying CUP applications on February 21, 2024, and Petitioners timely pursued administrative appeal and then judicial review of that original approval.[8] While that judicial review was pending, Pesky filed a separate land use application on July 21, 2025—five months after the deadline for such an application—seeking a one-year extension under LMC § 15-1-10(G).[9] Park City noticed and held

[7] LMC § 15-1-10(G).
[8] R.783–812; R.1114–33; R.1512–17; Dkt. 1.
[9] Utah Code § 10-20-102(39) defines a "land use application" as an application required by a municipality and submitted by a land use applicant to obtain a land use decision.

a public hearing on that extension application on October 2, 2025 and approved the extension request.[10] Petitioners then filed an "Appeal of a Land Use Determination" on October 10, 2025, appealing the CUP-extension approval, and Park City scheduled a hearing on that administrative appeal for January 14, 2026.

The legal and factual questions presented by that administrative appeal are therefore different from the questions before this Court. The Planning Commission is not being asked to revisit whether the original CUP approvals complied with the Land Management Code when issued. It is being asked to decide whether the later extension application satisfied the extension-specific criteria in LMC § 15-1-10(G) at the time of the extension decision—criteria that focus on the timeliness of the application, on change of circumstances and on continued compliance with applicable review standards.[11] Because that proceeding involves separate questions concerning a separate land use decision on a separate land use application under MLUDMA and the LMC, it does not require the City to decide issues committed to this Court's judicial review of the original CUP approvals.

B. Pesky's jurisdictional divestiture theory improperly imports court appellate procedure into a municipal administrative appeal, and Pesky's authorities do not support that move.

Pesky's jurisdiction argument depends on importing a court-centered appellate divestiture doctrine into a municipal administrative appeal. But Park City's Land Management Code expressly rejects that premise: for appeals before a Land Use Hearing Officer and any board or commission, the City's "procedural hearings and reviews … [do] not adopt or utilize in any way the adversary criminal or civil justice system used in the courts."[12] Against that backdrop, Pesky's cases do not

[10] Utah Code § 10-20-102(40) defines a "land use decision" as an administrative decision of a land use authority or appeal authority regarding a land use permit or land use application.
[11] LMC § 15-1-10(G).
[12] LMC § 15-1-18(H)(1).

establish that the Planning Commission is divested of jurisdiction to hear a later administrative appeal merely because a different land use decision is pending on judicial review.

To start, the first two authorities Pesky relies on, *Hi-Country Estates Homeowners Ass'n v. Foothills Water Co.* and *Thorp v. Charlwood* state a narrow rule: a timely appeal divests the trial court of jurisdiction over the matters on appeal and transfers jurisdiction to the appellate court.[13] Another case relied on by Pesky, *Garver v. Rosenberg*, likewise addresses when jurisdiction transfers between district courts and appellate courts and clarifies that divestiture principles apply to timely notices of appeal filed after the announcement of a decision—again, a court-to-court procedure rule.[14] None of those decisions holds that a municipal land use authority loses jurisdiction to decide a separate, subsequent land use application (and an appeal from that application) while an earlier land use decision is pending on judicial review.

Even within the court system, the divestiture doctrine is not as broad as Pesky suggests. *Thorp* immediately notes the limitation Pesky omits: "even where a trial court is otherwise divested of jurisdiction due to an appeal, the trial court retains the power to act on collateral matters."[15] That limitation matters here because the Planning Commission appeal does not present the same issues this Court is reviewing. It involves a separate land use decision applying the extension criteria in LMC § 15-1-10(G), not a re-litigation of whether the original CUP approvals were lawful when issued. The fact that the extension appeal may have practical consequences does not transform it into the same "matter on appeal" pending before this Court.

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[13] *See Hi-Country Estates Homeowners Ass'n v. Foothills Water Co.*, 942 P.2d 305, 306–07 (Utah 1996); *Thorp v. Charlwood*, 2021 UT App 118, ¶ 38, 501 P.3d 1166 (quoting *Myers v. Utah Transit Auth.*, 2014 UT App 294, ¶ 15, 341 P.3d 935).
[14] *Garver v. Rosenberg*, 2019 UT 16, 442 P.3d 383.
[15] *Thorp*, 2021 UT App 118, ¶ 38 (quoting *Saunders v. Sharp*, 818 P.2d 574, 578 (Utah Ct. App. 1991)).

The one case Pesky cites involving an administrative body undercuts Pesky's position when read in full. In *Career Service Review Board*, the Utah Supreme Court explained that the rule divesting agencies of jurisdiction while an appeal is pending is limited to situations where continued administrative action would conflict with the court's jurisdiction: "[i]f there would be no conflict, then there would be no obstacle to the administrative agency exercising a continuing jurisdiction that may be conferred upon it by law."[16] The Court concluded the Board's action was permissible because it "in no way invaded the jurisdiction of the reviewing court."[17] That principle fits this case: deciding whether Pesky satisfied the Code's extension criteria does not require the Planning Commission to adjudicate the validity of the original CUP approvals that are now before this Court, and thus does not create the kind of jurisdictional conflict that would justify judicial intervention.

In short, Pesky's divestiture theory depends on extending court appellate procedure to a municipal administrative appeal that the City Code explicitly says is not governed by court procedure, and Pesky's authorities—properly read—do not support a stay here.

II. Pesky's tolling and automatic-stay theory is contrary to the Park City Land Management Code and inconsistent with Utah law.

Pesky's remaining argument—that the CUP expiration period was tolled during the pendency of this judicial review—fares no better. Neither the LMC nor Utah law provides for an automatic stay or tolling of CUP expiration periods simply because a petition for judicial review has been filed. To the contrary, the LMC expressly measures expiration from the date of Planning Commission approval and requires any extension application to be submitted before that expiration, and the Utah Code confirms that judicial review does not automatically stay a land use

[16] *Career Serv. Review Bd. v. Utah Dep't of Corr.*, 942 P.2d 933, 943 (Utah 1997).
[17] *Id.*

decision. Pesky's tolling theory would require the Court to add language and exceptions to the LMC and statute that do not exist. As explained below, the CUPs expired by operation of the LMC, and the Planning Commission retains authority to hear the appeal of the City's subsequent extension decision.

A. The Park City Land Management Code sets a one-year expiration deadline running from Planning Commission approval and requires extension requests to be submitted before expiration.

The LMC's CUP expiration rule is straightforward and unambiguous. It provides: "Conditional Use permits expire one (1) year from the date of Planning Commission approval," unless the conditional use has commenced or a building permit for the use has issued.[18] That language uses a single, objective trigger—"the date of Planning Commission approval"—and a single, fixed period—"one (1) year."[19] It does not say "one year of being usable," "one year after all appeals are exhausted," or "one year after the permit is no longer suspended." This is not a situation where the Court must choose among competing reasonable readings; the LMC answers the timing question on its face.

The LMC is equally explicit about the timing of any extension request. It states—twice—that extension requests "must be submitted in writing prior to the expiration of the Conditional Use permit."[20] That is a mandatory precondition to the extension process. The text does not create an exception for litigation-related delay, does not authorize the City to treat the deadline as "tolled," and does not permit an after-the-fact extension application based on an argument that the applicant did not receive the benefit of the approvals for a full year.

[18] LMC § 15-1-10(G).
[19] *Id.*
[20] LMC § 15-1-10(G).

Utah courts apply the same interpretive principles to ordinances and statutes: where the language is plain and admits of a single meaning, courts enforce it as written and do not graft additional terms onto the text. In *Webb v. Ninow*, the Utah Court of Appeals reiterated the "cardinal rule" that courts are "not to infer substantive terms into the text that are not already there" and have "no power to rewrite" a statute to reflect an intention not expressed.[21] And in *Lorenzo v. Workforce Appeals Bd.*, the Court of Appeals emphasized that "the plain language controls" and that courts "avoid adding to or deleting from" statutory language absent an absolute necessity to make it rational.[22] Those principles apply with full force here. Pesky's theory is not interpretation; it is an effort to add a new condition to the ordinance—one that the City did not enact.

Pesky attempts to derive this new condition from the LMC's appeal-suspension provision, which states that "[u]pon the filing of an appeal, any approval granted under this Title will be suspended until the appeal body […] has acted on the appeal."[23] But that provision addresses the operative effect of an approval while an administrative appeal is pending; it does not abrogate the separate CUP expiration rule in § 15-1-10(G), and it says nothing about tolling expiration deadlines or converting a one-year period keyed to Planning Commission approval into a floating, indeterminate period keyed to litigation posture. The Court should decline Pesky's invitation to read that tolling concept into the LMC where it does not appear.

In short, the LMC means what it says: absent commencement or issuance of a building permit, a CUP expires one year from Planning Commission approval, and any extension request must be submitted before that expiration.[24] Pesky's tolling approach would require rewriting the

[21] *Webb v. Ninow,* 883 P.2d 1365, 1367 (Utah Ct. App. 1994) (quotation simplified).
[22] *Lorenzo v. Workforce Appeals Bd.*, 2002 UT App 371, ¶ 11, 58 P.3d 873 (quotation simplified).
[23] LMC § 15-1-18(M).
[24] LMC § 15-1-10(G).

ordinance to add exceptions and timing rules the City never adopted, which Utah law does not permit.

B. MLUDMA forecloses Pesky's automatic-stay premise, and the Park City Land Management Code cannot be interpreted to create a stay that conflicts with state law.

MLUDMA answers Pesky's premise directly. Utah Code section 10-20-1109(9)(a) states: "The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be."[25] Even if we assume the LMC's stay provision is vague enough to be read to include a judicial-review stay, the Legislature has already made the opposite policy choice for land use petitions for judicial review: filing the petition does not create a stay.[26] As it does not stay the underlying decision, there is no reason it should stay the running of the expiration of the CUPs.

That matters because a municipality cannot create, by ordinance, a stay regime that contradicts state law. Utah courts have long held that "where a city ordinance is in conflict with a state statute, the ordinance is invalid at its inception."[27] And while an ordinance is not invalid merely because it overlaps with or differs from a statute, an impermissible conflict arises when the ordinance "contradicts a statute 'in the sense that [the two] cannot coexist.'"[28]

Applied here, Pesky's proposed interpretation of the LMC cannot be squared with MLUDMA. Pesky's theory depends on reading the LMC to suspend the operative effect of land use approvals (and, by extension, to suspend the running of approval-related deadlines) throughout the pendency of judicial review. But MLUDMA says a petition for judicial review does not stay

[25] Utah Code § 10-20-1109(9)(a).
[26] *Id.*
[27] *Hansen v. Eyre*, 2005 UT 29, ¶ 15 (quotation simplified).
[28] *Salt Lake City v. Newman*, 2006 UT 69, ¶ 12 (citation omitted).

the land use decision.[29] The LMC therefore cannot be interpreted to create the very stay MLUDMA denies.

At a minimum, to avoid a conflict with state law, the LMC's stay provision must be read narrowly and harmoniously—as addressing what may proceed at the municipal level while a municipal appeal is pending, not as creating a judicial-review stay that halts the legal effect of the land use decision (or tolls unrelated deadlines) once the matter is in district court.[30] Under that required reading, Pesky cannot rely on the LMC to manufacture an automatic judicial-review stay, and the Motion's stay premise fails as a matter of law.

C. Pesky's policy-based "fire drill" argument fails on the facts and does not justify delaying the LMC-required appeal hearing.

Pesky's policy argument—that allowing CUPs to expire during judicial review would force courts into a "fire drill" and incentivize strategic delay—rests on a false premise about what actually prevented Pesky from moving forward. This judicial review did not stop Pesky from proceeding under its CUPs. After the Appeal Panel issued its final decision denying Petitioners' administrative appeal, Pesky was free to rely on those CUP approvals while this case proceeded in district court. There was no stay, and nothing about this litigation required the Court to act on any accelerated timeline.

In other words, the pendency of this case had nothing to do with Pesky's inability to obtain a building permit. Pesky could not obtain a permit because Pesky's Historic District Design Review approval—a requirement for a permit—was overturned by the Board of Adjustment. That independent reversal—not the existence of a petition for judicial review of the CUP approvals—

[29] Utah Code § 10-20-1109(9)(a).
[30] *Id.*

prevented Pesky from moving forward. Accounting for that separate process is critical. Without it, Pesky's "fire drill" narrative collapses.

Nor does Pesky's argument reflect how the LMC actually operates. The LMC requires appeals to be heard within forty-five days of filing unless all parties and the City stipulate otherwise.[31] It also allows up to two one-year extensions of a CUP, meaning an applicant can have as much as three years from Planning Commission approval to commence the use or obtain a building permit.[32] When those provisions are applied as written, there is no systemic pressure on courts to resolve land use cases within a year, and no inherent risk that CUPs will routinely expire due to judicial review.

What happened here is far narrower—and entirely of Pesky's own making. Nothing prevented Pesky from timely applying for an extension "prior to the expiration" of the CUPs, as the LMC expressly requires.[33] Pesky did not do so. Whether Pesky ultimately would have qualified for an extension is a merits question now properly before the Planning Commission. But the deadline itself was clear, and missing it was not caused by Petitioners' appeal or by any supposed flaw in the LMC's structure.

Now, well beyond the forty-five-day period the LMC prescribes for hearing appeals, Pesky asks this Court to freeze a separate administrative appeal because it fears an adverse ruling on a deadline it plainly missed. The LMC gives Petitioners the right to have their appeal heard. Pesky has not identified a legitimate legal or equitable basis to deny that right or to further delay the Planning Commission's review of its extension decision.

[31] LMC § 15-1-18(E).
[32] LMC § 15-1-10(G).
[33] LMC § 15-1-10(G).

CONCLUSION

Pesky has not shown any basis—jurisdictional, statutory, or equitable—for this Court to intervene in a separate municipal appeal that the Park City Land Management Code expressly authorizes and requires to proceed. The CUP-extension appeal concerns a distinct land use decision governed by its own criteria, does not intrude on this Court's review of the original CUP approvals, and is not subject to any automatic stay or tolling under either the LMC or Utah law. Pesky's motion rests on an effort to rewrite clear code provisions to excuse a missed deadline and to avoid an administrative ruling it fears will be unfavorable. The Court should decline that invitation, deny the Motion to Stay Administrative Proceeding, and allow the Planning Commission to hear Petitioners' appeal as required by the LMC.

DATED this 14th day of January, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that, on Wednesday, January 14, 2026, a copy of the foregoing was filed and served to counsel of record via GreenFiling:

/s/ *Charles Pearlman*