



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
November 10, 2021**

COMMISSIONERS IN ATTENDANCE: Chair John Phillips, John Kenworthy, Sarah Hall, Laura Suesser, Doug Thimm, Bill Johnson, Christin Van Dine

EX OFFICIO: Gretchen Milliken, Planning Director; Rebecca Ward, Assistant Planning Director; Browne Sebright, Planner II; Spencer Cawley, City Planner; Mark Harrington, City Attorney

1. ROLL CALL

Chair Phillips called the meeting to order at approximately 5:30 p.m.

The following written determination was read:

The Chair issued a written determination that because of the public health emergency, conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may attend in person. This determination is based on the ongoing risks and infection rates statewide and in Summit County. For these reasons, this meeting will be an electronic meeting without an anchor location. Planning Commission members will connect electronically.

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

Chair Phillips reported that prior to the Park City Planning Commission Meeting, a site visit to Founders Place, formally called Deer Hollow Village, Parcel 00-0021-01977 took place. This was related to the Regular Session Item 6B. There were no members of the public present, but the majority of the Commissioners attended. Chair Phillips explained that they walked the property and received supplemental information. He noted that the applicant requested that the item be continued to a later date. The continuation date would likely be December 8, 2021.

2. MINUTES APPROVAL

- A. Consideration to Approve the Planning Commission Meeting Minutes from October 13, 2021.**

MOTION: Commissioner Thimm moved to APPROVE the Planning Commission Meeting

Minutes from October 13, 2021. Commissioner Johnson seconded the motion.

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

B. Consideration to Approve the Planning Commission Meeting Minutes from October 20, 2021.

MOTION: Commissioner Thimm moved to APPROVE the Planning Commission Meeting Minutes from October 20, 2021. Commissioner Van Dine seconded the motion.

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

3. PUBLIC COMMUNICATIONS

There were no Public Communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Commissioner Kenworthy shared a disclosure and stated that he owns a home on the 200 Block of Upper Woodside Avenue, but it would not impact his decision-making.

5. WORK SESSION

A. 543 Park Avenue – Minor Hotel Conditional Use Permit – The Applicant Requests a Minor Hotel Conditional Use Permit to Convert the Washington School Inn, a Landmark Historic Structure on the Park City Historic Sites Inventory in the Historic Residential – 1 Zoning District, from Bed and Breakfast to Minor Hotel with Accessory Facilities for Events. PLZ-20-04477.

Planner II, Browne Sebright, presented the Staff Report and stated that the Work Session item was for 543 Park Avenue. He noted that it was the second Work Session related to the Washington School Inn request for a Minor Hotel Conditional Use Permit ("CUP"). The first Work Session related to the item was held on April 28, 2021. Planner Sebright reported that the owner was present at the meeting as well as the applicant's representatives, Jason Boal and Wade Budge. Commissioner Suesser wondered if there would be public input on the item during the Work Session. Chair Phillips believed there would be time for public input at the current meeting. He understood that many members of the public had an interest in the application.

Planner Sebright stated that the application was for a CUP for the Washington School Inn. He noted that the Washington School Inn has an existing CUP dating back to 1983 and there was an additional CUP for an outdoor recreation facility that was issued in 2010 and amended in 2021. The building was a highly prominent Landmark Historic Structure, located in Old Town, one block west of Main Street. The property is approximately 0.34 acres or 15,000 square feet in size and encloses approximately eight original Old Town lots. It stretches from Park Avenue to Woodside Avenue and was surrounded by single-family residential to the north, south, and west. To the east were a parking garage and a right-of-way easement.

The property is located in the Historic Residential – 1 Zoning District and was bordered to the east by the Historic Residential – 2A Zoning District. It is approximately 100 feet from the Historic Commercial Business Zoning District. Planner Sebright explained that the property contains two

separate lots. The first was Lot 1 of the Washington School Inn, which was improved and contained the school, accessory garage, pool, and lawn area. The second was Lot 35 of Block 5, which was included in the property (subject to the modified 2012 CUP) and is unimproved. It contained landscaping and an extension of the Washington School Inn fence. Since 2012, the two lots were subject to a CUP that allowed the Washington School Inn to landscape the vacant lot and to enclose both lots in a single-perimeter fence.

Planner Sebright provided the following reasons for having a Work Session related to the item:

- It had been six months since the last Work Session and the applicant submitted updated application materials for review. Staff analyzed the updated materials and attempted to answer questions raised by the Planning Commission previously;
- Staff had additional background information, which would share more context related to the history of the property, previous land use applications and approvals as well as an interdepartmental review of the existing facilities;
- Staff was seeking feedback from the Planning Commission on key issues in the proposal to finalize the analysis and recommendations.

During the previous Work Session on the item, the Planning Commission raised a number of questions. They asked the applicant to respond to those questions. For instance, issues related to noise and light associated with outdoor uses on the property as well as graphics that would show where the outdoor events would be held. Staff also made a series of recommendations for additional information, including updated building plans, square footage of the facilities, proposed occupancy, vehicle access, and parking. Staff asked for more details on the nature of the events and activities, including the number of employees, how guests would get to and from the site as well as a more detailed Parking Management Plan. The applicant provided an updated Management Plan, which included provisions for parking management, staffing, shuttle service, and noise management.

The applicant also provided more details related to the location of private events on the property. The current Management Plan proposed using approximately 2,200 square feet of the interior of the building for event space and approximately 2,700 square feet of outdoor area. Planner Sebright reported that the application had gone through interdepartmental review. On August 26, 2021, it went before the Neighborhood Traffic Management Program Committee. The Committee reviewed the Traffic Management Plan and the proposed shuttle service for the property. Planner Sebright noted that the Committee did not have any major concerns and their recommendations were included in the Staff Report.

On October 27, 2021, the City Engineer reviewed and approved the applicant's request for a minor variation to the minimum parking stall dimensions. Planner Sebright explained that approximately half of the 11 parking spaces were substandard in dimension. He reported that the application was also reviewed by the Business Licensing team and the Finance Department. Those recommendations were outlined in the Staff Report. Planner Sebright shared images of the parking garage where the Washington School Inn had an agreement in place for 11 parking spaces. The City Engineer found that five of those spots were substandard in width, but all of the spots could be utilized by small and mid-sized vehicles.

There was some new information in the Staff Report, which included the updated history of land use approvals for the site, the existing facilities on the property as well as public comments that

had been submitted by neighbors of the Washington School Inn regarding the proposed change in use. Staff asked for feedback from the Planning Commission related to the following:

- Should the change in use to a Minor Hotel allow for outdoor activities?
- Should the requested reduction in parking include consideration of the parking requirements for Separately Leasable Commercial Space?
- Does the applicant need to provide more information, including Conditions of Approval beyond those outlined in the proposed Management Plan?

The Work Session was noticed for public input and Staff received 12 written comments from neighboring property owners. One letter was signed by 28 adjacent homeowners on Woodside Avenue and Park Avenue. Additionally, 11 additional email comments were received. Planner Sebright noted that all of the comments could be found in the Staff Report. Staff recommended that the Planning Commission hold a Work Session on the requested CUP for a change in use from a Bed and Breakfast to a Minor Hotel and that the Commission conduct a public hearing.

The applicant's representative, Mr. Budge explained that he was present to address the Commission. The owner, Thomas Holthus, and the manager, Michael Gregory were both present and available to answer questions. Mr. Budge reported that the applicant team attempted to establish a meeting with neighbors, but the neighbors preferred to speak only to Mr. Holthus. He stated that there had been some confusion about what they were seeking with the application. It was not a special exception, rezone, or text amendment. The application was a request for a use that was allowed within the Historic Residential – 1 Zoning District.

There were 12 rooms at the Washington School Inn as well as a dining establishment and amenities. Guests sometimes want non-resident guests to visit them while they were at the hotel. That was customary for the scale of the hotel, but the 1983 CUP was not clear about whether or not that type of activity was permitted. Mr. Budge stated that they did not want to operate in an area of uncertainty. For that reason, they looked at the Zoning Code, saw that Hotel Minor was allowed, and submitted an application. The purpose of the Work Session was to engage with the Planning Commission and understand public comments.

Mr. Budge clarified that there was no part of the application that sought parking on Woodside Avenue. There was some confusion from neighbors that they were trying to engage in parking on Woodside Avenue but that was not the case. The hotel currently had more than adequate parking and the Traffic Study showed that the demand for parking was below what was available to guests. Mr. Budge believed this was due to guests who arrived by car service.

Mr. Budge addressed the reason Woodside Avenue was mentioned in the application. There was a lot that was not part of the hotel that had landscaping on it. If the landscaping was removed, it would be possible to sell that land and have it developed as a home. Woodside School Inn did not desire that and intended to have the lot combined with the other seven lots to create one large lot. That would prevent a home from being built in that location in the future as it would be permanently incorporated into the hotel. Since the Code requires 12 parking spots for 12 hotel rooms, an additional parking spot needs to be provided. If the Planning Commission were to require the additional parking spot, an off-street parking spot on the lot could be constructed. He noted that if the application was approved, the proposal was to not immediately build that spot but to engage in a year-long monitoring process to determine whether the parking demand as a Hotel Minor increased or not. If it did not, the lot would not be built on and would be incorporated

into the property in its landscaped state. If it did, the off-street parking spot could be accommodated.

It was important to be respectful and take into account the public comments. However, there was a dining establishment inside of the hotel and the Washington School Inn needed to be able to operate that. If a guest wanted to have someone join them for dinner and there was capacity, it was important to be able to accommodate that. Mr. Budge believed that all conditions for the property should relate to the primary purpose of the property, which was the operation of the hotel. He suggested that the Planning Commission hear from the public and he could then address any questions or concerns raised. Chair Phillips believed it was important to address Commissioner questions before hearing from the public.

Chair Phillips wondered if Lot 35 met the size minimum for an Old Town lot, which was 1,825 square feet. Planner Sebright confirmed this. Chair Phillips asked about the dining capacity for the restaurant. Mr. Budge reported that the main level could seat 20 and the downstairs level could seat six. If the hotel is full, there was no extra dining capacity, but if there was a vacancy, they could allow diners on a reservation basis. Some of the neighbors had commented that they would appreciate being able to come in and eat.

Chair Phillips understood that dining was not generally open to the public. Mr. Budge explained that if there was a rare circumstance where occupancy was low and a group wanted to come in and dine but they were not associated with anyone staying on property, the applicant would like to be able to accommodate that group. The Washington School Inn was not looking to change its use. Chair Phillips was not certain whether that was allowed in the Historic Residential-1 Zoning District as that meant operating as a restaurant. Mr. Budge explained that they could not operate a restaurant but could operate a restaurant use accessory to the hotel. That was allowed within the definition of a Hotel Minor. The use always had to be in connection to the hotel.

Commissioner Thimm noted that the Staff Report specified that there was an intent to have outdoor gatherings beyond the 26 seats in the dining area. Mr. Budge reported that the main floor and the downstairs level could accommodate more than 60 people from a Fire Code standpoint. The proposal was that the combined resident and non-resident numbers would be 60. That was less than the Fire Code standard and was still manageable. The application mentioned that guests may want to have outdoor activities, but he wanted to hear more feedback from Commissioners and the public related to that proposal.

Commissioner Suesser noted that 60 guests at the facility would be defined as a private event because it was beyond the number of guests that the Bed and Breakfast could accommodate. She believed that a private event was a prohibited use in the Historic Residential-1 Zoning District. Mr. Budge explained that there would not be a private event, but rather a combination of resident and non-resident guests. For instance, there could not be 60 non-resident guests on site as that would not be permitted. What was being discussed was that the resident and non-resident population could not exceed 60 in total. Uses on the property need to be those specifically described in the Hotel Minor definition, which were as follows:

- Restaurants;
- Bars;
- Spas;
- Meeting Rooms;

- On-Site Check in Lobbies;
- Recreation Activities;
- Group Dining Facilities; and
- Other Activities Customarily Associated with Hotels.

Chair Phillips recalled that the last time the application was in front of the Planning Commission, one of the reasons for the requested change was to streamline the private events process. Mr. Budge noted that he had not been present at that Work Session, but he received a similar report. He explained that there had been some high-profile visitors who wanted to dine in, and the Washington School Inn did not want to be in a position where they were unable to provide a service or activity that was customary to a high-end hotel. Mr. Budge stated that the Bed and Breakfast CUP was arguably more constraining than the way they needed to operate.

Chair Phillips wondered if the Washington School Inn held private events. Mr. Budge reported that a private event would require a temporary permit. Planner Sebright had looked into the history of those applications. One was made and withdrawn in 2017. The administrative process was still available to them, but they did not want to seek one out on a semi-regular basis. However, the administrative burden was not the reason for the application. He reminded those present that Hotel Minor was an appropriate use in the Historic Residential – 1 Zoning District.

There were no further Commissioner comments. Chair Phillips allotted time for public comments.

Nicole Deforge spoke on behalf of homeowners who live along Park Avenue and Woodside Avenue and in close proximity to the Washington School Inn. It was important to note that 28 homeowners from 22 homes on Woodside Avenue and Park Avenue signed a public comment opposing the CUP application that was submitted. Of those 28 signatures, 13 of the closest and most affected property owners took part in a Zoom Meeting with the Washington School Inn owner. There were also over 28 property owners who submitted written comments and emails opposing the application.

The neighbors were concerned about the project and unanimously opposed it for several reasons. Ms. Deforge reported that the neighborhood is dense and tightly packed. The homes are close together, the streets are narrow, and they are unable to handle commercial traffic or additional parking. Ms. Deforge explained that the Bed and Breakfast and neighbors had generally been able to maintain a fragile coexistence. However, there were issues and concerns, such as guest parking along Park Avenue, delivery trucks blocking driveways, noise, and the use of the building across the street. She noted that the latter was an off-site accessory building, which was not permitted under the Land Management Code. All of those issues needed to be addressed first. Allowing new and expanded use of the property could create further issues.

Ms. Deforge stated that the owner of the property had historically taken a “toe in the door” approach, where something was permitted with certain conditions and then they crept towards doing something else. There was a continued push in favor of the business rather than the neighborhood. She noted that Mr. Budge stated earlier in the Work Session that the only reason they wanted the Hotel Minor CUP was so guests could have non-residents come and see them. That was not what was stated in the application. This would be a significant expansion and that type of expansion could not be accommodated in the small residential neighborhood.

Outdoor use was discussed. Ms. Deforge noted that outdoor events and uses are not allowed in the Historic Residential-1 Zoning District, which the Staff Report stated on Page 7. Not only is that type of use not permitted, but it was not permitted as a conditional use either. As far as the Hotel Minor CUP, it was not a matter of allowing a few non-residents to come and eat dinner. Approving the designation would allow additional changes to occur in the future. If the applicant simply wanted non-residents to dine with residents, that could likely be done through an amendment to the current CUP rather than asking for a Hotel Minor CUP.

Ms. Deforge noted that Hotel Minor is a conditional use under the zone but that does not mean it is an allowed use. It means that the use may be appropriate in some areas of the Historic Residential-1 Zoning District. While a Hotel Minor CUP may make sense in some residential neighborhoods in Park City, she did not believe it made sense in this particular location, since the houses are so close together. She reiterated that traffic on Park Avenue and Woodside Avenue were not fit for commercial traffic. The applicant proposed to nearly double the number of occupants allowed on the site while reducing the amount of parking currently required. Ms. Deforge noted that the garage on-site was being used for laundry. Instead of using the garage that was approved for parking, the applicant wanted to do construction on Woodside Avenue, where they were currently prohibited from having guest parking, employee parking, or deliveries.

Concerns were expressed about noise and the number of employees that will be on site. Ms. Deforge explained that there are also issues with delivery and service vehicles. There are problems with the current delivery vehicles since there was not enough space for them, and they tend to park in front of neighborhood driveways. Ms. Deforge also addressed the Park City General Plan and stated that the Hotel Minor CUP is not consistent with the goals in the General Plan. One of the core goals was to incentivize primary homeownership in Old Town. If the City sacrificed the interests of the residents and homeowners in Old Town in favor of businesses, no one would want to make Old Town their home. She asked that the Planning Commission follow the General Plan and consider the concerns of homeowners in the area.

Chair Phillips asked Planner Sebright to share the zone map. He asked for more information about the Historic Residential-2A Zoning District. Planner Sebright reported that it was intended to be a transition zone between the Main Street Commercial Corridor and the residential neighborhood. It had many of the same provisions as the Historic Residential-1 Zoning District but had more allowed conditional uses for small business activities.

Commissioner Johnson asked about the two parking spots in front of the garage. Mr. Holthus explained that a small vehicle could fit in the area without blocking the sidewalk, but otherwise, those spots are not really used. Commissioner Johnson noted that special events could be held under the Bed and Breakfast designation, but they need to file for a Special Event Permit. He felt it would be advantageous for the applicant to try that first to see what the potential impacts to the neighborhood would be. Mr. Budge explained that the applicant team wanted to speak further with City Staff, but they may want to modify the request related to outdoor use. Commissioner Johnson asked about valet parking for special events. Mr. Budge reported that if there were non-residents visiting and the property was approaching the 60-person threshold, the Washington School Inn would be staffed with a valet. There was an employee limit, with only eight employees permitted, including valets. The idea was to manage vehicles to benefit guests and neighbors.

Commissioner Kenworthy believed that the mitigation efforts in the neighborhood would be limited. Expanded use of the historic property would be difficult and may set a precedence that

was problematic. He referenced the small lot sizes in the area. Commissioner Hall believed that having a Minor Hotel CUP with mitigation was fine, but there was a lot more work to be done. It was a challenging location. The public comments shared thus far highlighted clear concerns related to the number of outdoor events, the size of the events, the logistics of events, deliveries, noise, and parking. The outdoor component was a significant piece of the discussion as it related to mitigating impacts on the neighborhood.

Commissioner Thimm believed the impacts would be more severe in the proposed location versus other parts of the City. He discussed outdoor events and commented that it would be difficult to mitigate the associated issues. However, he was interested to hear suggestions. Commissioner Thimm made note of the Traffic Engineer Report included in the Meeting Materials Packet. He was surprised that there would only be three spaces used by residents. If there was a situation where there were 60 people on the property, a Traffic Demand Management ("TDM") Plan would need to be put in place. Additionally, he stated that the delivery issues needed to be addressed. Commissioner Van Dine agreed with Commissioner Hall and Commissioner Thimm and looked forward to seeing what could be done to help the neighbors. She noted that nighttime events could be imposing on the surrounding neighborhoods.

Chair Phillips stated that the application was testing the use in the zone. While Hotel Minor was on the list of conditional uses, he felt that there would need to be a lot of conditions to ensure that it did not expand beyond what was currently being discussed. It was important to be thoughtful as the application moved forward. He wondered whether it was possible to expand on the rights that currently existed on the property rather than pursue a Hotel Minor CUP.

Commissioner Hall noted that there had been some comments from members of the public about not being able to eat, drink or use the pool on the property. There was no real benefit to them unless they were staying as a guest. She wondered whether the neighbors would prefer the Washington School Inn to be open to the public. Chair Phillips commented that he could see that going both ways. If the neighborhood felt that would be beneficial to them, it was something to consider. Chair Phillips thanked Planner Sebright and the applicant team.

6. REGULAR SESSION

A. Nightly Rentals in the Hidden Oaks at Deer Valley Subdivision, Phases 2 and 3 – Amendment to the Land Management Code Sec. 15-2.13-2 to Prohibit Nightly Rentals in Phase 2 and Phase 3 of the Hidden Oaks at Deer Valley Subdivision. (A) Public Hearing (B) Possible Recommendation for City Council's Consideration on December 16, 2021.

City Planner, Spencer Cawley, presented the Staff Report and stated that Cindy Welsh and Chris Carter were the petitioners for the Land Management Code amendment related to nightly rentals in the Hidden Oaks at Deer Valley Subdivision, Phases 2 and 3. He explained that the request was to amend the Land Management Code Section 15-2.13-2, which currently allows nightly rentals within the Hidden Oaks at Deer Valley Subdivision. On September 17, 2021, the property owners applied to amend the Land Management Code specifically restricting nightly rentals in Phases 2 and 3. There was support from 78% of property owners in the area.

Planner Cawley shared history related to the subdivision. He explained that the City Council adopted Ordinance 95-21 on May 11, 1995, which approved Phase 1, 2, and 3 of the Hidden Oaks at Deer Valley Subdivision. Phase 2 contained 16 lots and Phase 3 contained 17 lots.

Planner Cawley shared a map of the two phases and explained that the two phases combined totaled 33 lots. 79% or 26 of the lots were developed. Planner Cawley shared a map to illustrate where the Hidden Oaks at Deer Valley Subdivision sat within the zoning map. It was part of the Residential Development Zone but sat next to the Estate Zone. He explained that 11 of 16 property owners in Phase 2 and 15 of 17 property owners in Phase 3 supported the proposed amendment to the Land Management Code.

Planner Cawley reported that three properties within Phases 2 and 3 have active nightly rental business licenses. Those current business licenses would remain valid if the Land Management Code amendment was adopted by the City Council, as long as the property owners renew their licenses each year and complied with Municipal Code 4-5-3. Planner Cawley noted that 18% of the residents in the subdivision were primary residents and 61% were secondary residents. There were seven lots that remained unimproved or vacant.

The Staff analysis looked at how the proposal complied with the Park City General Plan and the Land Management Code. Planner Cawley stated that the General Plan allowed for: the mitigation of adverse impacts, preserving primary residential neighborhoods, and protecting a sense of community. The request was to limit the nightly rentals to maintain a sense of community and also for those who used the subdivision as their primary residence. Prohibiting the nightly rentals in Phase 2 and 3 was consistent with the General Plan as well as within some of the neighboring subdivisions within the same zoning district.

Planner Cawley shared language to illustrate what would change in the Land Management Code if the proposal were to be adopted. On October 19, 2021, the Development Review Committee reviewed the proposal. Additionally, the Planning Department, Engineering Department, and Legal Department had reviewed the application. Staff publicly noticed the item on October 27, 2021, mailed courtesy notices to the property owners in Phase 2 and 3, and published a notice in the Park Record. Staff recommended that the Planning Commission review the proposed Land Management Code amendment, hold a public hearing and consider forwarding a positive recommendation for City Council consideration on December 16, 2021.

Commissioner Suesser wondered why Phase 1 was not included. Ms. Welsh explained that the reason Phases 2 and 3 were included was due to nuisance houses in Phase 2. The same owners owned a lot in Phase 3, for which they had approved building permits and a business license for a lot with no home on it. They were planning to build a large 11,000 square foot home with 8 to 10 bedrooms. That was the reason to approach Phase 2 and Phase 3 rather than Phase 1. Chair Phillips wondered whether the property owners with the nightly rental permits had been contacted. Ms. Welsh noted that she had not approached those owners about the Land Management Code amendment, but neighbors had been in contact with them as had the City. Planner Cawley stated that public notices had been sent to all property owners in the area.

Commissioner Suesser noted that Ms. Welsh had mentioned nuisance properties and asked for additional information. Ms. Welsh explained that the nuisance properties were 25 Hidden Oaks Lane and 65 Hidden Oaks Lane. There had been multiple nights where surrounding neighborhoods had been impacted by the rentals. There were sometimes more than a dozen vehicles out front, and the renters stayed up all night with the lights on, in the hot tub, partying, yelling, and being disruptive. Commissioner Kenworthy asked who the complaints were registered with. Ms. Welsh stated that they did not know they were allowed to complain at first. The issues went on for a year before they started to complain. She noted that there is a Nightly

Rental Complaint Form and the police had also been contacted. Business and Yoga Retreats held also been held at the rental properties.

Ms. Welsh added that the property owners of 25 and 65 Hidden Oaks Lane also own a property on Nansen Court that was considered a nuisance property. They implemented mitigation strategies at that location but had not implemented mitigation strategies in Hidden Oaks until there had been many complaints. The property owners emptied the hot tubs and limited the number of vehicles that renters could have. However, there were now shuttle buses going up and down the street because renters were parking elsewhere and shuttling back and forth. There was also a lot of loud music, speeding vehicles, and smashed bottles.

Chair Phillips wanted to make sure that the discussions were focused on the fact that the majority of the residents in the neighborhood want to prohibit nightly rentals. Mr. Carter expressed his support for the amendment and explained that his home is in Phase 3. He believed that out of the 17 lots in Phase 3, 16 owners are now supportive of the amendment. The one that was not supportive was the lot in question. The intention of the amendment was to ensure that lots would not be developed for the primary purpose of hosting nightly rentals.

Chair Phillips opened the public hearing.

Jimmy Berg gave his address as 15 Hidden Oaks Lane and reported that he is next to one of the nightly rental properties. He was in full support of the proposed amendment to the Land Management Code. The nightly rental properties were clearly commercial ventures in a residential neighborhood, and he suggested that in the future, the Planning Commission look at the Municipal Code, because the homes have 30 to 40 people in them per weekend, which is a safety issue. This was a significant problem for Park City. He reiterated his support of the amendment.

Brent Peterson identified himself as one of the owners of 25 and 65 Hidden Oaks Lane. He reported that he met with Ms. Welsh a few months earlier to sort through some of the problems. He felt they had gone above and beyond to deal with the situation. Mr. Peterson wanted the neighborhood to be quiet and enjoyable. He noted that the Nansen Court property mentioned by Ms. Welsh was not relevant to the current discussions. The mitigation efforts at Hidden Oaks Lane were overviewed and Mr. Peterson explained that they had not heard any complaints in the last few months. They were willing to do all that was necessary to ensure that renters obey the rules. For instance, there were higher security deposits and they had cut down on the number of people that were allowed to rent. He believed that the comment about a dozen vehicles being parked out front was inaccurate currently.

Commissioner Suesser wondered if the City had contacted Mr. Peterson regarding the complaints. Mr. Peterson reported that they had been notified and met in person with some people from the City, including the Chief of Police. He explained that they were willing to respond to what was going on. Commissioner Thimm asked if 25 and 65 Hidden Oaks Lane were two of the three existing permitted licenses, which Planner Cawley confirmed. Commissioner Thimm wondered what the Commission should look for in the future as it relates to complaints about license renewals. City Attorney, Mark Harrington recommended that the Commission focus on the amendment before them. There could be follow-up discussions related to those types of questions, but this was not the right forum.

Scott Greenberg stated that there was overwhelming support for the amendment from the homeowners in Phases 2 and 3 as well as surrounding communities. The purpose of the proposal was to restore the residential neighborhood. He lives at 55 Hidden Oaks Lane. The home was purchased almost 20 years ago, and it was his dream to live there full time. That happened two years ago, but it had been more of a nightmare than a dream. He appreciated Mr. Peterson's comments and his attempts to mitigate some of the issues on the properties. However, it is not possible to control renters regardless of mitigation efforts. Since there was overwhelming support from the neighborhood, he hoped the Commissioners and City Council would take the amendment request to heart.

L. Bowering strongly disagreed with Mr. Peterson's statement that the comments made by Ms. Welsh were inaccurate. She presented the facts related to the nightly rental properties. Ms. Bowering stated that in Chapter 3 under Title 6, there was information related to the maximum permissible sound levels. Between 10:00 p.m. and 6:00 a.m. noise needs to be lower than 50 decibels. Neighbors can phone the police every time the noise exceeds that level, but she felt it would not be the best use of police services. She pointed out that the nightly rental properties are listed on rental sites as sleeping 27 guests. Ms. Bowering wondered how that was characterized as a nightly rental, as it was closer to a hotel. The situation was unfair to residents who had purchased properties. The noise that came from the properties was a disturbance and public nuisance. Neighbors overwhelmingly supported the proposed amendment.

Henry Oster gave his address as 60 Hidden Oaks Lane and explained that his property is diagonal from the 65 Hidden Oaks Lane property. This is his second home, and he has lived there for over 10 years. The last several times his family has been there, they experienced similar issues in terms of the noise, parties, and vehicles on the road. Mr. Oster expressed his support for the Land Management Code amendment and felt it did not make sense to permit a hotel-type residence.

Mary Hynes gave her address as 35 Hidden Oaks Lane. She reiterated the comments shared by her fellow neighbors. This is her second home, and the nightly rental property destroyed the neighborhood she bought into. She could not believe this would be considered a legal establishment in a residential neighborhood.

Jeff Laufer reported that he lives two houses away from 65 Hidden Oaks Lane, which is his primary residence. If they called the police every time there was a noise issue, the police would be there constantly. When his home was built two years ago he could not have imagined that there would be nightly rentals and parties on the street. He was in favor of the amendment. Mr. Laufer wanted to see a sense of normality restored to the neighborhood but stated that that cannot occur when there are party houses on the street and potentially more in the future.

Mr. Peterson clarified that he did not mean to imply that Ms. Welsh was misinformed. He simply did not agree with the characterization of his property on Nansen Court as a nuisance property. He also did not believe that was relevant to tonight's discussion. Mr. Peterson added that they recently sold the lot at 95 Hidden Oaks Lane to Mr. Laufer and were transitioning out of the neighborhood. They even signed a contractual agreement with Mr. Laufer that they would not purchase more homes or properties near him. There was a lot that they were trying to do. Mr. Laufer stated that Mr. Peterson did not sell the lot to him. It was sold to Mr. Carter.

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

Chair Phillips sympathized with the neighbors and saw efforts on all sides to mitigate the issues. He encouraged those mitigation efforts to continue. Chair Phillips stated that he would not be looking at the neighbor dispute aspect but at the fact that the neighborhood wants to limit the future impacts of additional nightly rentals. There was good cause for the amendment, and it would be of benefit to the community. There were also no negative impacts to those with existing rights and licenses. He was in favor of forwarding a positive recommendation to the City Council.

MOTION: Commissioner Suesser moved to forward a positive recommendation to the City Council for consideration on December 16, 2021, for an amendment to the Land Management Code Section 15-2.13-2 to Prohibit Nightly Rentals in Phase 2 and Phase 3 of the Hidden Oaks at Deer Valley Subdivision. Commissioner Van Dine seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Van Dine- Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

Chair Phillips felt it would be helpful if a map was prepared to illustrate areas designated as having no nightly rentals. That would benefit those purchasing properties as well as the Commission when they are reviewing these types of requests. Planner Cawley reported that there is a map online that shows where nightly rentals are prohibited within the City limits. However, they could share and advertise that more. Commissioner Suesser noted that the State had been making moves to limit the ability of cities to restrict property owners with respect to nightly rentals. Homeowners should be aware that at some point it might be out of the City's control. It was important to pay attention to the State Legislature.

- B. Founders Place (Formally Called Deer Hollow Village) Parcel 00-0021-01977 – Modification to a Master Planned Development and Conditional Use Permit – The Applicant Proposes a 78-Unit Residential Ski-in and Ski-out Village in Three Phases in the Recreation Commercial Zoning District. The Planning Commission Will Determine Whether the Proposed Project is a Minor or Substantive Modification to the Master Planned Development. PLZ-21-04917 and PLZ-21-05056. (A) Public Hearing (B) Action (C) Continuation to December 8, 2021.**

Assistant Planning Director, Rebecca Ward, presented the Staff Report and stated that the applicants agreed earlier in the day that the modification to the Master Planned Development was substantive and should be reviewed by the Planning Commission concurrently with the CUP. Rather than discuss whether the application was minor or substantive, the applicants requested that the public hearing be opened and that the item be continued until December 8, 2021.

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

MOTION: Commissioner Thimm moved to continue the Founders Place (formally called Deer Hollow Village) Parcel 00-0021-01977 modification to a Master Planned Development and Conditional Use Permit to the December 8, 2021, Planning Commission Meeting. Commissioner Kenworthy seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Van Dine- Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

C. Accessory Apartments – Land Management Code Amendments – The Planning Commission Will Review Amendments to Land Management Code Sections 15-2.23-2, 15-4-7, and 15-15-1 Regarding Reduced Accessory Apartment Regulations to Incentivize Construction of Long-Term Rentals. (A) Public Hearing (B) Possible Recommendation for City Council’s Consideration on December 9, 2021.

Planner Ward presented the Staff Report and stated that the proposed Land Management Code amendments had been in the works since 2018. She explained that accessory apartments are dwelling units that are attached to single-family homes. They had been permitted in most zoning districts since the 1990s. In 2018, the City Council directed Planning Staff to evaluate any barriers to accessory apartment construction in the Land Management Code to incentivize private development of long-term rentals. The amendments were listed as Goal 2 in the Park City 2020 Housing Assessment and Plan. Planner Ward overviewed the current accessory apartment regulations, which stated that accessory apartments:

- Could not be less than 400 square feet or more than 1,000 square feet;
- Could not be larger than a third of the square footage of the main home;
- Could not exceed two bedrooms;
- One additional parking space was required per accessory apartment bedroom;
- No more than four accessory apartments could be located within a 300-foot radius; and
- Nightly rentals were prohibited, and accessory apartments must be rented for more than 30 days at a time.

Planner Ward explained that the current regulations require notice be provided to homeowner’s associations for accessory apartments and the proposed amendments would not change that. Detached accessory apartments are specifically prohibited in the Holiday Ranchettes Subdivision and no changes were proposed. Planner Ward reported that the Planning Commission and City Council conducted several Work Sessions related to accessory apartments over the last few years. During the October 13, 2021, Work Session the Planning Commission requested additional information about occupancy for residential units. According to the Building Department, the International Building Code set residential occupancy at one per 200 square feet. Since the largest accessory apartments are 1,000 square feet, the maximum occupancy would be five.

On November 3, 2021, the Historic Preservation Board reviewed the proposed accessory apartments amendments related to the Historic Districts. The Board was in support of:

- Detached accessory apartments for lots that were 3,750 square feet or greater;
- A requirement that detached accessory apartments be set back from single-family homes in the Historic Districts;
- A recommendation to address the conversion of basement garages into accessory apartments in the Historic Districts;

- A requirement that the entry to the accessory apartment be on a secondary or tertiary façade on Historic Sites;
- Evaluating deed restrictions for accessory apartments that prohibited vehicle ownership in lieu of additional parking;
- Evaluating a car share to reduce parking requirements; and
- Considering Staff-level approvals for accessory apartments in the three residential Historic Zoning Districts (HR-1, HR-2, and HRL).

Planner Ward reported that a survey related to accessory apartments ran from September 24, 2021, to November 4, 2021, and nearly 200 community members completed the survey. She overviewed the results of the accessory apartments survey:

- Should detached accessory apartments be allowed?
 - 52% were in favor.
- What kind of review and approval process should be required?
 - 30% felt it should be a Staff-level review, 35% believed the Planning Commission should handle the review and 26% felt that accessory apartments should be allowed by right and only require a building permit.
- Should a property owner be required to live on-site?
 - 59% felt the property owner should be required to live in either the single-family home or in the accessory apartment and 35% were in favor of not requiring the property owner to live on-site.
- Should the proximity requirement in the Code remain?
 - 38% felt that the proximity requirement should be removed and 58% wanted to see the requirement stay in place.
- Should a deed restriction be required?
 - 44% were in favor and 47% were not in favor.
- Should accessory apartments be the same height as a single-family home?
 - 51% wanted accessory apartments to be at a lower height.
- Should the design and materials for accessory apartments reflect the single-family home?
 - The majority of those surveyed believed the design and materials should match.
- Should accessory apartments be allowed on Significant or Landmark Historic Sites that were designated on the Historic Sites Inventory?
 - 55% did not support accessory apartments on those sites and 35% were in favor.
- Should accessory apartments count towards the maximum building footprint?
 - 67% believed the accessory apartments should count towards the maximum building footprint or square footage allowed on the site for a single-family home.
- Should accessory apartments follow the same regulations indicated on the plat for a single-family home?
 - 63% were in favor.
- How likely is it that you would construct an accessory apartment?
 - 15% said it was likely, 11% said it was highly likely, 65% said it was not likely and 4.5% said they already had an accessory apartment.
- Should there be a reduction in parking near transit?
 - 41% were in favor and 48% were not in favor.

Planner Ward noted that the final question in the survey was open-ended. The community responses could be seen in the Accessory Apartments Survey Exhibit, included in the packet. The most frequently expressed concerns related to parking, traffic, impacts to significant

vegetation, increased noise, and impacts to viewsheds. The proposed amendments based on previous Planning Commission input were as follows:

- Reduce the minimum accessory apartments size from 400 to 280 square feet;
- Allow for Staff-level approval for tandem parking in the Historic Districts;
- Remove the proximity restriction of four accessory apartments within a 300-foot radius;
- Remove the requirement that the property owner must live on-site;
- Increase the required rental term to 90 days;
- Allow accessory apartments in the Community Transition Zoning District; and
- Allow detached accessory apartments on lots more than 3,750 square feet, but require that there be compliance with:
 - The same zoning district setbacks for single-family homes;
 - The area of disturbance, limits of disturbance, and any other regulations indicated on the recorded plat that was more restrictive than the underlying zoning district;
 - Cap the maximum height at 18 feet.

Planner Ward reported that there had been public input in addition to the survey. Staff received several emails, which were included in the Meeting Materials Packet as Exhibit E. There had also been two emails in opposition of the amendments, which were forwarded to the Planning Commission and would be included in the Public Input Exhibit that would be reviewed by the City Council. The emails in opposition were concerned about Covenants, Conditions & Restrictions ("CC&Rs") that prohibited nightly rentals. Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for a December 9, 2021, Work Session and possible final action on December 16, 2021.

Chair Phillips noted that it was common to hear about concerns with items that may conflict with CC&Rs. However, the CC&Rs would still stand within their boundaries. Education was important to consider as the item moved forward. Chair Phillips noted that the detached accessory apartments had a proposed height limitation of 18-feet. He wondered whether the other accessory structures in the City had a similar height limit, which Planner Ward confirmed.

Commissioner Suesser asked why certain preferences and suggestions from both the survey and the Historic Preservation Board had not been included in the proposed amendments. Planner Ward reported that there was a fairly even split related to whether there should be a Planning Commission review, a Staff-level review, or whether there should be a building permit review for accessory apartments. During the October 13, 2021, Planning Commission Work Session, there was support to continue the CUP requirement in Historic Residential Zones. That was currently in place and was supported by the survey. However, the Historic Preservation Board was in favor of a Staff-level review, so the Staff Report asked whether the Planning Commission would be in favor of reducing that requirement in the HR-1, HR-2, and HRL Zoning Districts. She noted that as a CUP, there would be public notices sent out to property owners within 300 feet of the property proposed for the accessory apartments. The Planning Commission process would allow for public notice and a public hearing. Additionally, the Planning Commission could add Conditions of Approval to mitigate site-specific issues.

Chair Phillips wondered how accessory apartments were currently handled. Planner Ward stated that in the HR-1, HR-2, and HRL Zoning Districts, Planning Commission review was required. The proposed amendments would retain that review process based on input from the October 13, 2021, Work Session. Chair Phillips pointed out that the review process could be a deterrent. He

could agree with the Historic Preservation Board's suggestion to make the approval administrative. Commissioner Suesser believed the Planning Commission should retain control of that process for the Historic Districts.

Commissioner Kenworthy asked for additional information about accessory apartments in Historic Districts. Planner Ward explained that accessory apartments were currently allowed in Historic Districts and the Historic Preservation Board supported their continued allowance. They were also supportive of detached accessory apartments in the Historic Districts for lots that were 3,750 square feet or larger. Commissioner Kenworthy was not in support of accessory apartments having Staff-level reviews as historic preservation was an economic driver for the City. He was not sure why the Board was in support of Staff-level reviews, but he did not think it was possible to create language that was one-size-fits-all for the different historic properties.

Chair Phillips asked about the reason behind the Historic Preservation Board recommendation. Planner Ward believed it was to reduce barriers to the construction of accessory apartments and to support more long-term rental development in Old Town. They felt there were already constraints within Old Town because a lot of the homes were already built to the maximum square footage that would be allowed for the site. As a result, the regulations would have a mitigating effect and accessory apartments could only work on a limited number of sites. Chair Phillips stated that he would feel comfortable with a Staff-level review. Planner Ward explained that anything constructed in the Historic Districts would go through the Historic District Design Review ("HDDR") process. If there were any changes to historic materials, they would go to the Historic Preservation Board for approval. Commissioner Suesser pointed out that the Board focused on historic design but did not necessarily focus on issues like parking constraints. They may not take into consideration the impact of accessory apartments on the Old Town neighborhood.

Further discussions were had about the review process. Commissioner Suesser believed that the Planning Commission should review any accessory apartments in the Historic District. Planner Ward noted that Planning Commission review was in the Code currently and was for all properties within the Historic Districts, both historic and non-historic. Commissioner Thimm was in favor of the review process being handled at an administrative level, as recommended by the Historic Preservation Board. Commissioner Hall and Commissioner Van Dine agreed. Commissioner Johnson agreed with Commissioner Suesser and Commissioner Kenworthy. Chair Phillips noted that the Planning Commission was split. Ultimately, it would be decided by the City Council, but the Commission could continue to discuss the issue.

Chair Phillips stressed the importance of incentivizing accessory apartments because the community needs housing. It was a City goal to provide better and different housing options. The Historic Districts needed additional housing options. Commissioner Kenworthy wondered how accessory apartments could be added onto historical homes. Planning Director, Gretchen Milliken explained that there were strict Historic District design guidelines for Significant or Landmark Historic Sites, but also for newly built structures in the Historic Districts. Restrictions and guidelines were already in place as part of the Land Management Code.

Commissioner Suesser believed there would be a lot of push back from the Old Town community if accessory apartments started to go in and Staff was responsible for working with the applicant rather than there being a Planning Commission review. She felt that in the Historic Districts, there needed to be additional reviews to ensure that the right conditions were put in place and that residents in the area could weigh in on each of the applications.

Commissioner Johnson asked how steep slope parcels in Old Town would impact the CUP process. Commissioner Thimm did not understand why it would matter whether there was an accessory apartment on a property that met all of the parameters for a Steep Slope CUP. Commissioner Suesser was in support of accessory apartments but felt they should require Planning Commission review. Planner Ward stated that if an accessory apartment was proposed for a site that already had a structure and a steep slope, which would trigger a Steep Slope CUP. The applicant would need to go through that process. Chair Phillips understood some of the concerns that had been expressed. However, he believed that the appropriate mechanisms were in place. There were guidelines and rules to dictate what could and could not be done as it related to accessory apartments in Historic Districts.

Commissioner Suesser expressed concerns related to parking. Planner Ward noted that there were no proposed changes to parking. Under the current Code, there was an on-site parking space required for each bedroom within the accessory apartment. There were some allowances if a site had a driveway that was 25 feet in length. She reported that there was a process where the owner could receive approval for a tandem parking space. There was another process where tandem parking could be allowed to protect significant vegetation. Planner Ward stated that the Housing team was looking into a potential Affordable Housing Overlay Zone where in the future, there could be accessory apartments located along transit corridors.

Commissioner Suesser asked about a rent cap. Planner Ward explained that it was not part of the proposed amendment. Based on initial research, the market rate and the affordable rate were about the same. She noted that during the October 13, 2021, Work Session, there had been some interest in evaluating possible incentives. That could be considered for future amendments. Commissioner Kenworthy wanted to make sure that the Planning Commission had considered the unintended consequences related to parking. A lot of vehicles would likely be pushed onto the streets due to accessory apartments. In narrow areas, which could be problematic. He reiterated the fact that he would prefer the Planning Commission to review applications.

Discussions were had about the property owner needing to live on site. Planner Hall suggested that one of the units could require a six-month rental term rather than 90 days. As long as someone was living there for six months to a year, they would still be a long-term community member. Chair Phillips agreed. Director Milliken explained that Park City was a resort company, and the 90-day suggestion would capture some of the seasonal workforce. Commissioner Hall believed the 90-day suggestion made sense for seasonal workers. If at least one of the leases was for six months to a year, that would make sense. Commissioner Thimm was supportive of a six-month lease for one of the units. Commissioner Thimm believed that because of the resort nature of Park City, six months would make the most sense. Chair Phillips, Commissioner Hall, Commissioner Kenworthy, and Commissioner Suesser agreed.

Commissioner Suesser hoped the City could enforce the provisions. Planner Ward stated that enforcement options could be explored ahead of the City Council Work Session. Commissioner Thimm suggested that there be future discussions related to enforcement. Commissioner Kenworthy expressed concerns about changes at the State level. Attorney Harrington explained that the deed restriction approach was recommended. The Planning Commission needed to plan without allowing possible changes from the State to dictate desired outcomes. He noted that there was commonality between the City and the State, as the intention was to promote accessory apartments, so long as there was a balance of interests. He felt the Commission was appropriately focused on mitigation and enforcement.

Commissioner Hall wondered what would happen if someone had an accessory apartment and they violated that with nightly rentals. Attorney Harrington explained that the process would depend on the specific circumstances. For instance, sometimes there was a direct violation, and other times, the tenant had violated the sublease. The State required the City to provide an opportunity to cure before a citation was issued. Attorney Harrington felt the City had increased its profile in terms of enforcement and believed that the accessory apartments posed less of a risk than a larger home. He added that deed restrictions also helped with enforcement.

Chair Phillips noted that 4.5% of those who completed the survey already had an accessory apartment. He was not aware of there being any issues with the existing accessory apartments and that indicated they were not causing problems. If that was the case, it would make sense for there to be more in the City. Planner Ward noted that some of the survey results from the open-ended question made references to noise. However, there was a noise ordinance in place. Parking was another concern and some of the input was related to existing accessory apartments, where on-street parking had become a challenge.

Commissioner Van Dine wondered if this was a time-sensitive issue. Chair Phillips stated that the Planning Commission was at a crossroads. There had been multiple meetings related to the topic and it seemed that the Commission was split on a few items. Unless the Commissioners felt that additional information was needed to make a decision, he believed it would be beneficial to move the item forward to the City Council. Commissioner Thimm stated that there was consensus on many aspects of the proposed amendments, but where there was no consensus, it was unlikely that any of the Commissioners would change their opinion. Chair Phillips agreed. He was ready to move this forward to the City Council and felt comfortable that Staff would present the highlights of the Planning Commission discussions.

Commissioner Kenworthy asked how many Significant or Landmark Historic Sites there were. Planner Ward reported that there were approximately 400, but not all of those sites were homes. Commissioner Kenworthy wanted to make an effort to protect the historic homes. Discussions were had about language for a motion. Commissioner Thimm suggested that a Planning Commission review be done only for Significant or Landmark Historic Sites. Commissioner Suesser asked that the Planning Commission approve the amendments as written in the Staff Report and if all went smoothly, there could be administrative approval in the future. Further discussions were had about a motion. Commissioner Johnson stated that he was torn. He felt that it would be good to have restrictions in Historic Districts.

Commissioner Hall noted that the Planning Commission review would create more of a burden on the applicant than the Planning Commission. Commissioner Thimm and Commissioner Van Dine agreed. Commissioner Thimm pointed out that just because the item did not come before the Planning Commission did not mean that it would not undergo a lot of scrutiny.

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

MOTION: Commissioner Thimm moved to forward a positive recommendation to the City Council for consideration on December 9, 2021, concerning Land Management Code amendments to Sections 15-2.23-2, 15-4-7, and 15-15-1, accessory apartment regulations to incentivize construction of long-term rentals, with the modification of administrative review within the Historic Districts for Significant and Landmark Historic Sites. Commissioner Hall seconded the motion.

VOTE: Commissioner Suesser-Nay; Commissioner Johnson-Nay; Commissioner Van Dine-Aye; Commissioner Kenworthy-Nay; Commissioner Thimm-Aye; Commissioner Hall-Aye; Chair Phillips-Aye. The motion passed 4-to-3.

It was noted that the Commissioners who voted against the motion were in support of the proposal as outlined in the Staff Report. Chair Phillips felt there had been excellent discussions and noted that the City Council would continue the conversation during their Work Session.

7. ADJOURN

MOTION: Commissioner Suesser moved to adjourn.

The meeting adjourned at approximately 9:30 p.m.

APPROVED 12.08.2021