



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
NOVEMBER 9, 2022**

COMMISSIONERS IN ATTENDANCE: Vice Chair Sarah Hall, John Kenworthy, Bill Johnson, Christin Van Dine, John Frontero, Henry Sigg, Chair Laura Suesser (virtually)

EX OFFICIO: Gretchen Milliken, Planning Director; Rebecca Ward, Assistant Planning Director; Alexandra Ananth, Senior City Planner; Spencer Cawley, City Planner; Jaron Ehlers, Planning Technician; Mark Harrington, City Attorney

1. ROLL CALL

Vice Chair, Sarah Hall called the meeting to order at approximately 5:30 p.m. She acknowledged the presence of all Commissioners in Chambers. Chair Laura Suesser was to join the meeting via Zoom. Vice Chair Hall stated that this would be a hybrid meeting and public comments would be accepted virtually. To comment virtually, the public was advised to use eComment or raise a hand through Zoom. Public comments would also be accepted in person.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from September 28, 2022.

MOTION: Commissioner Bill Johnson moved to APPROVE the Minutes from the Planning Commission Meeting from September 28, 2022. Commissioner Christin Van Dine 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 12, 2022.

MOTION: Commissioner Johnson moved to APPROVE the Minutes from the Planning Commission Meeting from October 12, 2022. 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

Planning Director, Gretchen Milliken, reported that Deer Valley resubmitted an application and Staff planned on adding it to the December 14 meeting agenda. Given other matters during that meeting, the applicant would only have approximately two hours to present the application. Director Milliken asked if the Planning Commission would be willing to consider a Special Meeting in December to hear the Deer Valley Snow Park application. She stated that December 19, 20, and 21 could be considered as potential dates for a Special Meeting.

Vice Chair Hall asked if other items could also be added to the Special Meeting, such as items they were not able to get through during scheduled meetings. Director Milliken agreed that additional agenda items could be added to the Special Meeting agenda. Director Milliken also anticipated that the Snow Park application would likely take four to five meetings on a monthly basis and asked if there was interest in limited Special Meetings in January, February, and March 2023 to address this application. This would result in a third meeting during these months. She mentioned that because the agendas for January and February are full, it would be difficult to schedule this application for a regular meeting and give it the time it needs for review.

Vice Chair Hall was not in favor of adding a third meeting and noted that the last meeting went until 11:00 p.m. after which they received a 1,000-page packet and did not get to everything on the agenda. Commissioner Van Dine commented did not want to receive overly long packets simply because they do not schedule an extra meeting. She would be agreeable to an extra meeting if it was strictly limited to three hours and only addressed one item. She would also limit the extra meeting to a maximum of three hours. Commissioner Frontero agreed with Commissioner Van Dine and would agree to a third meeting if it was limited in scope to the Deer Valley application. Director Milliken agreed to prepare an agenda that would include what they expect to cover in those meetings.

Commissioner Kenworthy asked how long the process would take before they turn it over to the City Council for a decision on the street vacation. Director Milliken stated that Staff would endeavor to plan this application out over three to four sessions so that the Commission could cover all of the items needed for the application and get it to the point that it could go to the City Council to address the vacation of the right-of-way.

Senior City Attorney, Mark Harrington, added that the schedule would largely depend on the Planning Commission and when it could make recommendations on the circulation and transportation element of the application. This might occur as a handoff, where the Commission would then continue its review of the Master Planned Development ("MPD"). Commissioner Kenworthy noted that the Commission did not want to go that far until the City Council makes its determination. Mr. Harrington noted that while it would depend on how quickly the City Council could address the issue, Staff would not necessarily wait for that decision to schedule additional review.

Mr. Harrington explained that at a Joint Meeting earlier this year, the Planning Commission and City Council reviewed alternatives regarding vacation of a right-of-way that were necessary for the current application to move forward. The question was whether the Council wanted to consider that issue first or consider the vacation in conjunction with its review of the MPD and make a recommendation. He reported that the City Council and Planning Commission agreed to a hybrid approach wherein the Commission would look at the scope of the circulation and transportation element, with the new alternatives suggested as a result of public input and

Commission feedback. The Commission could then send the issue of vacation of the right-of-way back to the City Council with its recommendation.

Mr. Harrington stated that this approach was somewhat unique but a good compromise that would allow the Planning Commission to maintain its primary role of looking at the planning elements, while providing a recommendation to the City Council before the Council made its determination regarding vacation of the right-of-way. He stated that the first meeting on this application would focus on the Transportation and Circulation Element and what options had been explored and refined since the Joint Meeting.

Commissioner Kenworthy noted that there was a chance that the City Council might have the issue before it for a couple of months. Mr. Harrington agreed that they could not anticipate whether the process with the City Council would be fast or slow; however, they could still try and manage reasonable planning of the Commission's review and would adjust as necessary depending on what happens with the City Council.

Director Milliken added that the Commission could continue its review of the application beyond the Transportation and Circulation Elements while the City Council considered the vacation of right-of-way. Mr. Harrington reiterated that they would adjust depending on where it was with the Council and would not make the Commission waste its time on something that might have a parallel public component.

Commissioner Van Dine sought clarification that the presentation of this application to the Commission would be broken down by issue at each meeting and they not address issues outside of that scope at each meeting. Director Milliken confirmed this and noted that this application is a modification to the applicant's MPD but only included the parking garage and the Circulation and Transportation Plan.

Commissioner Frontero disclosed that with regard to the Regular Agenda item on 161 Park Avenue, he engaged Michael Stoker, AIA on a project in town a couple of years ago. He stated that this would not affect his decision on that application.

Commissioner Kenworthy disclosed that with regard to the Regular Agenda Item on 161 Park Avenue, he knows the owners of the property; however, he has not spoken with them about this application and it would not affect any of his decisions on this matter. He added that he has a home very close to this property.

Director Milliken stated that a number of the Commissioners attended Wasatch Back, which was a meeting of different communities, towns, and counties. The event included planning commissioners, council members, planners, mayors and others from these various communities. She invited Commissioner Kenworthy to provide a report from that meeting. Commissioner Kenworthy reported that there was a great mix of regional partners who came together under the State's guidance for a workshop on land use. The meeting included State senators, a representative of the Governor's office for planning, the State Division of Housing, Mountainland Association of Governments, Utah League of Cities, homebuilders, local school districts and transportation district officials. There were also elected and appointed officials from the counties of Morgan, Summit, Wasatch, Eastern, and Weber. Attendees from each group were not allowed to sit together, and separating groups was a great way to connect with other communities. Commissioner Kenworthy commented that it was a wonderful workshop that highlighted how they all have very similar problems that they were able to openly discuss. He explained that the

meeting began with the Kem Gardner Policy Institute providing the latest demographics, which showed that Utah is #1 in the United States for growth. They have found, especially during COVID-19, that people are moving for a better quality of life that Utah, and especially Park City, can offer. He noted that Park City is fairly built out and expensive; however, the city with the most growth from 2010 to 2020 was Midway, which experienced 56% growth. Midway was followed closely by Heber City at 48% growth.

Next on the list of growing cities were Francis, Timber Lake, Hideout and Snyderville. He noted that Snyderville only experienced 20% growth. Commissioner Kenworthy noted that these numbers were based on net migration, and that birth rates were still at 1% and not what it used to be in the State. He explained that 2/3 of the growth from the Wasatch Back comes from net migration. He also stated that the organizers posed three questions to the attendees. The first question pertained to the issues that are most challenging for the community. He noted that the typical responses were housing and the wealth gap; however, he felt it was interesting to note that (1) nimbyism was the biggest problem for trying to solve problems, and (2) the State should stay out of local governance.

The second question presented to the attendees pertained to what State officials can do to assist with the challenges. While the two issues above were not solved, allocation of funds was highlighted. The third question posed to the attendees had to do with what additional information State leaders could provide that was not being currently provided by the State. He noted that the organizers wanted them to think big and come up with big solutions. Commissioner Kenworthy mentioned comments made by Caroline Rodriguez, Executive Director of High Valley Transit, who opined that the solution wasn't in zoning or technologies; rather, it was in people working together. Commissioner Kenworthy stressed that this takes compromise, collaboration and planning out into the future.

Commissioner Kenworthy also highlighted comments from Assistant Planning Director, Rebecca Ward who talked about using transfer development rights. He stated that while everyone is concerned with density and how it interconnects with transportation, it still comes down to the people and transfer development rights in areas where they could help to solve these issues. He commented that a representative from Davis County, where they are building the Wasatch Peaks, expressed numerous concerns surrounding these issues. He reiterated that it was a workshop where were able to express ideas, and he came away with the conclusion that they all need to work together, especially in the areas where they have the availability of land. If they can plan now, now is the time to do it.

5. REGULAR AGENDA

- A. 4001 Kearns Boulevard – Amend the Quinn’s Junction Partnership Annexation Master Planned Development Agreement (MPD) – The Applicant Proposes to Modify the Uses, Number, Footprints, and Building Heights of the Remaining Density Allocated in the MPD on Lot 1B only, to Allow for Studio Crossing, a Mixed-Use Affordable Housing Project in the Community Transition - Regional Commercial Overlay Zoning District. PL-22-05206.**

Senior City Planner, Alexandra Ananth, reported that a Work Session on this item was held in May 2022, and the public hearing was initially set for August before being continued to October. They ran out of time during the October meeting, so the public hearing was continued to this meeting. The applicant was looking to amend the Phasing Plan, and during discussions before

the City Council where they sought feedback regarding the hotel, mention was made of a project with more community benefits, including affordable housing. Council Member Steve Joyce and Mayor Nann Worel were appointed to work with the applicant, the Planning Department, and the Housing Department on a new Concept Plan. Planner Ananth reported that the applicant returned to the Council in December 2021 and presented the concept of what is presently before the Commission, which is a mixed-use development with a strong affordable housing component. The City Council unanimously supported the potential changes and encouraged the applicant to move forward with the Planning Commission.

She explained that the applicant proposed to amend the existing MPD for the Film Studio Campus for Lot 1B only. The proposal would allow for additional uses and modify the use number footprint and building heights of the remaining density that is allocated to the Film Studio MPD. The applicant was also seeking an amendment to the original Zoning and Annexation Ordinance to allow for the new uses. She noted that the MPD and the original Ordinance were very restrictive to the Film Studio Campus.

Planner Ananth reported that the applicant has approximately 282,000 square feet of density under the MPD that has not been built out. The applicant proposed to use that density to build 60,000 square feet of commercial uses, up to 100 for-sale market rate condominium units and at least 145 affordable for-rent units that would meet the City's Housing Ordinance. She presented a graphic showing the site and explained that the approved MPD had no requirements for setbacks, open space or affordable housing. She presented a table showing the allowed uses under the existing MPD.

She also presented a graphic that compared the Film Studio MPD and the proposed mixed-use development. On the Film Studio MPD, the graphic showed some buildings in front of the existing Film Studio that have not been built, as well as the rest of the mostly commercial campus. Building 1A is the 100-key hotel entitled for that site pursuant to the MPD. She referenced the allowed Building Heights pursuant to the MPD as compared with the proposed Building Heights, which were fairly consistent between the two site plans.

Planner Ananth reported that the applicant moved forward with subdividing the site into two parcels, which was approved earlier this year. She presented the overall Phasing Plan and explained that Phase 01 would include two mixed-use buildings comprised of 15,000 square foot footprints or 45,000 square feet for each building. The applicant proposed commercial on the ground floor and affordable units above. She highlighted that the applicant would meet its entire housing obligation in Phase 01, as well as a number of additional affordable units.

Phase 02 would also be two buildings with 15,000 square foot footprints that would include strictly commercial uses. These buildings would be one-story buildings with a height of 28 feet in compliance with the Zone Ordinance. Phase 03 would include up to 50 townhomes along the southwest portion of the site. Phase 04 would include multi-family dwellings and market rate units. Phase 04 would also include another building of all affordable housing that would be built either contiguous to Phase 04 or earlier. The site also includes a location for a bus stop to be served by Park City Transit and High Valley Transit.

Planner Ananth highlighted a trail connection to the Rail Trail, as well as a number of amenities on the north corner of the site. With respect to Building Heights, the townhomes would be 25 feet in height, and the multi-family dwelling building would be 40 feet tall, but it is located outside of all setbacks. The commercial building was proposed to be 28 feet in height. The two mixed-use

buildings would be 40 feet in height, and the building in the back would be 45 feet, reduced from 48 feet. In terms of density, Planner Ananth stated there would be 60,000 square feet of commercial uses, approximately 142,000 square feet of market-rate units, and 118,000 square feet of affordable units. She explained that when the density of the required affordable units is subtracted, the total density is in line and just under that allowed under the existing MPD.

The affordable units would consist of a variety of studios, one, two and three-bedroom units. She reiterated that at least 185 affordable units would be delivered by this project. The required affordable housing was calculated based on the commercial square footage, and the applicant is required to deliver 38,000 square feet of affordable housing that does not count toward the density of the project. She explained that this would be broken out in about 65 affordable units, which all would meet the City's Housing Resolution.

In addition to the required affordable housing, she advised that the applicant proposed at least 120 additional affordable units, which would be a mix of studios, one-, two- and three-bedroom units. These would be rented at up to 80% Area Median Income ("AMI") but would be available for households earning up to 120% AMI. She noted that the eligibility met the current Housing Ordinance requirements.

Planner Ananth reported that the Regional Commercial Overlay ("RCO") Zone allows nightly rentals, home occupation, childcare, private recreation facilities and food trucks. In addition, the applicant proposed conditional uses that included the multi-unit dwelling, childcare, an office and medical clinic, retail and service commercial, neighborhood convenience, restaurant and bar, recreation facility, entertainment, and parking and garage space. The Planning Department recommended that these conditional uses, particularly the more intensive ones of childcare, intensive office and major retail or service commercial uses would require a Parking Demand Analysis and a Conditional Use Permit ("CUP") from the Planning Commission. She noted that the Staff Report recommended an Administrative CUP; however, Staff has since decided that it would make more sense for these uses go through the full CUP process before the Planning Commission.

Because the actual tenants were unknown, she stated that the parking requirements were estimated. The residential units would require 343 parking spaces, and she noted that all units would be less than 2,000 square feet. In terms of the commercial uses, the applicant looked at some of its other projects and estimated the type of tenants that would use the commercial spaces. Depending on the actual uses, the site might require 312 commercial parking spaces.

Planner Ananth reported that the applicant submitted a Parking Analysis that included comparisons with the applicant's other projects, specifically Newpark, which indicated that this project would generate a parking demand of 527 stalls, which is less than the 655 parking stalls required by the Land Management Code ("LMC"). She stated that the Planning Department recommended that the Planning Commission consider a parking waiver based on the belief that the proposed parking would be sufficient to meet the anticipated parking demand and the site would be supported by the Rail Trail and a bus station. The Planning Department felt there would be a synergy of uses in that residents would be using the retail, which would further support a parking waiver in favor of producing more open space on site.

Planner Ananth added that the applicant identified some additional parking areas, if needed. One option would be to shift the existing townhomes back slightly to allow parking in the driveways, as well as other areas that could be expanded to allow for additional parking. She stated that the

Planning Department recommended that the Planning Commission continue the public hearing that was opened in August, consider approving the proposed amendment to the MPD for Lot 1B, consider recommending the draft Ordinance for Council's consideration, and consider recommending the applicant's Housing Mitigation Plan for the Housing Authority's consideration in December.

Justin Keys from Quinn Capital Partners, LLC was present on behalf of the applicant and expressed appreciation for the Planning Department's work and thoughtful planning on this application. He stressed that it was important to note that the project owners, the Crandall Family, are residents of the Park City community. Mr. Gary Crandall, who was present, has developed a number of projects in Park City and has invested heavily in the community. He stated that Mr. Crandall had been a great example of a responsible developer.

Mr. Keys highlighted the Commons Project in Newpark, which was the project that prompted the idea of the Studio Crossings project and Quinn's Junction. This project is similar to the product offering at Newpark where the ground floors are commercial and the upper floors are deed restricted affordable housing rentals. He noted that the Newpark project was somewhat controversial and the developer was able to obtain some density from the County to produce the affordable housing and take the jump into the affordable housing landlord realm, which they have thoroughly enjoyed. Mr. Keys noted that Mr. Crandall has enjoyed being able to provide homes to people that really need it.

Mr. Keys enjoyed Commissioner Kenworthy's comments and stated that when he sits down with the users of affordable housing and see them in their homes, it is different because he sees the people who need housing being given the opportunity to have the housing. Mr. Keys indicated that the architect, Trent Smith, AIA was also present. The applicant presented a short video to the Commission. Mr. Keys stated that they would like Studio Crossings to duplicate the success they experienced at The Commons. He emphasized the difference between what could have been at this site, and what can be at this site. He previously stated that this project was all about embracing bold action, which is what the community asked them to do. He queried what could be bolder than taking current commercial entitlements and swapping them for affordable housing. Instead of a destination Studio campus for people from out of town, they could build a place where locals live and work. He felt fortunate to have a client who was receptive to this idea, even with the loss in revenue occasioned by the change in project.

Mr. Keys next addressed the Commission's prior questions and feedback. He noted the concern with protecting the Entry Protection Corridor Zone and not having any Setbacks within that Zone. He advised that the applicant removed everything and managed to locate the market-rate units completely out of the buffer zone and further back from Highway 40. They also eliminated the buildings that would have been built in front of the Film Studio, which also would have been within that zone. He stressed that they did their best to consolidate it and remove any buildings from the Corridor Zone so it would not be highly visible.

With regard to Height Exceptions, Mr. Keys noted that heights are always a challenge, especially when dealing with affordable housing because one of the ways developers make these projects pencil is by increasing heights. He added that it is cheaper to build up because there are savings in terms of foundation, footing and roofing costs. They took a close at the Building Heights and reported that they now have a majority of the buildings below the zone height. Mr. Keys noted that while they did not process this application as an Affordable MPD ("AMPD") due to the

constraints in the amount of retail allowed, the proposal was within the AMPD height restriction of 45 feet.

He noted that in terms of scale, when this project is compared with the 60-foot Film Studio, no part of the project would look big. The same is true with most of the buildings within the Community Transition ("CT") Zone. Although the CT Zone height is 28 feet, there are very few buildings near the Hospital that are at 28 feet. In terms of the feedback surrounding coordination with Utah Department of Transportation ("UDOT"), he reported that they met twice with UDOT and expressed that they would coordinate with the City Engineer and UDOT as to what they would like to see in that location.

Mr. Smith addressed the community amenities and referenced the amenity map. He noted the right-turn only discussed with UDOT and advised that there would be a final meeting to review the redlines on the construction documents. He advised that thus far UDOT had expressed no issues with the design. He explained that they placed amenities throughout the campus and highlighted the hub or plaza that would be constructed during Phases 01 and 02. Mr. Smith noted that the plaza would include a stage, a children's playground area, and some green areas. He highlighted the node in the middle of the plaza that could be used in the spring and summer for music, and for farmer's markets and other community events in the fall. He mentioned discussions surrounding a tree lighting ceremony and possibly a skating rink that could help bring people together. He also mentioned the concept of creating a set of multi-use courts outside the plaza area. Throughout the site they would have amenities for e-bikes, fix-it stations along the interior trail as well as pocket parks along the trail. The bus stop would be created in line with Park City's Planning Standards. He reported that they met with the Transportation Department and Sustainability Department regarding the different elements for the amenities. He noted that everyone had been proactive and positive in addressing these issues.

Mr. Keys stated that he would not speak at length about the commercial uses and reported that the applicant was agreeable with the conditions listed by Staff. He stated that they tried to focus on community-centric uses and heard a lot from the Commissioners that childcare would be important. He commented that a shared parking reduction would work for this project. They have used it in the past, and he stressed that they were very thoughtful in terms of parking. He noted that it was likely that there would be shared use of the same stalls because residents who leave for the day would open up parking spots for the commercial uses. He reiterated that they based their analysis on the Newpark experience, where all of the affordable units had surface parking and experienced no issues. If the Planning Commission was not inclined to grant a 30% reduction in parking, the site has plenty of space for parking; however, they felt it made sense to not pave more of the site and rather preserve as much open space as possible.

Mr. Keys next addressed AMI and stated that the applicant was prepared to agree with the "Kenworthy Caveat" that would allow for studios to be rented at less than 80% AMI. He stated that the applicant would rent 20 studio units at 70% AMI, and seven of the units at 60% AMI. He added that they might be able to go further and stressed that they looked hard at the numbers to make it work. He explained that based on their experience in operating other affordable housing projects, they found it important to have an average AMI of 80% for flexibility because quite often residents will get a raise and they do not want to have to kick someone out. They therefore included the 120% AMI threshold without charging these residents more. This flexibility would only apply to the additional affordable units.

He reported that at 80% AMI for a three-bedroom would result in rent of \$2,674, including utilities and HOA fees. The rent for a two-bedroom would be \$2,408 per month, and the one-bedrooms would rent for \$2,140 per month. Because they would apply multiple AMI's for the studios, the rent at 80% AMI would be \$1,872. Rent at 70% AMI would be \$1,464, and at 60% AMI, the rent would be \$1,255.

Mr. Smith addressed the Commission's request to look at different sustainability features. They met with Planning Staff and the Sustainability Department and noted that everyone gravitated towards LEED. They looked at five different groups, including EnergyStar, LEED principles, Passive House, the AIA's 2030 Commitment and the U.S. GBC. He reported that they began working with these groups issues ranging from access to quality transit, optimizing energy performance, open space, daylighting by using adequate windows, water efficiency, storage, and collection of recyclables. He mentioned that Planner Ananth also added a commitment to using low-flow water fixtures, EnergyStar rated appliances in all units, energy efficient building envelopes, water wise native landscaping, and providing recycling basins throughout the site. They would also encourage multi-modal transportation by offering different modes, as well as bike storage for all buildings.

The proposal to reduce overall parking was also discussed as part of the sustainability element, as was an increase in open space. He commented that this project would meet all the requirements of the Dark Skies Ordinance. Mr. Keys stated that with respect to the Rail Trail connection, the applicant put up a bond for \$75,000; however, the City would rather the applicant build the connection, which they are happy to do. He added that they met with the Trail Committee representatives and offered that it would be a great connection. He further stated that the Rail Trail connection and the Round Valley connection are what make this project special, so they want to ensure that it is done right.

With respect to the four-story affordable housing building, Mr. Smith reminded that the building was originally oriented in a way that Commissioner Johnson felt created a wall. He advised that following those comments they made changes to the site to tighten the cluster and move the affordable housing building so as to not create a wall. He explained that they also tried to gravitate both the market-rate unit building closer to the plaza so that all residents would have the same access to quality commercial and quality transit.

Mr. Keys addressed the issue of nightly rentals and noted that this was an issue the applicant had a difficult time giving up because of how the project pencils. With that in mind, they analyzed how much of a problem this actually would be by looking at similar products. He advised that there are similar market-rate condominiums and townhomes in Newpark and they determined there were only 28 nightly rental business licenses in the entire Newpark project. He explained that based on this data, anywhere from 13.3% to 16.8% of the units have a license to use their units as a nightly rental. He was not sure whether those who use their units as nightly rentals are those who use them in that way consistently or sporadically, but the reality is that not a high percentage of owners use their properties as nightly rentals.

Mr. Keys added that they also looked at what percentage of the owners claimed a primary residence in those nightly rental units, and they found that number to be over 40 percent. He offered that this showed that the majority of people would not offer their units for nightly rental. He reported that the applicant's broker estimated a prohibition of nightly rentals would result in a 10% reduction in market value. Mr. Keys explained that the applicant proposed up to 100 market-rate units, and if they assume \$1 million per unit, a 10% reduction would result in a \$10 million

loss to the developer. He added that a \$10 million loss on a project where the applicant is building 184 loss leading affordable housing units was a big deal, and this project would no longer pencil.

Mr. Keys added that he has other clients who have looked at developing similar projects who have stated that without nightly rental, the project would not work. He felt this was a reality and in order to be able to build the affordable housing with the rising construction and financing costs, the developer must be able to maximize its return on the market-rate units. He stressed that the applicant heard the concerns of the Commission regarding nightly rentals and wants to provide what they can. They revisited the AMIs to see if they could get more affordability out of this project while still allowing the project to pencil. He offered that the affordability component is not what drives the profitability in a project, so they were able to give on that issue. On the nightly rental issue, however, it simply would not pencil if nightly rentals were prohibited. He reminded the Commission that the entitlement was originally for a 100-key hotel, and at least with this proposal, assuming the numbers would be similar to their other projects, it would result in at most 17 units that would be used for nightly rentals. The applicant's concern was in getting full value out of the market-rate units in order for this project to pencil. Mr. Keys reiterated that they spent hours on this issue but determined that a prohibition of nightly rentals would make this project no longer feasible for the applicant.

Vice Chair Hall invited any comments from Affordable Housing Manager Jason Glidden, who had nothing to add but was available to answer questions.

Commissioner Sigg commended the applicant and the City for affordable housing initiatives and the efforts to satisfy the housing dilemma in Park City. With regard to the commercial uses and parking, Commissioner Sigg expressed concern with this becoming more of a destination, trip generating commercial area. He felt that a big component of that concern was the plaza and asked about the orientation of the commercial uses in relation to the plaza. He expressed no doubt that the commercial uses would be a trip generator to this development. Commissioner Sigg was more inclined to support the opinions of the consultants, especially the potential impact on parking with a grocery store. He opined that any food-related commercial use would attract people to this location because of its location. He supported the independent conditional use aspect of subsequent uses.

With regard to site planning the Rail Trail, he noted a tremendous lineality to the market-rate townhomes and felt that it looked somewhat foreboding in spite of the fact that it was oriented on a diagonal to the Rail Trail. He mentioned Section 15 of the MPD that called out spacing of buildings and felt it should be more organic. He compared the market-rate unit building versus the hotel and felt that from the site plan it could be either use. He appreciated the fact that this building was outside the Frontage Protection Zone but noted that it is a large building that would create a lot of blockage as one moves through the canyon of building mass.

Commissioner Sigg expressed appreciation that the applicant produced the number of buildings on the site and stated that he was a proponent of taller buildings where appropriate. He referenced the Sensitive Lands views as they relate to some of the buildings. With regard to nightly rentals, he mentioned that the applicant could receive a tax credit for the nightly rental units which created a tremendous drive and need for nightly rentals; however, he would like to see residents have the opportunity to become more vested in affordable ownership. He recognized that this would make penciling the numbers really difficult and would involve the creative combination of the two types of housing.

He stated that if they assume a small percentage of nightly rentals based on the presented numbers, then why shouldn't they just prohibit nightly rentals altogether. He was aware of projects nearby that do not allow nightly rentals and the units sell quickly. Commissioner Sigg explained that 1,400 square foot units at a \$1 million sales price equated to approximately \$650 to \$675/foot. The problem would then arise that those could afford these units and wanted to live here would be renting a less expensive unit, thereby taking housing away from someone who needs that less expensive unit. He felt this perpetuated the ghost-unit paradigm, which is why they have experienced a workforce housing shortage.

He commented that there are probably doctors who are under-renting because they happened to find a place to rent that was taking away rental space from others. He begged to differ that these would not be workforce units because it's a great location. He noted that many in Park City purchase units they can afford and turn that into a business model. Commissioner Sigg wanted to see more deed-restricted ownership units. If they look at AMI's in the range of 100 to 120%, he felt there would be plenty of people who would buy these units. He noted that the claimed 10% reduction in value did not make sense. He felt that the more trade-offs there are between market-rate housing and workforce housing would take away opportunity and would take units out of the market space that would otherwise be rented by people who just want to be in Park City. The ghost units are the cause of the problem in the City, and 70% of the units in the City are ghost units. He would like to see more people vested in ownership and not just rentership.

Commissioner Sigg added that ownership results in a very different occupant profile and included more of a family composition versus studio units that would result in more singles and couples. In terms of the core of the community and the housing needs, he felt that families had a big market need. Mr. Keys clarified that this project will not have any tax credits since it is 100% privately funded. He noted that tax credits helped create deeper affordability.

Manager Glidden addressed Commissioner Sigg's comments regarding the need for rentals. He stated that they completed a needs assessment this past year, and of the over the 1,000 units needed over the next five years, 80% of them should be rentals. He did not disagree with the notion of seeing more ownership but wanted to highlight the community needs. Commissioner Sigg recognized the point that rentals were a key component; however, he felt that one project could not solve all the required needs and projects should try to be as diverse as possible.

Mr. Keys stated that they met with Manager Glidden on a number of occasions regarding potential Lite Deed restrictions for some of these units but noted that it came down to the price point. They anticipated that the market-rate price point would be a little high for what they typically do for a Lite Deed restriction in this location; however, those conversations were ongoing and they would love to see if it pencils. Mr. Keys added that the commercial spaces would be oriented to face the plaza. Mr. Smith stated that at Newpark they found that the core uses would sit at the center of the buildings so they would be able to orient stores both ways. In other words, there would not be a "back" to the commercial space and they could be placed all the way around.

Commissioner Johnson asked how the Housing Department looked at the job generation versus affordable housing availability, and how it would fit the needs of the community. Mr. Keys referenced the Housing Resolution that includes an employee generation rate associated with each type of use. The applicant advised the mix of uses, and then they applied the employee generation rate to those uses to determine the total employee generation. The applicant thereafter needs to mitigate 20% of that. Mr. Keys added that different uses generate different amounts of employees and a retail space would not generate the same number of employees per

1,000 square feet of space as a restaurant space. He stated that they included the chart in the Resolution.

Commissioner Johnson sought clarification of which, if any, of the commercial uses would be considered an allowed use. Planner Ananth proposed that a majority of the uses considered conditional uses be allowed by right in this project; however, three uses—childcare, intense office and intense commercial—would require CUPs from the Planning Commission. The other listed uses would be included in the MPD and would not necessarily require a CUP. Commissioner Johnson asked if they could add telecommunications to be consistent with Section 15-4-14 of the LMC. He added that he was impressed with the progression of this project and appreciated the work put into this application.

Commissioner Kenworthy thanked the applicant for listening to the expressed concerns and coming back with great improvements. He referenced the change to 20 units at 60% AMI that would help those who are absolutely desperate for housing in Park City. He agreed with Manager Glidden that the community needs more rentals.

Commissioner Kenworthy saw the community good cause with the apartment buildings in this development. He could get to a place where some of the owner-occupied units could have some nightly rentals. He understood that the Film Studio required a great number of employees, so this project would need nightly rentals. He referenced the possibility of another project like *Yellowstone* that brought in a \$100 million licensing fee for production, and the positive aspects to the community as a result. He stated he would not want to see all nightly rentals in the development and agreed there should be some limitation on the number.

Commissioner Kenworthy expressed concern over the trip generators. He mentioned that the Town of Hideout was desperate for commercial uses, and it was a non-starter for him to have a component like Trader Joe's in this development. He recognized that Hideout was trying with regards to its commercial needs, and they were working together to figure out the entire corridor; however, until then the intersection at State Route ("S.R.") 248 and U.S. 40 is a nightmare. He would like to try and figure out trip generation numbers. He also wondered how they could arrive at a 30% parking reduction without knowing the actual tenants.

Commissioner Kenworthy agreed with Commissioner Sigg that the linear aspect was a concern because it would create a big block wall for the entry corridor. He felt the applicant did a nice job of taking away those buildings along the frontage, especially those on the Studio Lot, which opened up the distance from the street. If there were something more that could be done, he would like to see it.

Commissioner Van Dine loved the changes that the applicant brought back to the Commission and appreciated the efforts with respect to Setbacks, Building Heights and reduction in AMI. She loved this project and felt it was in a great location and would meet a significant need of the community. She supported the applicant's requested parking reduction. With regards to trip generation, she felt that the goal was to have commercial uses that would cater to the community that is there. She recognized that the commercial uses would bring people into the community, but she felt that the overlap of uses justified the reduction. She also mentioned the fact that the developer also had additional space to use if needed. Commissioner Van Dine would rather see that space remain open rather than paved simply because they were unsure whether the parking would work. Instead, they have the ability to add parking if needed.

Commissioner Van Dine referenced the public comment regarding Park City Heights using the commercial in this development and stated that the point of the transit options was to allow people from that area to access the development without using their vehicles. She applauded the trail connectivity in the proposal and loved the path around the outside that could be used by people walking their dogs or children riding their bicycles. She also highlighted the transit access. She agreed that the developer needed nightly rentals and stated there needed to be some leeway on this issue. Commissioner Van Dine suggested that they look for a way to put the nightly rentals only in the townhome building and keeping them out of the apartment buildings. She believed this would help foster a sense of community in the apartment building.

Commissioner Van Dine felt that limiting nightly rentals to a percentage would lend itself to illegal nightly rentals; therefore, she would limit them to the townhome units. She supported the process for the commercial conditional uses. She did not feel they would end up with a Trader Joe's due to space restrictions and felt that they would see lighter uses that would cater to the community. She could see a small market, but nothing that would generate a lot of people coming into the development.

Commissioner Van Dine reiterated that the applicant is entitled to higher buildings, but they did a great job of getting the Building Heights down. She did not mind the block of townhomes and felt that the orientation and the presence of the berms rendered it acceptable. She noted that if anything further could be done to help with the visual impact, such as landscaping, which would be great; however, it was not something that should stop this project going forward considering the community need and how far this project has come.

Commissioner Frontero echoed the comments of the other Commissioners and thanked the applicant for listening and coming back with an improved project. He liked the project and had a hard time finding anything that needed improvement. He understood the math on the nightly rentals and noted that if half of these units were empty because people were not using them, it would detract from the community aspect of the development. He did not mind the developer making more money by charging more due to the nightly rentals; rather, his concern was that the units would be empty. He wondered if there were ways to mitigate the empty units because if a unit sits empty for two years, it would not be adding to the community feel of this development. He commented that reducing an AMI to 60% was a huge improvement. Commissioner Frontero was not concerned about trip generation, as he did not feel that a Trader Joe's would fit in the commercial space, but they could include a conditional use on a commercial use such as Trader Joe's. Mr. Keys stated they were open to that and noted that the largest footprint on these buildings was 15,000 square feet so they would not likely attract a Trader Joe's.

Mr. Smith noted that the commercial was included in both Phase 01 and Phase 02. Phase 01 would have a significant housing component to start creating the community, but within the first two phases they would know what they were dealing with in terms of parking. He added that they submitted a Trip Generation Memorandum that showed that during peak hours they were at 43% less than what was proposed for this site. Mr. Keys added that it would be less during non-peak as well, as it was previously all commercial. The same was true for the employee count since they have 60,000 square feet of commercial as opposed to 282,000 square feet of commercial in a hotel. There would be a lot more employees on site if they were to build according to the original MPD.

Commissioner Frontero heard some of the concerns and wondered whether there was room on the issue of nightly rentals and felt that would be the sticking point for this application.

It was noted that Chair Laura Suesser was online but was just listening and would not be making any statements.

Vice Chair Hall echoed many of the statements made by the Commissioners. She liked the idea of having 185 affordable rental units built by a private developer on private land. She agreed with the notion that it would cater to the locals who both live and work in the area. She highlighted the fact that there would be no added density. The bike/pedestrian pathways, AMI reduction, and minimal excavation were all positives.

Vice Chair Hall asked if the Entry Corridor Protection Overlay was included anywhere other than in the proposal. Planner Ananth explained that the applicant was amending the application so that building within the Overlay would no longer be a possibility.

Vice Chair Hall asked about the undulating berm included in the Conditions of Approval. Mr. Smith explained that as part of the Entry Protection Overlay, berms would be required to help hide the building massing from the road view. Planner Ananth added that the Film Studio currently has a berm in front of it that would be continued around this site.

Commissioner Kenworthy asked Manager Glidden to comment on the nightly rental requested by the applicant. He sought clarification that nightly rentals were only requested on the townhomes, not the affordable apartments. Manager Glidden responded that nightly rentals were requested on the for-sale market-rate units in Phase 04 as well as the townhomes. The applicant proposed a maximum of less than 100 for-sale units, and there would be 185 or more affordable units that would have no nightly rental component.

Manager Glidden explained that applicants for the required affordable rentals would be required to meet the 80% or below AMI. For the additional affordable units provided by the applicant, the units would rent at 80% AMI, but renters up to 120% AMI would be allowed to qualify.

Commissioner Kenworthy understood that nightly rentals would be restricted to the 100 or less for-sale units. Mr. Keys advised that they were not proposing any limitation of the number of the for-sale units that could be subject to nightly rental.

Vice Chair Hall opened the public hearing.

Danny Glasser from the National Ability Center ("NAC") thanked the Commission and Staff for their service. He observed that it was refreshing to see this proposal come forward as a solution. He stated that the NAC and other inhabitants at Quinn's Junction were all struggling with affordable housing, and this project was greatly appreciated and needed. He felt that looking 10 years out, the greatest threat was how he could employ and support NAC staff in the area. He appreciated this solution and what the Crandall's were doing for the community. He would continue to try and drive the AMI down and appreciated the applicant's flexibility. Mr. Glasser supported this project as an effort to provide a solution.

Megan McKenna is a Housing Advocate for the Housing Resource Center. She referenced her prior comments and stood by those. She stated that The Housing Resource Center still supported Studio Crossings. She noted Commissioner Kenworthy's comments about the statewide workshop and highlighted the discussions and idea of a village and a more community-minded approach. She felt this proposal was an excellent example of a village. She liked the idea of

mixed-use, especially considering that this project was initially envisioned as a hotel comprised of all nightly rentals. As a resident of Park City Heights, Ms. McKenna supported this project and reiterated the village aspect of this project. She commented that this type of project was something that has been missing in the neighborhood and she appreciated how the applicant worked with that in making the project open to the community and not just the residents. Ms. McKenna stated there was always more room for affordability, and they would always advocate for deeper affordability. She appreciated the work of the Crandall's and of the City.

Ed Parigian stated that this was a great project, but his biggest concern was the nightly rentals. He echoed the comments that they do not want to build ghost towns and stated there are stories all over that nightly rentals and AirBnBs were ruining communities and community. He wondered whether they would be adding to that issue by building ghost townhomes. He felt that these would allow people who normally cannot afford \$1 million homes to now afford these homes. He commented that there were many wealthy individuals who could just buy up these properties to rent them out for income, which would not help the community. Mr. Parigian observed that this could be leading them down the road to exacerbating that problem by promoting more AirBnBs. He liked the discussions and he liked the project, but he wondered whether they wanted to build a community or a village, or just replicate what is occurring in Old Town. He urged the Commission to really consider the issue of nightly rentals. Mr. Parigian also requested that consideration be given to some one-bedroom apartments with 60% AMI because it is difficult for a couple to live in a studio.

There were no further public comments. Vice Chair Hall closed public hearing.

Vice Chair Hall invited comments from the Commissioners. Commissioner Johnson suggested revising Condition of Approval 9 regarding the commercial uses. Vice Chair Hall also noted that in conjunction with that suggestion, Condition of Approval 8 should be revisited. She expressed concern about the notion of the village and wanting this area to thrive.

Vice Chair Hall felt that the parking reduction was warranted when the uses would be for the primary residents. She also did not have issue with any of the uses that would be directly beneficial to the primary residents. She suggested that parking should be addressed with regard to the uses that would be addressed through the CUP process. Commissioner Johnson agreed. Vice Chair Hall was agreeable to a childcare use, especially given the expected demographic of residents and whether there was a designated drop off area.

Vice Chair Hall's bigger issue was the financial, medical and office uses and commented that depending on that type of use they might want to evaluate the parking. She noted that if a use were not servicing the residents, they would want to look at transit and parking. Planner Ananth suggested revising Condition of Approval 8 to add the following: "The following commercial uses shall require a CUP: intensive office, intensive retail..."

There was discussion regarding whether medical uses should be included in this revised Condition of Approval. Commissioner Van Dine felt that any medical office space would be on a small scale. Vice Chair Hall reiterated her opinion that the concept of having a village that catered to the residents justified the requested parking reduction. Commissioner Van Dine reiterated that she was agreeable to a parking reduction.

Commissioner Kenworthy would waive the daycare because it was such a desperate need and wanted to encourage the daycare use. He would like to see the other uses processed as a CUP.

He noted there were desperate needs in the community, and people from Hideout would come to this project for needed goods and services if they were present. He expressed concern about some of the desperate needs of the community, not just the Code for the trip generations that could occur.

Commissioner Sigg asked about the contingency if more parking were needed for a particular commercial tenant. Vice Chair Hall offered that additional parking might end up behind the pickleball court. Planner Ananth stated that they would know early on what the particular demand would be for commercial parking, so those courts could be pushed back and additional parking placed in front of them. She did not feel that they would want to break up the parking with courts.

In response to an inquiry, Mr. Keys stated that other than the underground parking, a majority of the parking would be common area for the residents and commercial uses. He stressed that the applicant was willing to build all of the necessary parking; however, they were trying to avoid a sea of asphalt.

Vice Chair Hall added that the parking for the townhomes would not really impact the other uses because it would directly benefit the townhomes. She felt that the townhome parking would probably result in a higher value townhome. Mr. Smith explained that visitors to townhomes would have the option of parking at the townhome instead of using a spot that might be used for a commercial use.

Planner Ananth felt that most visitors would arrive at night, when there would be plenty of commercial parking. She would err on the side of less parking since they could always add it if needed.

Mr. Keys advised that they have very intensive uses at Newpark and have not had a parking problem. Planner Ananth added that the Demand Study submitted by the applicant stated they would likely need 527 parking stalls, and they have proposed 565 parking stalls. They expect the demand to be less than what was proposed with the waiver.

In response to an inquiry from Commissioner Kenworthy, Planner Ananth advised that the parking requirement pursuant to the LMC was 655 parking stalls. Mr. Keys stated that they had Fehr & Peers be aggressive in terms of the types of expected uses.

Planner Ananth reported that they could amend Condition of Approval 8 to add that "anything with a parking requirement of five stalls to 1,000 square feet shall require a CUP, except for daycare." She added that they could revise Condition of Approval 9 to an Administrative CUP, except for high intensity parking.

Commissioner Frontero was under the impression there would be 100 market-rate units and asked the applicant to clarify prior statements that they could have a few as 85 units. Mr. Keys explained that when they started allocating the density, they always assumed up to 100 units; however, when they started actually looking at the footprints of the townhomes and getting it to the price point and size of unit they wanted, it actually came out to 86 units.

Mr. Smith commented that the Crandalls have been great in terms of due diligence with the design team and working through the floor plans. He stated they were able to get more townhomes because they felt it would result in a more family-oriented development. They were therefore able to get 50 townhomes and 36 condominiums for a total of 86 market-rate units. He explained that

they also might have figured out a way to get more than 185 affordable housing units. The goal was always to have a maximum of 100 market-rate units, and 185 affordable units. He added that they have been working with Manager Glidden to figure out ways to build more than 185 affordable units.

Mr. Keys added that they met with the Senior Alliance, who wanted a main floor bedroom for the townhomes, so they had to increase the size of those floor plans, which ended up driving down doors. He emphasized that the applicant cares about the age-in-place community, and it was important to the Senior Alliance to have a single-floor unit with plenty of room and a garage. He felt that at the end of the day, they would be at around 85 to 86 market-rate units and over 200 affordable units. He explained this was one of the “gives” for the project, because the applicant felt they could build 80 studios as opposed to 77, and he would permanently rent 20 of those studios at 60% AMI. Sixty of those studios would be rented at 70% AMI.

Commissioner Frontero referenced the mention of interest from seniors on the townhomes and noted that if nightly rentals were allowed, these units would likely be sold to people who will rent them out. He felt that was incompatible with the representations. Mr. Keys disagreed and explained that these units would not be marketed as nightly rentals; rather, they want to market these units to seniors and they have seniors who they know will buy these units. He added that even seniors who are primary residents rent their homes out for extra income. Mr. Keys referenced a client of his who has a primary residence that she rents out during Sundance.

He emphasized that the applicant heard the concerns about nightly rentals but expressed sadness that nightly rentals could be the hill where this project would die. He stressed that he has no give on nightly rentals because it does not pencil for the developer without it. He added that the owner was the one putting up the money to build this project, and he has decided that nightly rentals would be the hill to die on. Mr. Keys commented that it would be a travesty if this project dies because of nightly rentals and referenced surveys that identified the top two issues as affordable housing and transit. Nightly rentals were not on the list of concerns.

Mr. Keys understood the concerns as a member of the community who has lived around nightly rentals. He felt that this would be exactly the type of community where some nightly rental allowance would work. He stressed that the person writing the check to build these affordable units, without any assistance from the government, has stated that he wants the ability to sell these units with nightly rentals, which is an allowed use in the RCO Zone.

Vice Chair Hall asked if there would be an HOA and wondered if that could present a creative solution to protect against the “bad actors” that might rent these units. Mr. Keys anticipated having at least two HOAs and a Master Association. There would be an HOA specific to the multi-unit building and one for the rest of the community, which would keep the HOA expenses for the affordable units much lower. He felt that it was a great idea to look at creative ways to draft the CC&Rs to protect against activities that might occur within the market-rate units.

Commissioner Kenworthy asked how many of the affordable units would be allocated to the Film Studio. Mr. Keys stated that none of these units would be allocated to the Film Studio and added that they did not anticipate there would be many workers from the Film Studio who would qualify for the affordable housing because the minimum lease period would be one year. They planned to hold some of the market rate units as nightly rentals and use those for Film Studio purposes because that would fit the Film Studio’s needs.

Commissioner Kenworthy agreed that there should be a balance for that and asked how many units would be held for nightly rentals. Mr. Keys advised that the owner had not spoken on that issue yet but reiterated that they were not marketing this as a nightly rental community. He acknowledged there was a demand from the Film Studio when they are in production, but the needs were not for affordable housing.

Commissioner Kenworthy observed that the Film Studio employees would likely not be disruptive in the community and did not want to see a huge majority of those units going to these employees. Mr. Smith added that the owners' intent was that those units that did not sell during pre-sale could go towards the Film Studio. He added that another benefit of offering these for nightly rentals for Film Studio employees would be a reduction in trip generation.

Mr. Crandall stated that he would like to sell all the units as opposed to hold some back for nightly rentals and stressed that these units would not be marketed as nightly rentals. He referenced the Terrace at Newpark where they never mentioned nightly rentals, and only 16% of the units are used as nightly rentals.

Commissioner Kenworthy felt that this might be a little different and just wanted a transparent balance of what is being developed. He felt the developer was offering a great deal to the community and appreciated the reduced AMI. He felt there was nothing wrong with having 10 units to help them secure a long-term production at the Film Studio with a \$100 million license fee, which circulates through the community. He does not want to see 50 units reserved for the Film Studio and pointed to the tremendous need from December through March.

Mr. Keys noted that the hotel they originally contemplated was driven by the productions at the Film Studio. He added that the employees receive a modest daily stipend and the employees typically stay in Salt Lake City or Heber City. Employees would not likely be able to afford a nightly rental in the proposed development during the December to March time period. He also noted the transient and temporary nature of the productions.

Commissioner Sigg asked about the issue with nightly rentals for the developer and whether it would impact financing. He noted that many HOAs have nightly rental restrictions that are enforced by the HOA without showing up as a deed restriction. He wondered whether the nightly rentals were driven by the Film Studio or the title report. Mr. Keys stated that the owner's stance on nightly rentals was driven entirely by marketability and the impact of a restriction on sales price.

Commissioner Van Dine did not want nightly rentals to be the hill where this project dies. She agreed with allowing nightly rentals and was not willing to give up the benefit of this project to the community because of it. Mr. Keys posited that they might still arrive at a Lite Deed solution once they have a better idea of the construction costs. He noted that Manager Glidden was aggressively looking for a way to make that deed restriction and a buy-down of more AMI units. He expressed optimism that there was still a way to come to a solution that would appease the Commission's concerns as to some of the units.

Manager Glidden stated that he is an advocate for housing and observed that nightly rentals are very much part of the problem of the housing situation in Park City. He also looks at the balance and the community benefit of the project. He felt this project brought a lot of weight to that community benefit. He reported that he spent some time at the Newpark development, which is 100% available for nightly rentals, and there was a lot of activity and a village feel. He believed the applicant's numbers. Manager Glidden expressed that he would like to see a reduction in

short term rentals and they would continue to strive for more affordable housing and vibrancy in the community.

Commissioner Frontero appreciated the applicant's willingness to continue to work toward some of the City's goals. He observed that if this application were approved, he would trust that the applicant would continue to work with Manager Glidden to try and improve the ratios and the AMI. Given that, it seemed like nightly rentals would not be an issue they would move off of, and he would be comfortable with allowing the HOA's to help enforce correct behavior on the nightly rentals. He noted that this would not help with the ghost factor; however, he felt this was a terrific project and as currently presented with the discussed changes, he would support this project.

Commissioner Johnson fully supported allowing nightly rentals, and looking at this project as a whole, it was a good project. He felt having the market rate units available for nightly rental was a better compromise than having a 100-key hotel. Commissioner Kenworthy found good cause and supported the project with the parking reduction and the revisions to Conditions of Approval 8 and 9. Commissioner Van Dine also stated she supported the project. Vice Chair Hall agreed, and while she would prefer no nightly rentals she felt that the provision of 185 or more affordable units balanced it out. She hoped that they could include as a Condition of Approval a requirement for a business license.

There was discussion regarding the definition of a commercial conditional use. Commissioner Johnson wanted to be clear on what they would list as the uses and specifically stated he would like the antenna listed as a conditional use. Vice Chair Hall would support calling out some of the uses. Mr. Keys offered that the applicant would be agreeable with saying that the conditional uses under the RCO Zone were still conditional uses. If the Commission wished to carve out some conditional uses, they would be agreeable with that as well.

Vice Chair Hall suggested leaving the conditional uses and carving out exceptions. Planner Ananth felt the first sentence of the Condition of Approval captured that concept by stating that "commercial uses that have a parking requirement of five stalls per 1,000 square feet or greater require a CUP." These uses would include office and retail intensive. Childcare would have its own requirement; however, the Condition of Approval would provide that the childcare use would not require a CUP.

Vice Chair Hall referenced the exterior bike path around the entire community and the Rail Trail and asked about trails or paths that would direct people from the Rail Trail to the commercial area. Mr. Smith advised that one of the goals for the interior of the community was a pedestrian feel and including bikes could detract from that. As a result, they included the multi-use trail along the perimeter of the project that loops to the e-bike station at the Transit Hub or connects to the Rail Trail. If someone needed to access the interior of the project, there would be pedestrian connection points, or the cyclist would become a vehicle and use the street. He stressed the need for safety for children in the plaza.

Vice Chair Hall indicated she was focusing more on the lower left portion of the site and hoped that this project would encourage people to bike to this side of the destination. Mr. Smith stated that one of their goals would be to install bike parking so that there could be pedestrian activity like shopping.

Planner Ananth read the following revised language [a portion was read off microphone and was inaudible]: "Any commercial use that requires a CUP in the RCO Zoning District with a parking

requirement of five stalls per 1,000 square feet or greater shall require a CUP with the exception of a childcare center. A detailed parking analysis shall be submitted at the time of CUP application. Telecom antennas, office intensive, retail and service intensive and medical office clinic shall require a CUP.”

Mr. Harrington stated that as they amend the final documents with the Council, they might want to add specificity to the first sentence; however, he felt that the second sentence was clearer than what was there previously. He noted that there were only four or five uses in the LMC table that were triggered by that section, so the language is clear; however, they might want to refine the first sentence with the final Council document.

Planner Ananth added that a Development Agreement would come back before the Planning Commission for final ratification. Mr. Harrington expressed concern about smaller scale as an undefined term. If the Commission wanted to add a Condition of Approval similar to what they included with PayDay that “the final CC&R’s and the Master Association shall include a management standard for the nightly rentals,” it would at least create an affirmative obligation in addition to the standards codified in the Business License statute.

Vice Chair Hall next raised the issue of Building Heights and the townhome line. Mr. Smith stated that one of the goals was to slowly grade the site lower so that the buildings are lower. He also noted that the berms would make the townhomes less visible. He also pointed out that in terms of massing, there would be a lot of one-story stepping in the townhome buildings so that it would not just be a block. He also stated that the decks stair step along the southern property line, which would create quite a bit of variation in architectural articulation.

Mr. Smith pointed out that they intend to landscape the cut-throughs to soften the corners so that the actual massing of the buildings is hidden. He mentioned that they increased the townhome cut-throughs from two to six as part of the goal of pedestrian permeability, which creates a building wall with lots of “holes” in it.

With respect to the in-and-out from the townhomes, they worked with UDOT to pull them to the southern property line and further away from the Film Studio. Vice Chair Hall felt this would be a significant enhancement to the property from the standpoint of pedestrian access pathways and from a visual aesthetic.

Commissioner Sigg noted the disparity between 100 units and 86 units and wondered if there was an opportunity to take a unit out of the buildings to increase the spacing between the buildings. He felt if there was variability in unit reduction, the townhomes might be a better place to do it rather than in a block building. Mr. Smith stated that they used to have a large L-shaped building, and the current design removed the leg. He explained that they pulled approximately 10,000 square feet from the original condominium building to the townhomes to lessen the scale. He noted that in prior concepts they only had 40 townhomes, and they have been able to get to 50 townhomes as a means to reduce the size and mass of the condominium building.

Commissioner Sigg noted that in the final engineering, the question would be the density counts and what the footprints would serve in terms of unit numbers. Mr. Keys stated that the delta was coming from the multi-unit building, which is where they decreased the overall door count. He noted that the fourteen-door decrease would be in the multi-use building, not the townhomes.

Vice Chair Hall asked if the architectural variation for the townhomes could be identified. Mr. Smith explained that all of the townhomes are two stories; however, on the end cap units there was quite a bit of variation and stepping to make the pedestrian cut-throughs feel wider. Currently, the distance between the buildings was 14 feet.

Vice Chair Hall also flagged the issue of heights with Phase 02 and felt ideally there could be commercial on the ground floor of Phases 01 and 02. Mr. Keys stated that they liked the ambiance of a 25-foot-tall commercial building and referenced Earthen Hill that has tall ceilings and a very inviting environment. The design also created some architectural diversity amongst the buildings and inviting spaces. When they have commercial with residential above, they are much more limited in terms of height.

Vice Chair Hall asked if the LMC required that conduit be laid for EV Parking, similar to what they just did with the Homestake MPD. Planner Ananth advised that this was in the Action Letter. Mr. Keys added that they also included quite a bit of bike parking.

There was discussion regarding the revised Conditions of Approval 8 and 9, and the additional language added by Mr. Harrington regarding nightly rentals and the HOA. Vice Chair Hall also included the note for the architectural variation for the townhomes, which Planner Ananth would include in the Findings. Vice Chair Hall also mentioned a safe bike path from the Rail Trail to the commercial area.

Manager Glidden noted that there was a recommendation to the Housing Authority on the Housing Mitigation Plan, which they could address following this Agenda Item.

MOTION: Commissioner Van Dine moved to APPROVE the Amendment to the MPD for Studio Crossing, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as follows:

Findings of Fact

1. The property is located at 3981 Kearns Boulevard, a 20.464-acre Lot.
2. The site is in the Community Transition (CT) zone, with a Regional Commercial Overlay (RCO), Entry Corridor Protection Overlay (ECPO), and Sensitive Land Overlay (SLO) in addition to the Film Studio MPD.
3. The Park City Film Studios consists of two separate lots. Lot 1A contains the developed portion of the Park City Film Studios, and Lot 1B is currently undeveloped. Both lots are subject to an Annexation Agreement and the Quinn's Junction Partnership Annexation Master Planned Development Agreement (MPD).
4. The applicant has submitted applications to amend 1) the MPD, to allow for additional Uses, Planning Department and to modify the Use, number, footprints, and Building Heights for the remaining Density allocated in the MPD on Lot 1B only; and 2) the Community Transition - Regional Commercial Overlay Zoning and Ordinance 12-12, the annexation and zoning Ordinance. Lot 1A will remain subject to the original Annexation, Zoning, and MPD agreements.

5. The applicant has 282,575 square feet of Density under the existing MPD that has not been constructed. The applicant is proposing to amend the existing MPD to construct a mixed-use project, including 60,000 square feet of Commercial Uses, up to 100 market-rate for-sale units, and 185 affordable for-rent units up to 80% AMI.
6. The applicant submitted:
 - a. Conceptual Site Plans including a Phasing Plan;
 - b. A Parking Analysis;
 - c. A Trip Generation Analysis; and
 - d. A Housing Mitigation Plan.
7. The project requires 42.4 Affordable Unit Equivalents (AUEs) which the applicant is proposing to deliver in Phase 1 in the form of 65 deed restricted units, meeting the Project's Housing Obligation in Phase 1.
8. In addition to the required affordable units, the applicant is proposing 120 "additional" affordable units that will be delivered partially in phase 1 (55 affordable units) and partially in Phase 4 or earlier (65 affordable units). The proposed bedroom mix and size of the affordable units is as follows:

Affordable Units	Number	Size
Studios	77	400
1 Bedrooms	63	600
2 Bedrooms	30	800
3 Bedrooms	15	1,100
Units	185	

9. Phase 1 consists of the transit stop and bus shelter, the plaza area, and two mixed-use rental buildings totaling 90,000 square feet. Each building is 3-stories with a proposed Building Height of 40 feet, exceeding the zone height of 28 feet. Both buildings contain 15,000 square feet of commercial space on the ground floors and 30,000 square feet of rental housing on the second and third levels. It is anticipated that Phase 1 will include approximately 120 affordable housing units, including and exceeding the applicant's Affordable Housing Requirement with 65 required units and 55 "additional" affordable units. There are no market rate units in Phase 1.
10. Phase 2 consists of two commercial buildings totaling 30,000 square feet. Each building is 1-story with a Building Height of 25 feet, meeting the zone height. Each building contains 15,000 square feet of "community focused, small-scale commercial, retail or restaurant" space. A community plaza area connects the Phase 1 and Phase 2 buildings. No residential units are proposed as part of Phase 2.
11. Phases 1 and 2 will utilize surface parking stalls and the Planning Department recommend a Condition of Approval that the applicant construct at least the required number of parking

stalls for each Phase of Development prior to receiving any Certificates of Occupancy. Planning Department.

12. Phase 3 consists of 50 for-sale market-rate townhomes in five clusters of 10 units totaling 82,000 square feet. Each unit is 2-stories totaling between 1,500 -1,700 square feet with a proposed building height of 25 feet, meeting the zone height, and contains 2-3 bedrooms. A garage and access to surface parking are included with each townhome. There are no affordable units proposed for Phase 3.
13. Phase 4 consists of one market-rate building of 60,000 square feet. The building is 3-stories with a Building Height of 40 feet, exceeding the zone height. This building will contain a maximum of 50 for-sale market-rate units and 72 underground parking stalls for residents of the building.
14. The site plan also includes one additional 4-story, for-rent affordable building to be built concurrent to the Phase 4 market-rate building, or earlier. The building is 45 feet, exceeding the zone height and the balance of the “additional” affordable units, 65 units, will be constructed in this building.
15. Section 4.5 of the existing MPD expressly states “Pursuant to the Annexation Agreement, no affordable housing is required for this MPD.” However, the recent Subdivision reviewed by the Planning Commission on January 12, 2022 and approved by Council on February 3, 2022 (Ordinance 2022-06), Condition of Approval 8, states “The plat shall note that if Lot 1B is not developed in accordance with the zoning and annexation Ordinance 2012-12, the City’s current Affordable Housing Resolution shall apply.” The applicant is proposing to meet and exceed the City’s affordable housing requirements with this project. It is because the applicant is proposing to construct 185 affordable housing units that the Council was willing to conceptually support the proposed project.
16. The proposed site plan for Lot 1B includes 320,632 square feet of total development. However, as affordable units that are required as part of an MPD approval do not count towards the calculated Density, the proposal totals not more than 282,575 square feet, equaling the remaining conditionally approved Density of 282,575 square feet. With the 91,425 square feet of Density built on the Film Studio portion of the site (Lot 1A) the entire project is 374,000 square feet, equaling less than or equal to the 374,000 square feet the site was originally approved for.
17. The Planning Commission approved the amendment to the MPD on November 9, 2022 and voted to recommend exceptions to the Zone Height to the Council for consideration on December 15, 2022.
18. The Planning Commission also voted to recommend the applicants Housing Mitigation Plan to the City’s Housing Authority for consideration on December 15, 2022.
19. The applicant has a total Affordable Housing Obligation of 42.4 AUEs or 38,160 square feet. If the project numbers change, the Affordable Housing Obligation must be adjusted accordingly.

20. The applicant is proposing to construct all 65 units or 42.4 AUEs (38,160 square feet) of Affordable Housing in Phase 1, as part of its proposal to amend the 2012 MPD, meeting the City's current Affordable Housing Resolution, as follows.

Type	Units	Size
Studios	27	400
1 Bedroom	23	600
2 Bedrooms	10	800
3 Bedrooms	5	1,100
Units	65	
@900 SF		42.4 AUEs

21. In addition to meeting the City's Affordable housing Obligation in Phase 1, the applicant is proposing to construct an "additional" 55 affordable housing units in Phase 1, and 65 more "additional" units as part of Phase 4, for a total of 120 "additional" affordable housing Units or 78.8 AUEs as follows:

Type	Units	Size
Studios	50	400
1 Bedroom	40	600
2 Bedrooms	20	800
3 Bedrooms	10	1,100
Units	120	
@900 SF		78.8 AUEs

22. The applicant is proposing that all the affordable units, both the 65 required and the 120 "additional" affordable units, will be rental units available up 80% AMI, except for 27 studios, which will be available to households making 60-80% AMI, broadening the affordability of these units. Seven studios will be available to households making up to 60% AMI and 20 studios will be available to households making up to 70% AMI. The rest of the required units will meet the City's current Housing Resolution and be available to households making up to 80% AMI. The "additional" affordable units may be rented to households making up to 120% of AMI but rent will be charged at 80% of AMI.
23. The applicant has stated that initially, the applicant shall use a geographic waterfall approach in selecting from applicants in the following priority: a. Qualifying applicants employed in the immediate Quinn's Junction neighborhood, including but not limited to employees of IHC Hospital, USSA, the Peace House, Summit County Health Department, Park City Ice Arena, Summit Pediatrics, etc. b. Qualifying applicants employed within Park City boundaries. c. Qualifying applicants employed within the Park City School District boundaries. d. Qualifying applicants employed within Summit County (additional affordable units only).
24. The applicant has stated that the "additional" 120 affordable units will be available to eligible households at up to 120% of Summit County AMI. However, rental rates charged will be at 80% of AMI, regardless of the AMI of individual households, meeting the City's definition of affordable. All gross rental rates will include any Homeowner Association fees or assessments that may be charged against the units, and this will be a Condition of

Approval. Seven (7) studio units will be available at 60% AMI and 20 studio units will be available at 70% AMI.

25. Amenities available to residents of the affordable units include a sheltered bus stop, e-bike station and bike fix-it station, community plaza, sports courts, sheltered bike storage, recycling rooms, outdoor dining, electric car charging station, green and dog-friendly space, and an internal pedestrian and bike trail system with connections to the broader Park City trail system.
26. Section 2.5(e) of the Annexation Agreement specifically discusses Building Height for the existing MPD and allows for Building Height exceptions.
27. The maximum Building Height in the CT zone is 28 feet with additional Height and Setback restrictions for the ECPO. Proposed Building Heights range from 25 feet to 45 feet, with most of the taller buildings located in the center or rear (east side) of the site. One exception to this is the market-rate Multi-Unit Dwelling located adjacent to SR-248, which is proposed at 40 feet in Height, but is not located within the ECPO Setback. The proposed townhomes and commercial building meet the Zone Building Height requirements at 25 feet in Height, and all buildings are now located outside of the EOPC 150-foot Setback requirements.
28. The RCO allows for the City Council to grant a height exception upon recommendation from the Planning Commission.
29. The Planning Commission finds that the proposed Building Height Exceptions are consistent with the Film Studio MPD Building Height Exceptions and meet the standards for review of the CT-RCO zone. The site is located hundreds of feet from the nearest abutters and will not have a visual impact on any existing structures. All buildings meet required Setbacks. The Planning Commission also finds that there is no net increase in the proposed square footage over what is possible under the existing MPD.
30. The Planning Commission has consistently expressed that the majority of the 60,000 square feet of Commercial Uses in the project be limited to smaller-scale community oriented commercial Uses.
31. The site contains no significant slopes, ridgelines, wetlands, or significant wildlife habitat Area according to the City's General Plan Maps
32. MPDs require a minimum of 60% Open Space. However, the existing MPD has no minimum Open Space requirement per the Annexation Agreement.
33. The Film Studio shall serve as the Commercial anchor for the site in compliance with LMC § 15-2.17-4.
34. The Planning Commission finds that the applicant's parking analysis meets the requirements of LMC § 15-6-5(E) and supports the determination to decrease the required number of commercial parking stalls. The applicant's project requires approximately 312 commercial parking stalls depending on the mix of uses. The overall project requires 655

stalls, and the applicant is proposing 566 stalls. In no case shall the projects parking reduction exceed more than 30% of the projects commercial parking requirement.

35. With the exception of items noted above, the project complies with all requirements of the Land Management Code, including the minimum requirement of 15-6-5. Planning Department.
36. The project increases the overall amount of open space over the existing MPD.
37. The project promotes the Use of non-vehicular forms of transportation through the addition of a bus stop and bus shelter on site, and e-bike station and by providing a connection to the Park City Rail Trail, which all help to mitigate traffic.

Conclusions of Law:

1. The modification to the 2012 Quinn's Junction Partnership Annexation Master Planned Development Agreement is a substantive modification.
2. The Application complies with the requirements of the Land Management Code as conditioned and approved.
3. The modifications are compatible with surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.
5. The modification to the Master Planned Development:
 - a. Complies with all requirements of the Land Management Code;
 - b. Meets the minimum requirements of Section 15-6-5;
 - c. Provides the highest value of Open Space, as determined by the Planning Commission;
 - d. Strengthens and enhances the resort character of Park City;
 - e. Complements the natural features on the Site and preserves significant features or vegetation to the extent possible;
 - f. Is Compatible in Use, scale, and mass with adjacent Properties, and promotes neighborhood Compatibility, and Historic Compatibility, where appropriate, and protects residential neighborhoods and Uses;
 - g. Provides amenities to the community so that there is no net loss of community amenities;

- h. Is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time staff determined the Application to be complete;
- i. Meets the Sensitive Lands requirements of the Land Management Code and is designed to place Development on the most developable land and least visually obtrusive portions of the Site;
- j. Promotes the Use of non-vehicular forms of transportation through design and by providing trail connections;
- k. Was noticed and the Planning Commission held a public hearing in accordance with this Chapter;
- l. Incorporates best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building program and codes adopted by the Park City Building Department in effect at the time of the Application; Planning Department;
- m. Addresses and mitigates Physical Mine Hazards according to accepted City regulations and policies;
- n. Addresses and mitigates Historic Mine Waste and complies with the requirements of the Park City Soils Boundary Ordinance;
- o. Addresses Historic Structures and Sites on the Property, according to accepted City regulations and policies, and any applicable Historic Preservation Plan; and
- p. Addresses and mitigates traffic.

Conditions of Approval:

1. Lot 1A, 4001 Kearns Boulevard, is subject to the original Annexation, Zoning, and MPD agreements.
2. Development of 3891 Kearns Boulevard is contingent upon approval of the Building Heights by the City Council, approval of the applicant's Housing Mitigation Plan by the Park City Housing Authority, and ratification of a Development Agreement by the Planning Commission.
3. Approval of this MPD shall expire two years from the date of Development Agreement execution unless construction, as defined by the International Building Code, as commenced on the project.
4. A Construction Mitigation Plan shall be submitted and approved by the City for compliance with the Municipal Code, as a condition precedent to issuance of any building permits.
5. A storm-water run-off and drainage plan shall be submitted with the building plans and approved prior to issuance of any building permits. The plan shall follow Park City's Storm

Water Management Plan and the project shall implement storm-water Best Management Practices.

6. The project is over 1.0-acres and will be required to meet the requirements of Park City's municipal separate storm sewer system (MS4) storm-water program.
7. Final utility plans shall be submitted with the building permit.
8. The majority of the 60,000 square feet of Commercial Uses in the project shall be limited to smaller-scale community oriented commercial Uses set forth in the Application and Final Plan Set dated October 26, 2022, without the need to return to the Planning Commission for a CUP. Any commercial use that requires a CUP in the RCO Zoning District with a parking requirement of five stalls per 1,000 square feet or greater shall require a CUP with the exception of a childcare center. A detailed parking analysis shall be submitted at the time of CUP application. Telecom antennas, office intensive, retail and service intensive and medical office clinic shall require a CUP.
9. The Planning Department shall complete an Administrative Conditional Use Permit for any Child Care Center, Intensive Office, and/or Major Retail or Service Use, to ensure that most of the Commercial Uses are smaller-scale and community oriented, and that there is sufficient parking and/or drop-off/pick-up areas for the proposed mix of uses. A detailed parking analysis shall be submitted at the time of Administrative Conditional Use permit application to allow Planning Staff to calculate the parking demand in relation to the parking supply.
10. Commercial Uses shall not include Hotels of any kind, any business with a Drive-Up window, or Gasoline Service Station.
11. The project requires 42.4 Affordable Unit Equivalents ("AUEs") which the applicant will deliver in the form of 65 deed restricted units, meeting the Project's Housing Obligation in Phase 1.
12. In addition to the required affordable units, the applicant is proposing 120 "additional" affordable units that will be delivered partially in phase 1 (55 affordable units) and partially in Phase 4 or earlier (65 affordable units).
13. Phases 1 and 2 will utilize surface parking stalls and the applicant shall construct at least the required number of parking stalls for each Phase of Development prior to receiving Certificates of Occupancy for each phase.
14. Except for the parking reduction approved by the Planning Commission, the project shall comply with LMC 15-3, Off Street Parking including lighting, landscaping, bicycle parking requirements, and electric vehicle charging stations.
15. The site plan also includes one additional 4-story, for-rent affordable building totaling 58,632 square feet to be built concurrent to the Phase 4 market-rate building, or earlier. The building is 45 feet, exceeding the zone height and the balance of the "additional" affordable units, 65 units, will be constructed in this building.

16. Certificates of Occupancy for the Phase 4 market-rate units shall be tied to the Certificates of Occupancy for the Phase 4 affordable units.
17. No additional Density shall be built on Lot 1A and Lot 1B is subject to a maximum Density of 320,632 square feet of total development, consistent with the site plan and final plan set reviewed by the Planning Commission on October 26, 2022.
18. The secondary access to the site (non-signalized access) must be reviewed and approved by UDOT and the City Engineer prior to building permits and shall be right-in/right-out only.
19. The applicant shall have six years from the ratification of the Development Agreement to exercise building permits for the project. If the applicant has not exercised all the required building permits for the project the applicant shall return to the Planning Commission to repermit remaining Density prior to the issuance of any additional building permits.
20. The applicant shall locate a bus stop and bus shelter on site at a location to be reviewed and approved by the City Engineer prior to the issuance of a building permit.
21. The applicant shall provide a bike share and bike fix it station on site and the applicant shall be responsible for the annual operational and maintenance costs of the stations.
22. Bike racks shall be provided for the various commercial uses as required by the LMC.
23. The undulating berm approved by the MPD shall be constructed and maintained consistent with the original MPD.
24. Rooftop mechanical equipment shall be architecturally screened from public view.
25. Trash and recycling enclosures shall be screened with landscaping or fencing.
26. All signage shall comply with the LMC.
27. The applicant shall provide covered bike storage in all residential buildings at a minimum rate of one stall per unit consistent with the City's LMC requirements at the time of building permit.
28. The applicant shall provide recycling facilities in all Multi-Unit Dwellings on site.
29. A final subdivision plan shall be recorded prior to construction of the condominium units.
30. The applicant shall bring Lot 1A into compliance with the originally approved Landscape Plan. Some plant substitutions shall be allowed by the Planning Director if other species are deemed more suitable by the Planning Director.
31. The applicant shall construct a trail connection from the site to the Park City Rail Trail, upon review and approval of a plan by the City's Open Space Manager. The City will contribute up to \$75,000 for the cost of this connection. Planning Department.

32. The applicant has committed to using water efficient low flow fixtures and Energy Star rated appliances in all units; designing the building envelopes to be energy efficient; using water wise native landscaping; and providing recycling locations throughout the site. The applicant is encouraging multimodal transportation choices by offering alternative modes of transportation on site including locating a bus station, e-bike share, connection to the rail trail, and providing covered bike storage in all buildings. In addition, the applicant is reducing their overall parking to prevent excess paving and increase open space. All lighting will meet the City's Dark Sky Ordinance LMC § 15-5-5(J).
33. Prior to the issuance of a building permit the applicant shall submit a plan for a bus stop and shelter for review and approval by the City Engineer and Transportation Planning Manager.
34. Prior to the issuance of a building permit the applicant shall submit a plan to limit right in/right out turns only from the secondary access point for review and approval by the City Engineer.
35. Prior to the issuance of a building permit the applicant shall submit evidence to the City Engineer and Public Utilities Director in accordance with LMC § 15-7.3-6, Water Facilities, confirming that 1) Summit Water has sufficient water supply for domestic water use and fire protection to service the existing and proposed development; or 2) an alternative water supply with sufficient capacity to serve the existing and proposed development has agreed to service the site. The burden is upon the applicant to submit responsive information regarding LMC 15-7.3-6.
36. If any phases of the project are not issued building permits within 6 years of the issuance of the first building permit, the applicant shall be required to return to the Planning Commission to re-permit any remaining density prior to the issuance of building permits to ensure that the remaining development is still in the best interest of the City and immediate neighborhood.
37. The proposed development shall not exceed the maximum approved Density of 374,000 square feet.
38. Final building plans shall comply with LMC 15-5-8, Façade Length and Variations.
39. The applicant shall add a noise mitigating fence around the pickleball courts if required by the City.
40. The final CC&Rs and the Master Association shall include a management standard for the nightly rentals.

Commissioner Frontero seconded the motion.

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

After a short recess, Vice Chair Hall confirmed the presence of all Commissioners.

B. 4001 Kearns Boulevard – Amend the Community Transition - Regional Commercial Overlay Zoning and Ordinance 12-12 – The Applicant Proposes Amend the CT-RCO Zoning and Ordinance 12-12 to Allow for Studio Crossing, a Mixed-Use Affordable Housing Project in the Community Transition Regional Commercial Overlay Zoning District. PL-22-05212.

Planner Ananth reported that a motion was needed to recommend the draft Ordinance for Council's consideration on December 15, 2022. This Ordinance would allow for the new mixed-use development.

Vice Chair Hall opened the public hearing. There was no public comment. The public hearing was closed.

MOTION: Commissioner Van Dine moved to forward a POSITIVE recommendation of the draft Ordinance for 4001 Kearns Boulevard for Council's consideration on December 15, 2022, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as follows:

Findings of Fact:

1. The property is located at 3981 Kearns Boulevard.
2. The site is in the Community Transition (CT) zone, with a Regional Commercial Overlay (RCO), Entry Corridor Protection Overlay (ECPO), and Sensitive Land Overlay (SLO) in addition to the Film Studio MPD.
3. The Park City Film Studios consists of two separate lots. Lot 1A contains the developed portion of the Park City Film Studios, and Lot 1B is currently undeveloped. Both lots are subject to an Annexation Agreement and the Quinn's Junction Partnership Annexation Master Planned Development Agreement (MPD).
4. The applicant has submitted applications to amend 1) the MPD, to allow for additional Uses, and to modify the Use, number, footprints, and Building Heights for the remaining Density allocated in the MPD on Lot 1B only; and 2) the Community Transition - Regional Commercial Overlay Zoning and Ordinance 12-12, the annexation and zoning Ordinance. Lot 1A will remain subject to the original Annexation, Zoning, and MPD agreements.
5. The applicant has 282,575 square feet of Density under the existing MPD that has not been constructed. The applicant is proposing to amend the existing MPD to construct a mixed-use project, including 60,000 square feet of Commercial Uses, up to 100 market-rate for-sale units, and 185 affordable for-rent units up to 80% AMI.
6. The applicant submitted:
 - a. Conceptual Site Plans including a Phasing Plan;
 - b. A Parking Analysis;
 - c. A Trip Generation Analysis; and

d. A Housing Mitigation Plan.

7. The project requires 42.4 Affordable Unit Equivalents (AUEs) which the applicant is proposing to deliver in Phase 1 in the form of 65 deed restricted units, meeting the Project's Housing Obligation in Phase 1.
8. In addition to the required affordable units, the applicant is proposing 120 "additional" affordable units that will be delivered partially in phase 1 (55 affordable units) and partially in Phase 4 or earlier (65 affordable units). The proposed bedroom mix and size of the affordable units is as follows:

Affordable Units	Number	Size
Studios	77	400
1 Bedrooms	63	600
2 Bedrooms	30	800
3 Bedrooms	15	1,100
Units	185	

9. Phase 1 consists of the transit stop and bus shelter, the plaza area, and two mixed-use rental buildings totaling 90,000 square feet. Each building is 3-stories with a proposed Building Height of 40 feet, exceeding the zone height of 28 feet. Both buildings contain 15,000 square feet of commercial space on the ground floors and 30,000 square feet of rental housing on the second and third levels. It is anticipated that Phase 1 will include approximately 120 affordable housing units, including and exceeding the applicant's Affordable Housing Requirement with 65 required units and 55 "additional" affordable units. There are no market rate units in Phase 1.
10. Phase 2 consists of two commercial buildings totaling 30,000 square feet. Each building is 1-story with a Building Height of 25 feet, meeting the zone height. Each building contains 15,000 square feet of "community focused, small-scale commercial, retail or restaurant" space. A community plaza area connects the Phase 1 and Phase 2 buildings. No residential units are proposed as part of Phase 2.
11. Phases 1 and 2 will utilize surface parking stalls and the Planning Department recommend a Condition of Approval that the applicant construct at least the required number of parking stalls for each Phase of Development prior to receiving any Certificates of Occupancy.
12. Phase 3 consists of 50 for-sale market-rate townhomes in five clusters of 10 units totaling 82,000 square feet. Each unit is 2-stories totaling between 1,500 -1,700 square feet with a proposed building height of 25 feet, meeting the zone height, and contains 2-3 bedrooms. A garage and access to surface parking are included with each townhome. There are no affordable units proposed for Phase 3.
13. Phase 4 consists of one market-rate building of 60,000 square feet. The building is 3-stories with a Building Height of 40 feet, exceeding the zone height. This building will contain a maximum of 50 for-sale market-rate units and 72 underground parking stalls for residents of the building.

14. The site plan also includes one additional 4-story, for-rent affordable building to be built concurrent to the Phase 4 market-rate building, or earlier. The building is 45 feet, exceeding the zone height and the balance of the “additional” affordable units, 65 units, will be constructed in this building.
15. Section 4.5 of the existing MPD expressly states that “Pursuant to the Annexation Agreement, no affordable housing is required for this MPD.” However, the recent Subdivision reviewed by the Planning Commission on January 12, 2022 and approved by Council on February 3, 2022 (Ordinance 2022-06), Condition of Approval 8, states “The plat shall note that if Lot 1B is not developed in accordance with the zoning and annexation Ordinance 2012-12, the City’s current Affordable Housing Resolution shall apply.” The applicant is proposing to meet and exceed the City’s affordable housing requirements with this project. It is because the applicant is proposing to construct 185 affordable housing units that the Council was willing to conceptually support the proposed project.
16. The proposed site plan for Lot 1B includes 320,632 square feet of total development. However, as affordable units that are required as part of an MPD approval do not count towards the calculated Density, the proposal totals not more than 282,575 square feet, equaling the remaining conditionally approved Density of 282,575 square feet. With the 91,425 square feet of Density built on the Film Studio portion of the site (Lot 1A) the entire project is 374,000 square feet, equaling the than the 374,000 square feet the site was originally approved for.
17. The Planning Commission approved the amendment to the MPD on October 26, 2022 and voted to recommend exceptions to the Zone Height to the Council for consideration on November 17, 2022.
18. The Planning Commission also voted to recommend the applicants Housing Mitigation Plan to the City’s Housing Authority for consideration on November 17, 2022.
19. The applicant has a total Affordable Housing Obligation of 42.4 AUEs or 38,160 square feet. If the project numbers change, the Affordable Housing Obligation must be adjusted accordingly.
20. The applicant is proposing to construct all 65 units or 42.4 AUEs (38,160 square feet) of Affordable Housing in Phase 1, as part of its proposal to amend the 2012 MPD, meeting the City’s current Affordable Housing Resolution, as follows:

Type	Units	Size
Studios	27	400
1 Bedroom	23	600
2 Bedrooms	10	800
3 Bedrooms	5	1,100
Units	65	
@900 SF		42.4 AUEs

21. In addition to meeting the City’s Affordable housing Obligation in Phase 1, the applicant is proposing to construct an “additional” 55 affordable housing units in Phase 1, and 65 more

“additional” units as part of Phase 4, for a total of 120 “additional” affordable housing Units or 78.8 AUEs as follows:

Type	Units	Size
Studios	50	400
1 Bedroom	40	600
2 Bedrooms	20	800
3 Bedrooms	10	1,100
Units	120	
@900 SF		78.8 AUEs

22. The applicant is proposing that all the affordable units, both the 65 required and the 120 “additional” affordable units, will be rental units available up 80% AMI, except for 27 studios, which will be available to households making 60-80% AMI, broadening the affordability of these units.
23. The applicant has stated that initially, the applicant shall use a geographic waterfall approach in selecting from applicants in the following priority:
 - a. Qualifying applicants employed in the immediate Quinn’s Junction neighborhood, including but not limited to employees of IHC Hospital, USSA, the Peace House, Summit County Health Department, Park City Ice Arena, Summit Pediatrics, etc.
 - b. Qualifying applicants employed within Park City boundaries.
 - c. Qualifying applicants employed within the Park City School District boundaries. d. Qualifying applicants employed within Summit County (additional affordable units only).
24. The applicant has stated that the “additional” 120 affordable units will be available to eligible households at up to 120% of Summit County AMI. However, rental rates charged will be at 80% of AMI, regardless of the AMI of individual households, meeting the City’s definition of affordable. All gross rental rates will include any Homeowner Association fees or assessments that may be charged against the units, and this will be a Condition of Approval. Seven (7) studio units will be available at 60% AMI and 20 studio units will be available at 70% AMI.
25. Amenities available to residents of the affordable units include a sheltered bus stop, e-bike station and bike fix-it station, community plaza, sports courts, sheltered bike storage, recycling rooms, outdoor dining, electric car charging station, green and dog-friendly space, and an internal pedestrian and bike trail system with connections to the broader Park City trail system.
26. Section 2.5(e) of the Annexation Agreement specifically discusses Building Height for the existing MPD and allows for Building Height exceptions
27. The maximum Building Height in the CT zone is 28 feet with additional Height and Setback restrictions for the ECPO. Proposed Building Heights range from 25 feet to 45 feet, with most of the taller buildings located in the center or rear (east side) of the site. One

exception to this is the market-rate Multi-Unit Dwelling located adjacent to SR-248, which is proposed at 40 feet in Height, but is not located within the ECPO Setback. The proposed townhomes and commercial building meet the Zone Building Height requirements at 25 feet in Height, and all buildings are now located outside of the EOPC 150-foot Setback requirements.

28. The RCO allows for the City Council to grant a height exception upon recommendation from the Planning Commission.
29. The Planning Commission finds that the proposed Building Height Exceptions are consistent with the Film Studio MPD Building Height Exceptions and meet the standards for review of the CT-RCO zone. The site is located hundreds of feet from the nearest abutters and will not have a visual impact on any existing structures. All buildings meet required Setbacks. The Planning Commission also finds that there is no net increase in the proposed square footage over what is possible under the existing MPD.
30. The Planning Commission has consistently expressed that the majority of the 60,000 square feet of Commercial Uses in the project be limited to smaller-scale community oriented commercial Uses.
31. The site contains no significant slopes, ridgelines, wetlands, or significant wildlife habitat Area according to the City's General Plan Maps
32. MPDs require a minimum of 60% Open Space. However, the existing MPD has no minimum Open Space requirement per the Annexation Agreement.
33. The Film Studio shall serve as the Commercial anchor for the site in compliance with LMC § 15-2.17-4.

Conclusions of Law:

1. The modification to the 2012 Quinn's Junction Partnership Annexation Master Planned Development Agreement is a substantive modification.
2. The Application complies with the requirements of the Land Management Code as conditioned and approved.
3. The modifications are compatible with surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.
5. The modification to the Master Planned Development:
 - a. Complies with all requirements of the Land Management Code;
 - b. Meets the minimum requirements of Section 15-6-5;

- c. Provides the highest value of Open Space, as determined by the Planning Commission;
- d. Strengthens and enhances the resort character of Park City;
- e. Complements the natural features on the Site and preserves significant features or vegetation to the extent possible;
- f. Is Compatible in Use, scale, and mass with adjacent Properties, and promotes neighborhood Compatibility, and Historic Compatibility, where appropriate, and protects residential neighborhoods and Uses;
- g. Provides amenities to the community so that there is no net loss of community amenities;
- h. Is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time staff determined the Application to be complete;
- i. Meets the Sensitive Lands requirements of the Land Management Code and is designed to place Development on the most developable land and least visually obtrusive portions of the Site;
- j. Promotes the Use of non-vehicular forms of transportation through design and by providing trail connections;
- k. Was noticed and the Planning Commission held a public hearing in accordance with this Chapter;
- l. Incorporates best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building program and codes adopted by the Park City Building Department in effect at the time of the Application;
- m. Addresses and mitigates Physical Mine Hazards according to accepted City regulations and policies;
- n. Addresses and mitigates Historic Mine Waste and complies with the requirements of the Park City Soils Boundary Ordinance;
- o. Addresses Historic Structures and Sites on the Property, according to accepted City regulations and policies, and any applicable Historic Preservation Plan;
- p. Addresses and mitigates traffic. Conditions of Approval: 1. Lot 1A, 4001 Kearns Boulevard, is subject to the original Annexation, Zoning, and MPD agreements.

6. Development of 3891 Kearns Boulevard is contingent upon approval of the Building Heights by the City Council, approval of the applicant's Housing Mitigation Plan by the Park City Housing Authority, and ratification of a Development Agreement by the Planning Commission.
7. The majority of the 60,000 square feet of Commercial Uses in the project shall be limited to smaller-scale community oriented commercial Uses set forth in the Application and Final Plan Set dated October 26, 2022, without the need to return to the Planning Commission for a CUP.
8. The Planning Department shall complete an Administrative Conditional Use Permit for any Child Care Center, Intensive Office, and/or Major Retail or Service Use, to ensure that most of the Commercial Uses are smaller-scale and community oriented, and that there is sufficient parking and/or drop-off/pick-up areas for the proposed mix of uses. A detailed parking analysis shall be submitted at the time of Administrative Conditional Use permit application to allow Planning Staff to calculate the parking demand in relation to the parking supply.
9. Commercial Uses shall not include Hotels of any kind, any business with a Drive-Up window, or Gasoline Service Station.
10. The project requires 42.4 Affordable Unit Equivalents (AUEs), which the applicant will deliver in the form of 65 deed restricted units, meeting the Project's Housing Obligation in Phase 1.
11. In addition to the required affordable units, the applicant is proposing 120 "additional" affordable units that will be delivered partially in phase 1 (55 affordable units) and partially in Phase 4 or earlier (65 affordable units).
12. Phases 1 and 2 will utilize surface parking stalls and the applicant shall construct at least the required number of parking stalls for each Phase of Development prior to receiving Certificates of Occupancy for each phase.
13. The site plan also includes one additional 4-story, for-rent affordable building totaling 58,632 square feet to be built concurrent to the Phase 4 market-rate building, or earlier. The building is 45 feet, exceeding the zone height and the balance of the "additional" affordable units, 65 units, will be constructed in this building.
14. Certificates of Occupancy for the Phase 4 market-rate units shall be tied to the Certificates of Occupancy for the Phase 4 affordable units.
15. No additional Density shall be built on Lot 1A and Lot 1B is subject to a maximum Density of 320,632 square feet of total development, consistent with the site plan and final plan set reviewed by the Planning Commission on October 26, 2022.
16. Parking and lighting shall meet requirements of the LMC except for the parking reduction granted by the Planning Commission.

17. The secondary access to the site (non-signalized access) must be reviewed and approved by UDOT and the City Engineer prior to building permits and shall be righting/right-out only.
18. The applicant shall have six years from the ratification of the Development Agreement to exercise building permits for the project. If the applicant has not exercised all the required building permits for the project the applicant shall return to the Planning Commission to re-permit remaining Density prior to the issuance of any additional building permits.
19. The applicant shall locate a bus stop and bus shelter on site at a location to be reviewed and approved by the City Engineer prior to the issuance of a building permit.
20. The applicant shall provide a bike share and bike fix it station on site and the applicant shall be responsible for the annual operational and maintenance costs of the stations.
21. Bike racks shall be provided for the various commercial uses as required by the LMC.
22. The undulating berm approved by the MPD shall be constructed and maintained consistent with the original MPD.
23. A Stormwater Management Plan shall be reviewed and approved by the City Engineer prior to the issuance of any building permits.
24. Rooftop mechanical equipment shall be architecturally screened from public view.
25. Trash and recycling enclosures shall be screened with landscaping or fencing.
26. All signage shall comply with the LMC.
27. The applicant shall provide covered bike storage in all residential buildings at a minimum rate of one stall per unit consistent with the City's LMC requirements at the time of building permit.
28. The applicant shall provide recycling facilities in all Multi-Unit Dwellings on site.
29. A final subdivision plan shall be recorded prior to construction of the condominium units.
30. The applicant shall bring Lot 1A into compliance with the originally approved Landscape Plan. Some plant substitutions shall be allowed by the Planning Director if other species are deemed more suitable by the Planning Director.
31. The applicant shall construct a trail connection from the site to the Park City Rail Trail, upon review and approval of a plan by the City's Open Space Manager. The City will contribute up to \$75,000 for the cost of this connection.

32. The applicant has committed to using water efficient low flow fixtures and Energy Star rated appliances in all units; designing the building envelopes to be energy efficient; using water wise native landscaping; and providing recycling locations throughout the site. The applicant is encouraging multimodal transportation choices by offering alternative modes of transportation on site including locating a bus station, e-bike share, connection to the rail trail, and providing covered bike storage in all buildings. In addition, the applicant is reducing their overall parking to prevent excess paving and increase open space. All lighting will meet the City's Dark Sky Ordinance LMC § 15-5- 5(J).
33. Prior to the issuance of a building permit the applicant shall submit a plan for a bus stop and shelter for review and approval by the City Engineer and Transportation Planning Manager.
34. Prior to the issuance of a building permit the applicant shall submit a plan to limit right in/right out turns only from the secondary access point for review and approval by the City Engineer.
35. Prior to the issuance of a building permit the applicant shall submit evidence to the City Engineer and Public Utilities Director in accordance with LMC § 15-7.3-6, Water Facilities, confirming that 1) Summit Water has sufficient water supply for domestic water use and fire protection to service the existing and proposed development; or 2) an alternative water supply with sufficient capacity to serve the existing and proposed development has agreed to service the site. The burden is upon the applicant to submit responsive information regarding LMC 15-7.3-6.
36. If any phases of the project are not issued building permits within 6 years of the issuance of the first building permit, the applicant shall be required to return to the Planning Commission to re-permit any remaining density prior to the issuance of building permits to ensure that the remaining development is still in the best interest of the City and immediate neighborhood.
37. The proposed development shall not exceed the maximum approved Density of 374,000 square feet. 34.A Plat Note shall indicate that 3891 Kearns Boulevard, Lot 1B, is subject to Ordinance 2022-Xx.

Commissioner Frontero seconded the motion.

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

Manager Glidden stated that a final calculation should be made once the commercial uses were established and once the market-rate residential units were finalized.

He noted the applicant's generosity in proposing 20 units at 60% AMI and all remaining studio units at 70% AMI.

MOTION: Commissioner Kenworthy moved to RECOMMEND the applicant's Housing Mitigation Plan to the Housing Authority. Commissioner Van Dine seconded the motion.

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

C. 161 Park Avenue - Plat Amendment - The Applicant Proposes to Remove the Interior Lot Line Between Lots 15 and 16. PL-22-05346.

City Planner, Spencer Cawley reported that this application involves a Landmark Historic Structure on the City's Historic Sites Inventory that was built circa 1887. The existing Historic Structure sits on the Lot Line that is common to Lots 15 and 16 in the Historic Residential - 1 ("HR-1") Zoning District. He stated that the proposed Plat Amendment complied with the HR-1 Zoning District requirements, as conditioned. Staff recommended Condition of Approval 6 to add a plat note stating that the Historic Structure and any new construction shall not exceed the Maximum Building Footprint of 1,244 square feet. The existing building footprint is 935 square feet.

Conditional of Approval 7 provides that "any addition to the Historic Structure shall comply with the Lot Setbacks and cannot increase the non-conformity." He noted that the Historic Structure was within the Setbacks. Planner Cawley referenced Condition of Approval 8, which states that "any addition to the Historic Structure shall not exceed 27 feet in height." Staff found good cause for removing the Lot Line common to Lots 15 and 16 because the HR-1 zoning character would be retained and it would preserve the historic character of the existing structure, encourages preservation of the existing structure, and encourages construction that is compatible in scale to the zoning district. The proposal also supports the General Plan, specifically Goal 15 to preserve integrity, mass, scale, and compatibility of the City's Historic core.

Planner Cawley also noted that Plat Amendment would ensure that the Historic Structure and any new construction would not exceed the Maximum Building Footprint. He added that no public street or right-of-way would be vacated or amended; however, he highlighted an area that encroached into the second street right-of-way, so Staff recommended a Condition of Approval that the applicant enter into an encroachment with the City Engineer and record that agreement prior to recordation of the Plat. He also commented that no easement would be vacated or amended.

Planner Cawley reported that the Development Review Committee met on September 6, 2022, and did not identify any issues. The Planning Department, Engineering Department and City Attorney's Office also reviewed this application. On October 26, 2022, notice of this item was placed on the City's website, the Utah Public Notice website, posted to the property, mailed to property owners within 300 feet and published in *The Park Record*. Public input was included in the Staff Report as Exhibit E. Staff recommended that the Planning Commission review the proposed Plat Amendment, hold a public hearing, and consider forwarding a positive recommendation for City Council's consideration on December 8, 2022, based on the Findings of Fact, Conclusions of Law and Conditions of Approval contained in the Draft Ordinance.

Vice Chair Hall opened the public hearing. There was no public comment. The public hearing was closed.

MOTION: Commissioner Johnson moved to forward a POSITIVE recommendation for 161 Park Avenue for City Council's consideration on December 8, 2022, based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Draft Ordinance as follows:

Findings of Fact

Background:

1. The property is located at 161 Park Avenue.
2. The property is listed with Summit County as Parcel number PC-7 and consists of the northern 15 feet of Lot 15 and all of lot 16, Block 1, Park City Survey.
3. The Applicant owns the northern 15 feet of Lot 15 and all of Lot 16.
4. The property is in the Historic Residential (HR-1) Zoning District.
5. The Site contains a Historic Structure constructed circa 1887 and is on Park City's Historic Sites Inventory.
6. The Historic Structure straddles the Lot Line common to Lot 15 and Lot 16.
7. A rock wall, a retaining wall, and a fence on the north side of Lot 16 encroaches into the Second Street Right-of-Way.
8. No easement is vacated or amended as a result of the plat amendment.
9. The LMC regulates Lot and Site Requirements per LMC § 15-2.2-3.
10. A Single-Family Dwelling is an allowed Use in the HR-1 Zoning District and requires a minimum Lot size of 1,875 square feet. The combined Lot size is 2,935 square feet.
11. The minimum Lot width in the HR-1 Zoning District is 25 feet. The proposed width the Lot is 40 feet.
12. The required front Setback is ten feet (10').
13. The required Side Setback is five feet (5').
14. Pursuant to LMC § 15-2.2-4, Historic Buildings and/or Structures that do not comply with Setbacks are valid Non-Complying Structures.
15. In the HR-1 Zoning District, the Maximum Building Footprint = $(\text{Lot Area}/2) \times 0.9$ Lot Area/1875. The Maximum Building Footprint for the combined Lots is 1,244 square feet.
16. Building Height in the HR-1 Zoning District is 27 feet.
17. The findings in the Analysis section of the Staff Report are incorporated herein.

Conclusions of Law

1. The Plat Amendment is consistent with the Park City Land Management Code, including LMC Chapter 15-2.2, Historic Residential (HR-1) Zoning District, and LMC § 15-7.1-6, Final Subdivision Plat.
2. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
3. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the Plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The Applicant shall record the plat at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this Plat 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 City Council.
3. The plat shall note that fire sprinklers are required for all new construction.
4. A non-exclusive ten-foot (10') public snow storage easement on Park Avenue shall be dedicated on the Plat.
5. Any addition to the Historic Structure must comply with the Land Management Code and requires Historic District Design Review.
6. The Plat shall note that the Historic Structure and any new construction shall not exceed a Maximum Building Footprint of 1,244 square feet.
7. Any addition to the Historic Structure shall comply with the Lot Setbacks and cannot increase the non-conformity.
8. Any addition to the Historic Structure shall not exceed the zone height of 27 feet.
9. To address the rock wall, retaining wall, and fence that encroach into the Second Street Right-of-Way, the Applicant shall enter into an encroachment agreement with the Park City Engineer and record the agreement with Summit County prior to recordation of the Plat.
10. City Engineer review and approve all Lot grading, utility installation, public improvement, and drainage plans for compliance with City standards prior to issuance of any building permits.

Commissioner Frontero seconded the motion.

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

D. 327 McHenry Avenue - Conditional Use Permit - The Applicant is Proposing to Construct a Private Recreation Facility/Pool in their Backyard. PL-22-05389

Planning Technician, Jaron Ehlers, stated that this application sought a CUP for an outdoor pool. He highlighted that the Lot stretched from McHenry Avenue to Ontario Avenue and presented a rendering of the proposed development and pool. He reported that the property is located in the Historic Residential – Low Density (“HRL”) Zone. On August 24, 2021, the Planning Department approved a Historic District Design Review (“HDDR”) for the home. On September 20, 2022, the applicant applied for a CUP for the pool and a second HDDR process was currently ongoing related to landscaping and grading.

Planner Ehlers stated that the proposed outdoor pool would be located approximately 15 feet from the end of the rear lot, and approximately 35 feet from the Ontario Avenue right-of-way. The pool would also be located eight feet from the south side Lot Line and approximately 15 feet from the north side Lot Line. He presented a rendering that showed the pool outside of all three Setbacks. He reported that the Lot is located in a Historic Residential area, and there would be no additional traffic generated by the pool. Existing utilities would not be impacted, and nightly rentals were prohibited in the neighborhood.

Planner Ehlers explained the Conditions of Approval recommended by Staff to address the sixteen criteria required for a CUP. Condition of Approval 2 would require the applicant to satisfy all parking onsite, and any on street parking would be prohibited. The approved structure has a two-car garage, and there would be space on the driveway for two temporary legally compliant parking spots for any guests. He explained that Condition of Approval 3 would require that all lighting be compliant with the Dark Sky Ordinance, and Condition of Approval 4 would limit use of the pool to primary owners and their guests.

In terms of screening, Planner Ehlers highlighted the rendering that is part of the ongoing HDDR process that showed the proposed landscaping and vegetation on both sides. He advised that he conducted a site visit and provided the Commission with an image he took from Ontario Avenue showing the view up the hill and noted that the pool would not be easily visible. With regard to concerns regarding vegetation, Planner Ehlers stated that Condition of Approval 21 of the 2021 HDDR would require any vegetation be protected or replaced in kind and size.

Staff received public input, which was included as Exhibit E to the Staff Report. Several comments were received after the Staff Report was published, and those comments were forwarded to the Commissioners and the applicant and would be included in the official record of the meeting.

On October 26, 2022, notice of this item was placed on the City's website and the Utah Public Notice website. On October 25, 2022, Staff mailed courtesy notices to property owners within 300 feet, and on October 22, 2022, notice was published in *The Park Record*. He stated that the Development Review Committee reviewed the proposal on October 24, 2022, and did not identify any issues. The Planning Department, Engineering Department and City Attorney's Office also reviewed the application.

Planner Ehlers reported that Staff recommended the Planning Commission review the CUP, conduct a public hearing, and consider approving the CUP subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter.

The applicant, Matthew Christensen reported that he and his wife currently reside in Jeremy Ranch, but 327 McHenry Avenue will become their permanent residence once completed. He stated that they were drawn to the neighborhood for the family character and charm and intend to abide by that. He stated that a backyard pool is allowed by the LMC and the HRL Zone with a Conditional Use Permit. Over the last year and one-half, they have worked closely with Staff and made changes to ensure the design would be compatible with the HRL standards and guidelines. He offered that from the onset, their goal was to create a design that would not be visible from Ontario Avenue, the residents of Ontario Avenue, or cross-valley. This was not only for the neighbors' benefit, but also for the applicant's privacy. Mr. Christensen added that the natural grade of the site lends itself well to this goal, as the property line sits approximately 14 – 27 feet from Ontario Avenue, depending on where it is measured. The City easement is predominantly Steep Slope, which means the property sits well above Ontario Avenue. He added that they felt that an in-ground pool was far less visually offensive than a large oversized aboveground Jacuzzi. He noted there would be no surrounding furniture, gazebos, and umbrellas typically used with a Jacuzzi.

Mr. Christensen commented that in-ground pools and spas tend to be more environmentally friendly than pre-fabricated Jacuzzis, as in-ground pools benefit from geo-thermal heating and have quieter and more efficient motors that are heated with natural gas. He noted that this pool is purely intended for his family's quiet and relaxing enjoyment. He added that he has arthritis in both knees, and low impact water training is part of his physical therapy.

Mr. Christensen referenced the 3-D rendering and pointed out that the views do not exist on Ontario Avenue or Cross Valley. When the 3-D rendering was created from a human standpoint off Ontario Avenue, the pool was not visible whatsoever, and the terraced pools were not visible due to the planned landscaping. He noted that the walls would be board-form, which would fit in well with HRL standards. He presented drone views showing the viewpoints from Ontario Avenue and the different heights. He mentioned that the pools might be visible by the homes at 331 McHenry Avenue and 316 Ontario Avenue, and both of those owners provided positive feedback in support of the Conditional Use Permit. Mr. Christensen thanked Staff and welcomed the Commission's comments and questions.

Commissioner Van Dine asked about Dark Sky compliance and the television shown in the rendering. Planner Ehlers responded that televisions are not considered lighting under the Dark Sky Ordinance. Mr. Christensen commented that outside television screens are perforated to deflect the sunlight and because of that, these televisions are not nearly as bright as a regular television. Additionally, at more than about a 30-degree angle, the picture on the screen cannot be seen at all due to the perforations. He added that he was happy to abide by the Dark Sky Ordinance and if the television did not comply with it, he would remove it or consider an alternate design. Planner Ehlers noted that the Commission could consider a Condition of Approval requiring the screening of the outdoor television, as well as prohibiting any light trespass that might occur from the property at night.

Commissioner Johnson asked about the height of the retaining wall and noted conflicting data. Mr. Christensen confirmed that the retaining wall would be four feet high and confirmed that the wall for the television would be six feet high. Planner Ehlers did not believe that the television

would fall within the Side Setback. Commissioner Johnson inquired about the allowable height of that wall and referenced LMC Section 15-4-2.

Commissioner Johnson asked about the ongoing HDDR on the Landscaping Plan and noted that it would seem advantageous to complete that process. Director Milliken advised that the Landscape Plan was currently under review with the HDDR, and they were looking at keeping the natural grade and the site as much as possible. This would also include keeping native vegetation and existing vegetation in place and minimizing the manipulation of the Historic Site.

Commissioner Johnson asked whether there had been deviation from the original approval on the Significant Vegetation Plans as far as replacing what was removed. Director Milliken responded that the Landscaping Plan was not required as part of the HDDR for the building, so it came after that HDDR. Staff would look at any vegetation removal and replacement as part of the HDDR for the building, or in the Landscaping Plan.

With regard to Steep Slopes, Planner Ehlers advised that none of the proposed construction would be located on the Steep Slope.

In response to an inquiry from Commissioner Johnson regarding the retaining wall, Director Milliken advised that some of the retaining walls were part of the Landscaping Plan. Commissioner Johnson felt it would be more advantageous to proceed with approval of the Landscaping Plan before allowing an additional use. He wondered where the furthest retaining wall was measured from the Rear Setback and noted that it was proposed to be 14 – 17 feet from Ontario Avenue, and 14 feet would not be compliant with the Rear Setback of 15 feet. He felt that the way the measurements were taken was odd. Director Milliken stated that retaining walls that are four feet or less are allowed in the Setback. Planner Ehlers added that the area highlighted in green was part of the Plat, but was not part of the buildable Lot, which explained the measurement of the Setback.

Commissioner Frontero wondered why the pool was not part of the original application. Mr. Christensen stated that at the time, they were unsure what they wanted to do with the backyard. He acknowledged the challenges of building in the Historic District and were focused on the house at that time and wanted to get the house approved first. Commissioner Frontero noted that the applicant was not only requesting the addition of a pool, which is allowed under the Code, but also decking around the pool, an outdoor television, and seating. He observed that this application was not just for a pool, but rather an outdoor entertainment area that could potentially be visually unattractive to the neighbors and also present noise concerns. He wondered if it was possible to include some Conditions of Approval regarding sound, which he felt could potentially be problematic for the neighbors.

Vice Chair Hall suggested adding a Condition of Approval that referenced the Noise Ordinance. Mr. Christensen stated that would be acceptable and reiterated that their intent was not to become a party house.

Commissioner Frontero referenced the August 2021 Conditions of Approval, attached as Exhibit B to the Staff Report and asked if each of those Conditions had been met. Planner Ehlers advised that those Conditions of Approval were for the HDDR for the Single-Family Dwelling. Director Milliken noted that before there is a Certificate of Occupancy, Staff would go through the Conditions of Approval to determine compliance, and if they have not complied the applicant would not receive a Certificate of Occupancy. She noted that the building is not yet complete.

Vice Chair Hall opened the public hearing.

Ed Parigian expressed fear about the impact of the outdoor television and what affect it might have on a dark night. He also referenced the applicant's statement that their intent was not to have a party house and reminded that this house would likely be there for 100 years and doubted that this applicant would reside in the home forever. He suggested that the approval should address what potential future owners might do with the property. He stated that otherwise, the project looked beautiful.

Ed Axtell stated that he and his wife live next door to this project at 331 McHenry and have lived there for 40 years. He mentioned the inconvenience and disruption brought about by this project but wanted to emphasize that they live in the HRL Zone. The developer knew about the zoning when they sought to develop this property and wondered whether there was anything left from the historic past left on this property. He observed that in the Historic District, it used to be that the design codes called for something that looked somewhat historic. Mr. Axtell stated that this house is built Lot Line to Lot Line, to maximize the density. He added that to accomplish this, the Lot was clear-cut of pines and Aspens. He understood that the Landscape Plan was to address that, but in viewing the rendering he noted that you could not replace a 30-foot pine tree instantly. Mr. Axtell felt that the trees removed in the area of the pool and the lower slope would never come back and was curious what the Landscape Plan proposed. He noted there was no place to put a giant tree in the area by the TV screen. He opined that this request did not fit in with the City's goals of conserving water and energy, reducing the carbon footprint, and preserving Historic Old Town. He asked the Commission to consider the negative impacts that the light, sounds, and smells would have on all of the neighbors. Mr. Axtell stated that they deserve to be protected from these violations and questioned why this zone existed if they were not going to preserve what was already in place.

Kathy Carey gave her address as 300 McHenry Avenue. She thanked the Planning Commission for its efforts, energy, time and commitment. She hoped that the Commission was both protecting the neighborhoods and enforcing the zoning. She stated that people that live on Rossie Hill love the area and are friendly. They choose to live there for the specific purpose of enjoying the outdoors, peace and quiet, and each other. She advised that McHenry Avenue is a small, quiet, narrow cul-de-sac on a substandard road. There are only 20 homes on the street, which is located in the HRL Zone. She understood that this zoning begins with its purpose, which is set forth in Municipal Code Section 15-2.1-1. The purpose as set forth in the Code is to (1) preserve the character of Historic Residential development in Park City, (2) encourage the preservation of Historic Buildings, (3) encourage the construction of historically compatible structures that contribute to the character and scale of this Historic District and maintain existing residential neighborhoods; (4) establish development review criteria for new development on Steep Slopes which mitigate impacts to mass, scale and the environment; and (5) to define developmental parameters that are consistent with the General Plan policies.

Ms. Carey referenced Exhibit C of the Staff Report which showed the two-dimensional layout and stated that the pool looked like a full-length lap pool, adjacent to another smaller pool, adjacent to a hot tub, adjacent to a 6' x 10' television which would presumably have audio/visual components as well. She did not see how the pool would contribute to the character and scale of the Historic District. She noted there were many other locations in Park City not zoned Historic, but given that they are in this District, she did not see how this project was consistent with the purpose of the HRL Zoning.

Additionally, with regards to development on the Steep Slopes, Ms. Carey did not feel this project had a positive impact and actually would have a negative impact in terms of sound and light pollution. She referenced the comments of Mr. Axtell that they can hear conversations from the No Name Saloon. Ms. Carey referenced Municipal Code Section 15-2.2-2 that addresses uses in the HRL Zone. Subsection (B) lists twelve conditional uses, none of which include an outdoor pool. She noted that Subsection (C) states "any use that is not listed above is a prohibited use." She felt that this swimming pool complex would require an amendment of the Municipal Code.

She did not feel that this was the path they want to take in the small HRL Zoning District, and they should honor the zoning developed over many years. Ms. Carey did not believe there was any precedent in the HRL Zone for an outdoor pool and entertainment center. She looked forward to having the applicant's family as neighbors, but the pool was not a conditional use. She noted a conditional use for Recreation Facility but posited that it related to an outdoor pickleball court, not a swimming pool.

Mary Wintzer stated that she lives at 320 McHenry with her husband Charlie. She referenced Mr. Wintzer's letter in the Packet for this meeting, which outlines their questions and concerns about this application. They respectfully disagreed with the Staff Report that an outdoor pool would comply with the General Plan. She referenced section 6.1 in the Staff Report that infill and new additions should be compatible in the neighborhood context and subordinate to existing Historic Structures. She opined that this project did not comply. This project also does not comply with Section 6.10 providing that the aesthetic of Old Town neighborhoods should be preserved.

Ms. Wintzer stated that the historic specialist hired by the City stated that what would destroy the sense of community would be the mass and scale of new construction. If the Commission had any doubts about the impacts to Old Town, she would urge the Commission to ask for a section of the property east to west, a west elevation with the neighboring homes, and a Landscape and Screening Plan that showed the six large trees that were removed. She noted the rendering looked beautiful, but she felt it was not accurate, because the replacement trees would have to be planted where the swimming pool is proposed to be located. Ms. Carey referenced Commissioner Johnson's comment regarding the timing of the Landscape Plan HDDR.

She mentioned the cross-canyon view and stated that McHenry is a unique neighborhood with a majority of full-time residents. It is also the only Old Town neighborhood with a no nightly rental designation. She expressed that they have grown a true community and looked forward to having the applicants as neighbors. The values stated in the General Plan of natural settings, historic character, small town feel and sense of community do not belong with this CUP application. She added that from the standpoint of the Town's goal of reducing carbon footprint, and energy and water use, an outdoor pool on the Steep Slopes of Old Town would be far to excessive. She added that this application did not fully comply with the CUP criteria. This project, if approved, would be the tipping point of Old Town and they urged the Commission to deny the CUP application.

Jerry Figt clarified that the applicant received approval from the City for every tree that was removed from the site. The trees were inspected by an arborist, a report was written, and the applicant received approval. He added that the plan to replace does not require the same size; rather it requires replacement in kind. He submitted that the applicant's plan would more than adequately replace the caliber of trees removed.

Matey Erdos gave her address as 310 McHenry Avenue, across the street from the project. She referenced her letter sent to the Commission just prior to the meeting. She did not support this project.

There was no further public comment. The public hearing was closed.

Commissioner Frontero wanted to review the LMC provisions regarding conditional use, particularly Recreational Facility, Private. Planner Ehlers advised that this definition was in Section 15-15, Recreation Facilities, and read the definition as follows: "Recreation facilities operated on private property and not open to the general public, including Recreation Facilities such as swimming pools, tennis courts, outdoor pickleball courts and similar facilities for use by owners and guests." He noted that when the pickleball courts were added, they wanted to specify "swimming pools" as opposed to "pools."

Vice Chair Hall understood that Staff felt that this was an approved conditional use in the zone, and this application was appropriate. Planner Ehlers confirmed Vice Chair Hall's understanding. Mr. Harrington confirmed that swimming pools were a listed conditional use in the HRL Zone. He explained that the footnote referenced additional regulations for pickleball courts but would not limit the definition of Private Recreation Facility.

Director Milliken explained that the definitions in the LMC identify swimming pools as a Recreation Facility. Vice Chair Hall clarified for the record that the Staff Report was correct and this was an appropriate CUP application for this zone. She also noted that the present application was for the pool only, and the Landscaping Plan and the home were addressed in separate applications. Mr. Harrington noted that the landscaping could be a function of the mitigation of the proposed conditional use. He felt that questions about landscaping were appropriate as part of this application.

Vice Chair Hall suggested adding a Condition of Approval that the CUP would abide by the LMC Noise Ordinance and provisions regarding Significant Vegetation. She also suggested a Condition of Approval that the television should comply with the Dark Sky Ordinance. It was clarified that this could be included as part of Condition of Approval 3.

Commissioner Kenworthy noted that these types of applications are always difficult for him. He agreed with the public comment and expressed that while it is a situation where the LMC might allow for this conditional use, the General Plan is as stated by the residents and the Commission is to protect primary residences. There is clearly a primary residential neighborhood here that the Commission is trying to protect. He added that there are certain mitigation requirements that this applicant would have to meet. He felt that the aesthetics of this proposal clearly did not fit in with the requirements of the General Plan; however, they might fit in with the LMC. He agreed with Vice Chair Hall that they would have to make sure that every aspect of this project complied and that there would be room for the trees to be replaced. Commissioner Kenworthy noted that for the neighbors who have lived in the area for 40 years, this proposal was directly in conflict with the goals of the General Plan. He did not know how a swimming pool fell in line with the historic nature of Park City.

Commissioner Sigg asked if the mechanicals and utilities for the pool had been established. He expressed concern about utility sizing. He also mentioned the Steep Slopes below the pool, and he had not seen footers and foundations. He also asked whether there was a soils test. He mentioned the water wise component and queried whether the pool would be covered or whether

it would evaporate and require regular filling. He agreed that this pool was very out of character for Old Town, and any Conditions of Approval would have to cover all of these aspects. He expressed concern about the removal of trees and felt the pool was an afterthought to the overall site plan. He mentioned viewscales and wondered whether this would open the door to issues in the future. Commissioner Sigg commented that the television brightness and light transmission would go beyond the neighbors and asked whether an alternate location had been considered.

Mr. Christensen stated that he would be agreeable to moving the location of the television. He does not want people on Ontario Avenue to see the television and did not feel it would be the right vibe for the neighborhood. In terms of the viewscales, he expressed that he would work to protect neighbors' viewscales and would like to get the next-door neighbor involved when they get to the point of placing trees. With regard to the trees that were removed, he stated that a considerable amount of the trees were either dead or diseased. He referenced the arborist report that was submitted to the City. The other removed trees were calipered and would be replaced as part of the landscaping installed at the site. He stated that during the winter, they would winterize the pool by either freezing the top six to seven inches or keeping the pool at just above freezing. He would prefer the latter. Mr. Christensen reiterated that because it is an in-ground pool, it benefits from geothermal heating. The Jacuzzi would be covered. In the summer months, he stated that pools require less water than landscaping. He assured that the pool would be fully engineered for weight and noted that the substrate is bedrock. The pool would be located on a flat section of the site, and the retaining walls below would be engineered. Mr. Christensen stated that plan was to locate the pool equipment inside the house within the mechanical room.

Commissioner Frontero echoed Commissioner Kenworthy's comments that this is a difficult situation. He agreed that it clearly did not fall within the General Plan Guidelines; yet the LMC allowed for a pool. He noted that the LMC did not state that a pool, a hot tub, a second pool, and lights and televisions would be allowed as conditional uses. He asked the applicant to consider coming back at a later date with another application for a single pool. Mr. Christensen explained that the application was not for multiple pools; rather, there is a pool and a Jacuzzi. The pool has a shallow entry area into the pool near the house.

Commissioner Frontero noted that this was a challenging application given that one of the jobs of the Commission is to protect the community and to follow the LMC. He asked the applicant if he would consider eliminating the outdoor entertainment center, which would include televisions, speakers and extra lighting. He noted that the pool was allowed and suggested that this application be limited to a pool. He explained that was trying to create a situation where the applicant could present an application that was more amenable to the General Plan and to the neighbors, since as presented they were in conflict and he was not sure how it could be resolved.

Mr. Harrington spoke to the conflict between the General Plan and the LMC and noted that Commissioner Frontero's comments were appropriate. The focus of a CUP review was the permitted use so long as the conditions could be mitigated. As long as the Commission focused on the mitigation of the proposed use, which could include inconsistencies with General Plan elements, that would be appropriate. He noted that the Commission often deals with these through Conditions of Approval after the fact, but with the neighborhood concerns the Commission has the ability to require them in advance. It does not have to condition the Landscaping Plan after the fact, rather the Commission could ask to review it now and make sure it would meet those mitigation requirements before approving the use. He added that if the Commission determined that to be necessary to fully analyze the impacts of the use, it would be appropriate to see more detail. In terms of the issue of the pool being inconsistent with the General Plan, he

opined that the Commission could not make that determination because the pool is a listed permitted use if it could be mitigated.

Mr. Harrington suggested that the Commission look to see if they could reach a consensus on affirmative Conditions of Approval, whether more information would be needed on the mitigation before consideration of the final Conditions of Approval, or whether the Commission did not think the conditions could be mitigated.

Commissioner Johnson expressed that he did not feel comfortable moving forward without additional details on the Landscaping Plan due to concerns about the adjacent Steep Slope, sound concerns and visual impacts. Commissioner Kenworthy suggested requiring a Soils Report.

Commissioner Van Dine did not understand what a Soils Report would provide, and Commissioner Sigg mentioned the geotechnical aspect of the site's ability to bear the weight. He added that he would like more detail on the mechanicals and the placement of the mechanicals.

Vice Chair Hall sought clarification of what the Commission requested, and Commissioner Johnson confirmed his request for the full Landscaping Plan, including the Soils Report that would include the geotechnical aspects supporting the proposed use.

Vice Chair Hall felt that the packet included a full Landscaping Plan in conjunction with this application, even though it was not required as part of this application. She also referenced the HDDR for the home that was included, even though it was independent of this application.

Director Milliken understood that Commissioner Johnson was requesting that the Landscaping Plan be reviewed before this application. He confirmed that would be ideal if it were permissible. He found this application was inconsistent with the General Plan, and before they grant additional uses on this approved project they should have the full details. He reiterated his concerns with the Steep Slope below the pool.

Vice Chair Hall understood that the issues raised by the Commission included the Steep Slopes, soils, landscaping, and the entertainment area. Regarding the landscaping issue, she referenced the fairly detailed Landscaping Plan on page 262 of the Packet and acknowledged that it had not been submitted or approved.

Director Milliken stated that the Landscaping Plan had come before the Design Review Team, but it had not yet been approved.

Vice Chair Hall commented that she did not need further Landscape Plan details. Commissioner Johnson sought confirmation that the Landscaping Plan in the Packet was the one being reviewed.

Mr. Harrington stated that they could invert the conditional approval and referenced the rare example of Plat Amendments where the Commission wanted to see the HDDR approved prior to the Plat Amendment. If there were a direct relationship between those mitigation items, it would be up to the Commission as to what they would require before making the final determination. He noted the Commission's authority overlaps with the HDDR, whereas the HDDR is being evaluated in terms of compliance with the HDDR Guidelines, not for mitigation of the use.

Vice Chair Hall stated that the solution was not disallowing something that is allowed pursuant to the LMC; rather, the solution was that they would have to amend the LMC to no longer allow pools in Old Town.

Commissioner Kenworthy remarked that they were looking for the sequencing to ensure that the mitigation efforts would be successful. He stated he was not qualified to say that the Landscaping Plan included in the Packet would mitigate these issues, and he would like that determination before they proceed with this application. He stressed the dramatic difference from the aesthetics of Old Town that they must protect.

Director Milliken suggested processing the Landscaping Plan with the Commission's concerns in mind, and thereafter return with this application. Mr. Harrington understood Commissioner Frontero's comments requesting additional mitigation in terms of the degree and intensity of the proposed use and whether there would be additional landscaping that could address those issues.

MOTION: Commissioner Johnson moved to CONTINUE 327 McHenry Avenue – Conditional Use Permit – to a date uncertain. Commissioner Kenworthy seconded the motion.

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

Vice Chair Hall noted the lateness of the hour and proposed continuing the Work Session to another meeting.

E. Parcels: PCA-S-79-B and PCA-S-79 C (Bransford Parcels) - Zoning Map Amendment - The Applicant is Proposing a Zone Change for Two (2) Parcels of Three (3) Acres Each, From Recreation Open Space (ROS) to Estate (E) Zoning for the Construction of Two Single Family Homes. PL-21-05042.

Planner Ananth reported that the applicant requested a zone change from Recreation Open Space ("ROS") to Estate for two three-acre pods from two parcels that total over 39 acres. The remaining 33 acres would remain in ROS zoning. The proposed zone change would allow for two Single-Family Dwellings, one on each Estate zoned pod. She reminded the Commission that this application was discussed during a Work Session in April, a public hearing in June, and went back to a Work Session in August. Planner Ananth presented a graphic of the two parcels and explained that the parcels were encumbered with Steep Slopes and a significant amount of vegetation. She noted that there are some ski trails and easements on the Lots, which are located in the Sensitive Lands Overlay and currently zoned ROS.

Planner Ananth identified the two three-acre Estate pods proposed by this application. A shared driveway would provide access to both parcels. She reported that the project complies with the ROS Zone and the Estate Zone in the Deer Valley Neighborhood General Plan. She explained that this would involve an incremental approval wherein the applicant would still require approval of a Subdivision Plat that complies with the Estate and ROS Zoning Districts, as well as a Sensitive Lands Overlay review at the time of Plat. Staff recommended the Commission consider the requested zone change, conduct a public hearing, and consider forwarding a recommendation for Council's consideration in December.

On behalf of the applicant, Jeffrey Kuhn from the Kuhn Company, mentioned recently proposed Conditions of Approval, and stated the applicant's intent was to get a positive recommendation from the Commission at this meeting.

Planner Ananth explained the two new Conditions of Approval proposed by Staff. One was related to sustainability and noted that the prior Condition discussed EUI's, which apply to commercial structures. She revised the Condition to be more in line with the MPD Code. The revised Condition requires best planning practices for sustainable development for residential construction in place at the time of Building Permit, including but not limited to water efficient low flow fixtures, EnergyStar rated appliances, building envelopes designed to be energy efficient, water wise and native landscaping, exterior lighting that meets the Dark Sky Ordinance, electrification of all utilities, and the requirement that outdoor appliances be on timers and sensors. She also added a Condition of Approval with a sunset clause of three years on the zone change, with the opportunity for one two-year extension. If the applicant has not received an approval for a Subdivision Plan within that timeframe, the zone would revert back to Open Space.

Planner Ananth reported that the applicant agreed with these two revised Conditions of Approval. She also reported that the applicant agreed to reduce the home size to a maximum of 10,000 square feet, in keeping with the Red Cloud Development. Mr. Kuhn confirmed this statement and added that they originally intended to propose a larger home size, but they did not feel it was in the best interest of getting the approval. Planner Ananth stated that these Conditions of Approval were new, and all other Conditions remained the same.

Vice Chair Hall opened the public hearing.

Nick Frost identified himself as the legal counsel for Red Cloud Homeowners' Association. He stated that in 2019 he appeared before the Commission where the HOA was trying to reserve open space to density zoning and which was unanimously denied. He quoted from the minutes from that meeting as follows: "Vice Chair Phillips indicated that he was concerned about the precedent it would set for the rest of the neighbors. Others could not be held to a different standard if they allowed this approval. Commissioner Sletten concurred with Vice Chair Phillips and stated that while there were compelling arguments on both sides, looking forward 10 – 15 years the precedent will be buried in Staff Report notes and he believed that this was an important issue and the Planning Commission should hold the line. Finally, Commissioner Hall stated that precedent was the forefront of her mind."

Mr. Frost recognized the legislative powers of the City to enact and enforce zoning requirements but expressed concern about what would take place with a positive recommendation. The concept of precedent can be buried under the idea that there are special circumstances that apply to this land and referenced the Staff Report's statement of "unique circumstances." However, there are unique circumstances that apply to every parcel.

In addition, he stated that the "unique circumstances" is the Development Amendment. However, he stated that there is no language in the Development Amendment that requires this approval or holds it open in perpetuity. He commented that he had no intention of resurrecting a 2009 application based on the precedent that might be set today or at some point down the road; however, there are other developers who are watching this closely to see what happens. There might be others who want to develop properties and change protected reserved open space to density zoning.

Mr. Frost reiterated that there is nothing in the Development Agreement indicating that the Commission needs to abandon precedent for this application. Based on his discussions with someone in the Planning Department regarding a stepped approval on an unrelated matter, he

was told that it was not fair to the City and its' citizens to see only a portion of a larger project. While a sunset provision is helpful, it would also foreclose on the right to make changes down the road if certain things come up. He expressed concern that a positive recommendation would equate to recommending an island zone, without legal access and no precedent.

Adam Weinacker was present on behalf of Extell Development Company to object to the application to rezone its property. He expressed that this application asks the Commission to put the cart before the horse and recommend a re-zone of the Bransford Property from ROS to Estate. He noted that Estate Zoning is for residential development, and the Staff Report acknowledged that the land is in no state to be developed. It has no current access and no current way to connect utilities. He added that even if there were access to these parcels, he had serious concerns about the steep topography and the ability to safely connect a road to the proposed lots.

Mr. Weinacker also posited that the application was misleading with respect to the "likely access route" presented to the Commission. The applicant identified a 100-foot-wide corridor connecting its property to Red Cloud Trail; however, there is no such corridor. While the issue of access to parcels is in litigation, the access claimed by the applicant in court does not match the access presented to the Commission. He highlighted that the access presented to the Commission was showed south of the Ontario Ski Run; whereas the proposed access claimed in the litigation would traverse over the Ontario Ski Run. He stressed that the application materials do not mention this, presumably because interference with skiing and other recreation on Flagstaff would raise concerns by the Commission. None of the conditions for zoning address this conflict.

Mr. Weinacker advised that the other significant stakeholders on Flagstaff do not support this application, and he referenced Flagstaff, Deer Valley and the Red Cloud HOA. He appreciated that the Bransfords are long-time Park City residents, but despite that legacy this is not a legacy project. The application was designed to increase value for property that is otherwise not developable so that it could be sold as a second, third or fourth home for someone. He referenced the additional Condition of Approval regarding the sunset clause and felt that differed from what was originally contemplated. He recalled it was originally contemplated as a two-year clause with a one-year renewal. He urged that if the Commission were to consider a sunset clause, that it be significantly shortened.

He noted the Staff Report representation that notice and courtesy mailings to nearby landowners were made on October 26th; however, the evidence indicated that the mailing actually went out on October 27th. Under the LMC, courtesy notices are required to be mailed 14 days prior to a public hearing, and the actual mailing date did not meet that requirement.

Additionally, he stated that he asked Staff to require the applicant provide notice of any hearing to his law firm, which was not followed. He also mentioned that he advised the Planning Department that the list of owners was not correct, and the old list of owners was used for the mailing. Mr. Weinacker stressed that the Commission was faced with an application that would set a precedent to push a zoning change prior to detailed development plans and proof of an ability to develop. He added that the Commission was faced with an application that included specious depictions of access to the property, and without public support from the primary stakeholders on Flagstaff. He reminded of the deficiencies in the notice for this public hearing. He asked the Commission to not recommend approval of the application.

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

Commissioner Kenworthy asked Planner Ananth to address the notice issue. Planner Ananth stated that notice was sent out on October 27 to addresses provided by the applicant. The addresses were taken from the Summit County database. Mr. Harrington clarified that the mailed notice is considered a courtesy notice and the Code states that any defect in that shall not be cause to invalidate the decision. He noted the Commission could ask Mr. Weinacker if he felt there was prejudice by the one-day delay in mailing. He reiterated that the City was under no legal requirement to provide them with individual notice, but the City Attorney provided additional notice recognizing that there was a change in Planners on this application.

Commissioner Kenworthy requested information on Deer Valley's objection to this application. It was noted that there was public input received from Steve Issowitz, in his individual capacity and not as a representative of Deer Valley. Mr. Kuhn noted a letter of support from Doug Ogilvy, who holds a position with Redus and Empire Pass Master Owners Association.

Commissioner Frontero asked the applicant to address the claimed inconsistency regarding the roadway corridor. Mr. Kuhn stated he is not involved in the litigation but understood there was a gag order on the litigation. He was aware that there was a historic access claim in which long-term mining rights were served by mining roads. He mentioned a claim file that showed access on that historic easement and he understood there was a 60-foot corridor identified on either side of the centerline of that historic access agreement that was necessary to determine the property owners.

He was aware of a few paths that enter the property from the south and at the location of the proposed road. He agreed that the Ontario Ski Run was part of an Ontario Trail that came up from Park City. Although they considered the area steep today, compared to everything else it was historically considered a flat area that could be driven quite easily.

Mr. Kuhn added that over the land itself, the traces of the roads were thinner. He noted a historic roadway that showed up back to the 1800's within the 60-foot corridor. This application showed a 100-foot corridor that could contain a 25-foot-wide private driveway. He added that the Fire Marshall had not yet determined the final width of the driveway, but Mr. Kuhn emphasized that this would not be a public road. He emphasized that Staff wanted to know the location of the road and the applicant understood that anything approved in the zone change would be conditioned on satisfying every plat requirement, and having an easement is a condition for a plat application. He added that the application would also have to show the ability to design a roadway within the easement as part of the plat.

Mr. Kuhn explained that the applicant showed what they thought was the indicated access point. He referenced the Flagstaff Annexation Agreement and a letter showing 6 – 7 places along Red Cloud Trail where they could access off of the easement approved by the Red Cloud HOA and Empire Pass Masters Association to provide access over Twisted Branch Road. He added that utilities were stubbed in just opposite Ruby Hollow, which created a 55-foot-wide vehicular access point in that location. This location was the stated preference where they would connect. He stressed that it is not the only connection point and more than one alignment would be possible but they were asked to opine where they felt it would be located.

Mr. Kuhn noted a 1981 Planning document from the J.J. Johnson Company regarding a feasibility analysis on the property, and the two points identified by that analysis were included in the applicant's narrative. The current proposed access point is located in the same place as shown in 1981 and as was assumed by the declarant, the contractor of United Park City Mines and Deer

Valley Resort. He clarified that the applicant was not asking for approval of the road today; rather, they presented a location where they think makes the most sense.

Vice Chair Hall did not recall previously considering an application that did not have access and wanted an understanding of the proper sequence since it seemed unusual to consider a re-zone when there is no access.

Mr. Harrington explained that the entire City is zoned and there are many land-locked parcels within each zone. He added that the zoning would not establish the development parameters because those are set by the LMC. Zoning just establishes density and the right to take the next step in the application process. He added that this was unusual because they were limiting more than just the zone and allowing the next step in the application process, because the applicant recognized that this was within the Annexation area and Development Agreement. He felt the sequencing made sense even though it was highly conditional to the City's benefit to minimize any future expectation of inconsistency. He highlighted the comments by Staff as to why this would not set a precedent for other re-zone opportunities outside of the Flagstaff Development Agreement. These property owners were already considered for density under a scenario that did not materialize and they were also told they had the opportunity to submit their own application.

Vice Chair Hall asked if the proposed plat for the driveway was irrelevant for this application. Mr. Harrington explained that a Condition of Approval protects against that by not providing any vested rights toward the next step in the application process or guaranteeing any future approvals.

Mr. Kuhn added that Summit County indicated that this parcel consisted of two lots of record pre-annexation, and post-annexation they are still two lots of record. He explained that the lots of record were entitled to one residence each. The placement shown on their proposed plat was part of the ROS Zone and part of the Sensitive Lands Zone, which encouraged them to connect to trails and to cluster development. Rather than having a home on each 20-acre parcel, the applicant clustered them side-by-side and located them along the ski trail.

Mr. Harrington clarified that Summit County's characterization was relevant pre-annexation, but it no longer applies. These are not lots of record under City Code, which is why the applicant still needs to get the Subdivision. He stated that the County's characterization was the basis by which Staff agreed with the recommended density, but it was not currently a lot of record. Mr. Kuhn stated he simply repeated what he heard from Summit County Planners.

In response to an inquiry from Commissioner Sigg, Mr. Kuhn advised that the driveway would be approximately 1,000 feet long on site, and approximately 1,000 feet off site from the western property line to Red Cloud Trail easement. Because there is no lot or house design yet, discussions with the Fire Marshall would be premature and would be part of the plat approval.

Mr. Kuhn added that they received some input regarding the shared driveway from Alliance Engineering and Craig Elliot, AIA based on their experience. He stated that the applicant planned to make it as narrow a two-lane driveway as the Fire Marshall would permit. The idea of having a 100-foot corridor was done to give them some latitude. He added that the property owner also has underground rights, so they could use a tunnel or other ways to get it done, but that was an issue for the future. Whatever the Fire Marshall determines will ultimately be done, but he noted that the applicant proposed a narrow, private driveway that Staff supported.

Mr. Kuhn emphasized that they were still at the zone change phase, yet they keep getting dragged deeper and deeper into plat discussions. He reported that since the last presentation, they created a 3-D heat map in movie form that could allay concerns about the steepness issues.

John Phillips, representative for the applicant, explained that they had a larger presentation, but due to timing opted to show a brief clip. He explained that he had been working on the drawings, illustrations and code review for this application. Following the last meeting, he looked at the Sensitive Lands Overlay Code in depth and realized that the Code lists three different slope angles. These angles are 15% and greater, 30% and greater, and 40% and greater. He explained that they also need a baseline angle of 0 – 15%, so they revised the heat map in video form and presented that to the Commission. He pointed out the location of Red Cloud and noted that many of the lots in Red Cloud were less than three acres, and this application proposed two three-acre parcels. In the 1981 J&J Study, the analysis found that land could accommodate significantly more density.

Mr. Phillips was proud to be a part of this development because he sees it as an example of responsible development. He observed that the applicant has 40 acres and they were only requesting two units and this application has been responsibly and well thought out by not asking for more than is appropriate. He explained that the areas in red are the Steep Slopes and added that in the Sensitive Lands Overlay section there are slopes that need to be protected. In his initial review he identified two areas near the development cluster that enter into areas considered Very Steep and would need to be protected. He noted that the road will likely be configured similar to the way a ski run would be configured. He noted that Alliance Engineering also designed and mapped out Twisted Branch Road with the same level of topography.

There was discussion and explanation about some of the details of the video. Mr. Phillips explained that the next stage would include more detail and exact mapping of roads, exact placement of homes, the survey and the plat. He noted that they tried to get as close as they could with presenting what would be required for the plat, without going through the entire plat process.

Vice Chair Hall questioned why they were not addressing the plat at the same time. Mr. Kuhn explained that the applicant would prefer to address these all at once; however, the owners of the land and the proposed easement parcel would rather litigate the issue. When the litigation is concluded, he felt there would be different circumstances that would be far more conducive to the acquisition and granting of an easement. As a result, the applicant was unable to go further at this point.

Managing Partner of Bransford Properties, Ann Bransford stated that they would be looking at several hundred thousand dollars in engineering fees to prepare the plat before the zoning change. Her recommendation to the Board was to not proceed with the plat until they obtained the zoning change. If they get the zoning change, they will try to work out their differences on the easement, but she could not authorize spending more money on something without approval on the zone change. Ms. Bransford stressed that they were looking for a conditional zoning change, and all of the plat details would come thereafter to be considered by the Commission.

Vice Chair Hall appreciated the presentation and public comment but stated she did not want to make a rushed decision. Commissioner Frontero asked if the Commission was being asked to approve a zone change without knowing where the two three-acre parcels would be located. Mr.

Kuhn stated that they would not know where the parcels would be located until approved by the Commission.

Director Milliken confirmed that for today's agenda item, the Commission would just be approving a zone change for two three-acre parcels somewhere in the 39-acre lot. The exact location of those parcels would be determined by a Plat Amendment that would come back before the Commission. Mr. Harrington added that the precise dimensions would be determined by the Commission's next action.

Mr. Phillips wanted the Commission to understand that it would be making these later decisions and the zone change would not give the applicant the right to build; rather the applicant must return to this Commission to make those decisions and they would have to have the access determined by that point. He explained there were many steps needed to make this land developable and this was the very first step. He commented that they proposed the sunset clause so that this matter would not be passed down to another Commission.

Commissioner Johnson asked about the timeline for the sunset clause and whether there was a way to shorten the timeline. Mr. Phillips explained there were many moving parts, and the proposed timing of the sunset clause was one that they felt was reasonable based on the litigation and the amount of work still needed. It was suggested that the item be continued to a special session in December and paired with the Snow Park application. It was noted that the continuance would allow further discussions and would not involve the presentation of new information.

MOTION: Commissioner Johnson moved to CONTINUE Bransford Parcels Zoning Amendment to December 14, 2022. It was noted that the public hearing would be continued as well to that date. Commissioner Kenworthy seconded the motion.

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

6. WORK SESSION

The Work Session was continued.

- A. Sensitive Land Overlay Land Management Code Amendments - Proposed Amendments to Update Designated Vantage Points and Ridgelines and to Expand Designated Vantage Points and Ridgelines to the Newly Annexed Southeast Quinn's Junction Area is Continued to January 23, 2023, to Accommodate the Planning Commission's Review of Studio Crossing.**
- B. Support Commercial, Residential, and Resort Accessory Uses in Master Planned Developments - The Planning Commission Will Conduct a Work Session on Land Management Code Amendments for Accessory Uses that are Exempt from Density in Master Planned Developments.**

7. ADJOURN

MOTION: Commissioner Van Dine moved to adjourn.

The meeting adjourned at approximately 11:05 p.m.