

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION
CITY HALL, COUNCIL CHAMBERS
JULY 10, 2013**



AGENDA

MEETING CALLED TO ORDER – 5:30 PM	<i>pg</i>
ROLL CALL	
ADOPTION OF MINUTES OF JUNE 28, 2013	3
PUBLIC COMMUNICATIONS – <i>Items not scheduled on the regular agenda</i>	
STAFF AND BOARD COMMUNICATIONS/DISCLOSURES	
CONTINUATION(S) – <i>Public hearing and continue as outlined below</i>	

Land Management Code – Amendments to Section 15-1-21 Notice Matrix, Chapter 2.24, Chapter 9, and Chapter 15
Public hearing and continuation to July 31, 2013

REGULAR AGENDA – *Discussion items only, no action taken.*

305 Park Avenue – Plat Amendment <i>Public hearing and possible recommendation to City Council</i>	PL-13-01912 <i>Planner Astorga</i>	47
Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3, and Chapter 2.16 regarding Building Height <i>Public hearing and possible recommendation to City Council</i>	PL-13-01889 <i>Planner Astorga</i>	65
Lots 21-32, Echo Spur – 9 Lot Subdivision <i>Public hearing and possible recommendation to City Council</i>	PL-12-01717 <i>Planner Astorga</i>	123

ADJOURN

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.
Planning Commission - July 10, 2013

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
JUNE 26, 2013**

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Jack Thomas, Mick Savage, Adam Strachan, Charlie Wintzer, Thomas Eddington, Francisco Astorga, Kirsten Whetstone, Anya Grahn, Polly Samuels McLean.

WORK SESSION ITEMS

1450/1460 Park Avenue - Conditional Use Permit (Application PL-13-01831)
1450/1460 Park Avenue - Plat Amendment (Application PL-13-01830)

Due to conflicts of interest, Commissioners Thomas and Hontz recused themselves and left the room.

Planner Francisco Astorga stated that this was the second work session for the Green Park Co-housing project at 1450/1460 Park Avenue. He provided an overview of the conditional permit for a multi-unit dwelling, a parking area with five or more spaces, and limited access off Sullivan Road. During the last meeting the Planning Commission clarified that due to the number of parking spaces they considered the parking area to be a parking lot. Planner Astorga clarified that the limited access requires a conditional use permit.

Planner Astorga stated that in addition to the CUP, the applicant had submitted applications for an HDDR, which is reviewed and approved by Staff, as well as a plat amendment to remove a lot line. He noted that the plat amendment would not make sense if the CUP is not approved for the uses.

Planner Astorga read the language from the Code stating, "A conditional use permit for limited access on Sullivan Road must be approved by the Planning Commission. He reported on a disagreement between Staff and the applicant. The applicant finds that the project meets all the applicable aspects of the conditional use permit. The Staff differed from that opinion as outlined in the Staff report. He requested input from the Planning Commission on some of the items outlined in the Staff report and the Staff interpretation. Planner Astorga stated that the Planning Commission would eventually have to make findings of fact and conclusions of law and applicable conditions of approval per the three requested uses.

Planner Astorga stated that the Planning Commission could either agree with the Staff interpretation, require the applicant to redesign the project or submit for a variance to the Board of Adjustment, or they could direct the Staff to begin a LMC amendment. If they choose the LMC amendment, it must be for the entire HRM district and not one particular site.

Planner Astorga noted that the Staff report was divided into five different sections. He stated that the Staff was not against the co-housing project and the seven affordable units proposed reflect the Park City values. He clarified that he was not against the co-housing principle, but his job was to interpret the LMC and create findings for the Planning Commission to approve in the future.

Planner Astorga stated that the first item for discussion was a special requirement for a multi-unit building. The Code requires 60% open space. However, in order to meet this criteria the applicant has to count the open space on the roof. The Staff would like to count the green roof as open space if it can be made accessible to everyone in the project. Planner Astorga pointed out that if the green

roof is not counted, the open space would only be 53%, which is less than the Code requirement.

Commissioner Gross asked if there was a special requirement for the roof to be green or whether it could be an open patio area. Planner Astorga replied that it would need to meet the green roof definition in the LMC, which requires vegetation.

Craig Elliott, the project architect, explained that the applicant was proposing a vegetated roof. Other areas with access had not been counted as open space. If those areas were counted the project would provide 85% open space. Commissioner Gross noted that many projects they have seen recently proposed green roofs and he wanted to make sure if more than just a reclaimed roof area with mechanical equipment on one side and patio tables on the other side.

Planner Astorga remarked that the Code uses the term "usable" in relation to open space. A requirement for a multi-unit building is to provide 60% open space.

Commissioner Wintzer noted that at the last meeting he had stated that he would consider approving the green roof as open space. However, this is a housing project that will have children and they were counting the setbacks as open space. In his opinion, it was not enough open space to make it work, but if someone wanted to squeeze it in under the definition, that would be their choice. Commissioner Wintzer emphasized that the City needed a definition for a green roof that works. The City Council decided that green roofs were acceptable, but they never went back to analyze the details of a green roof, what makes it work and whether it fits in the Historic District.

Commissioner Strachan asked if "usable" means access or whether it has to be useful, such as a garden or a recreation area. Planner Astorga explained that "usable" means that everyone in the project must have access to it without going through a private unit. It also means that it has to meet the definition of a green roof and have vegetation. Commissioner Strachan wanted to know how people would use the roof once they gain access. If there was nothing to do on the roof, he could not understand why they would need access.

Mr. Elliott concurred with Commissioner Strachan. He pointed out that there were a lot of reasons to have open space and green roofs count towards open space for several reasons. One is the opportunity to reduce runoff. It also reduces the heat load of the buildings. Green roofs do a lot of things that open space in general can do, and that was what they were trying to accomplish.

Planner Astorga reiterated that based on the Staff analysis, without the green roof there would only be 53.1% of open space, which would not comply with the open space requirement in the LMC. He asked if the Planning Commission agreed with the analysis, whether the applicant should redesign or submit a variance, or if the Planning Commission was willing to recommend that the Staff change the Code to lower the requirement.

Mr. Elliott remarked that people put bark, flowers and bushes and planting in the open space in their own yards. It is still open space but not space that people walk on and have access to. Commissioner Wintzer stated that the difference is that people can see it and it contributes to the community as open space. For that reason, he was having a hard time considering a roof as open space. Mr. Elliott commented on other elements in the community that is considered open space but it not used as a playground.

Director Eddington noted that Planner Astorga was interpreting usable as accessible. He agreed that there is open space in side, front and rear yards that is not overly usable, but it counts as open space. It is not the ideal and they tried to change that in the General Plan and come back with new definitions for open space. Currently, he believed that open space is basically green and not all of it is accessible. Gardens and landscaping is usable in terms of being visible and what it contributes. Director Eddington agreed that the current definition is not grand in out open space is counted. Side yards in Old Town are not that usable, and he believed the proposed green roof would fall under that category. You may not be able to play on the green roof but someone could walk around it.

Commissioner Savage understood that the developers, in conjunction with the homeowners, would have the right, but not the obligation, to turn the roof into a patio area and treat it however they wanted as long as it was accessible and complied with the requirements.

Commissioner Gross suggested that the green roof could be qualified similar to a landscaping plan on a house, where it is tied to the occupancy permit and must be completed in a certain manner.

Commissioner Savage stated that at the last meeting, his support of the green roof included the concept that it would be designed and developed in a way that would be green, accessible and desired to be accessed. He suggested that the applicant should come back with a preliminary plan indicating that the accessibility of the roof is meritorious. Chair Worel understood that the roof was accessible through private units. Mr. Elliott stated that it was no different from a typical condominium project where there is limited common space. Commissioner Wintzer pointed out that if a resident leaves town for a month, the open space would not be accessible if their unit is locked. Mr. Elliott explained that open space in a condominium project frequently is limited common area that would be accessible to that unit only and not to the entire project.

Jeff Werbelow, representing the applicant, stated that that this was not a typical project where no one is allowed in the units. It is a project where everyone shares everything in the project and everyone would have access to the green roofs. He explained that the original vision was to have an open space green roof similar to KCPW. They had not envisioned it as a playground.

Commissioner Gross understood that KPCW was not required to build the green roof. Director Eddington stated that it was negotiated into the building at the time as part of the CUP.

Planner Astorga understood that Commissioner Savage was suggested a re-design. He asked if the Planning Commission agreed with his assessment. Planner Astorga noted that if the Planning Commission did not follow the Staff recommendation, the open space would only be 53.1%. The options would be a variance or a re-design. Commissioner Strachan was unsure if the applicant could obtain a variance. Planner Astorga replied that the applicant would still have the right to apply for a variance.

Commissioner Strachan believed a third option was to change the LMC. In reading the definition of open space in the LMC, he noted that there are two types of open space; Open Space Landscape and Open Space Natural. Natural is the Round Valley type open space. Landscape is publicly accessible landscape areas, such as areas adjacent to public government facilities, playground equipment, recreational amenities, etc. He did not think a green roof was close to meeting that

definition. He was not opposed to allowing green roofs, but the Code needed to be changed before they could do it. Commissioner Strachan believed the issue was whether or not to incentivize people to put in green roofs. He personally thought they should. If that was the general consensus and the Code hinders that, then the Code should be amended so they could count green roofs at their discretion if it enhances the project and the community interest. Commissioners Worel and Wintzer concurred.

Commissioner Strachan believed the applicant had the option to redesign the project and come in under the current definition of open space, or request a Code amendment. He pointed out that amending the Code would be a slow process.

Mr. Elliott stated that part of the goal was to create garden space; however, the project is within the soils boundary. Based on the soils condition, they have an opportunity to put gardens on the roofs. Mr. Werbelow remarked that the intention is to have gardens on the roof. Commissioner Wintzer stated that they could put gardens on raised beds to keep it out of the soils, which is the same process as putting a garden on the roof.

Commissioner Wintzer pointed out that the Planning Commission has the obligation to enforce the Code. They do not have the ability to ignore it and it is not their job to change it. He felt the issue was problematic.

Commissioner Savage referred to the definition Commissioner Strachan had read, and that was included on page 20 of the Staff report, "LMC defines landscaped open space as landscaped areas which may include things such as public landscape and hardscape plazas." He stated that if the applicant came back with a schema that showed public raised bed gardening as a community garden for this shared development, he believed it would comply with the definition. Commissioner Wintzer pointed out that it would still not be publicly accessible.

Commissioner Savage thought there were two different discussions. One was publicly accessible and the other was whether the use qualifies for the definition of open space. In terms of the use, he thought it would be consistent with the definition. Chair Worel did not think it complied with the last part of the definition which states, "...but excluding buildings or structures." Commissioner Savage argued that it was a roof; not a building. It is a flat surface.

Mr. Elliott presented a slide showing the solar panels on the building. He noted that that end of the building had common area. There was a stairway that was common to everyone for access. Mr. Elliott stated that he could extend the stair to the roof and make that part green. He believed it would only require approximately 8% additional total square footage to meet the Code, if that was all that was required. In his opinion it would be a simple solution to resolve the open space access issue. Mr. Elliott was willing to make that change if the Planning Commission was willing to accept it as a solution. He clarified that it would not be a public access for anyone outside of the Green Park Co-Housing project.

Commissioner Strachan was not sure that the stair extension would meet the definition. Mr. Elliott noted that it would be privately held open space and no different from private courtyards or side yards. Commissioner Savage pointed out that where he lives he has the right to use the common space. However, "Joe Public" would not have that same right because he does not live there, but it

is still considered open space.

Commissioner Strachan thought the stair extension was a reasonable solution that comes close enough to meeting the definition. He recognized that it would not fit cleanly, but that was typical of most applications. Commissioner Wintzer concurred.

Chair Worel thought the issue made it clear that the LMC needed to be amended. Commissioner Strachan agreed that the definition needs to be revised if they want to incentivize green roofs in the future. Commissioner Wintzer reiterated his previous requests for the Staff to research a green roof definition. Director Eddington stated that the Staff has already drafted new definitions for open space, the different kinds of open space and green roofs for the General Plan. Once the General Plan process is completed, the LMC would be amended.

Director Eddington clarified that the Planning Commission would be comfortable with the green roof as open space with accessibility via the stairway; and there is no pre-exclusion with the words "but excluding buildings and structures", in the open space landscape definition. Director Eddington noted that a structure is typically defined as anything constructed and affixed to the ground. The Commissioners were comfortable with counting the green roof as open space as long as everyone in the co-housing development would have access to it.

Planner Astorga moved to the next issue of parking and interior landscaping. He noted that parking should generally be located to the rear of the buildings or screened so it does not dominate the streetscape. The Staff finds that the parking is not screened and therefore it does not comply.

Commissioner Strachan stated that a number of issues centered around the parking design. Planner Astorga replied that this section addresses the parking design. Commissioner Strachan recommended that Planner Astorga present all the parking related issues as one discussion rather than in pieces. The Commissioners concurred.

Mr. Elliott pointed out that Commissioner Strachan was absent from the last meeting and had not seen the full presentation of the projects. He requested the opportunity to briefly review his presentation because it shows the design concept, how it was put together, why they did it and what was done. He noted that it was the same presentation given at the last meeting with a few minor changes.

Mr. Elliott expressed disagreement with Planner Astorga's interpretation of the parking because the project does not have a parking lot. The project was designed with four driveways that go to garages and a driveway cannot be screened. The back lots are four Old Town lots of width. If there were four houses the driveways may be narrower but they would still exist. Mr. Elliott pointed out that the limited access discussion has a lot to do with a number of reasons. He explained that the limited access on Sullivan Road was put in because there was no dedicated right-of-way. In order to have access to the properties there needed to be something in the Code that allows it. Mr. Elliott stated that as second reason was to discourage access from Park Avenue. He noted that their plan removed two driveways from Park Avenue.

Commissioner Wintzer recalled that the Planning Commission had determined at the last meeting that the parking was a parking lot. Mr. Elliott stated that a parking lot would require a drive aisle, an

access and turn-in. Those can be screened because there is only one drive lane into a parking lot, which is a large area dedicated to parking. He would argue that this project did not have a parking lot because there were four different parking spots that connect to the street.

Planner Astorga agreed with Commissioner Wintzer that all the Commissioners, with the exception of Commissioner Strachan who was absent, determined that this qualified under the use of a parking area with five or more spaces. Commissioner Strachan was interested in seeing Mr. Elliott's presentation, particularly if changes were made since the last meeting.

Mr. Elliott reviewed the proposed development, the surrounding existing developments, as well as the roadways and parking. He noted that the orange areas indicated the historic homes on the block.

Commissioner Strachan asked if the 14 parking spaces proposed met the minimum parking requirements. Mr. Elliott replied that it exceeded the minimum requirement by four spaces. He explained why they were proposing to use parking on Park Avenue and clarified that it was not to meet the parking requirement.

Mr. Elliott pointed out the revisions that were made since the last meeting. They brought the building mass out and created recessed area for the garage and balcony areas off of each unit looking back into the Park area. Windows were added to the corners and they created a doorway in place of a window. Mr. Elliott indicated areas where the storage for trash and recycling was increased. It is screened from the public and it covered up what would have been another door. Therefore, two doors were reduced on the building mass from the previous plan, and the texture was changed for better articulation on the façade.

Commissioner Wintzer referred to the parking plan and asked if parking in the setbacks was allowed. Mr. Elliott replied that on a driveway you can park in the setback. Planner Astorga disagreed, and read language from LMC Section 15-3-14 on page 13 of the Staff report. "All parking lots shall maintain the required front and side yard as would be required for any structure". Commissioner Wintzer felt the language goes back to the question of whether this was a parking lot.

Commissioner Savage understood that whether or not this was a parking lot was a separate issue. If it is a parking lot Planner Astorga was right and if it was not a parking lot Craig Elliott was right. Planner Astorga replied that this was correct. Director Eddington explained that the alternative to the parking lot would be a series of driveways.

Commissioner Savage remarked that the nature of a parking lot is a situation where there is a certain number of parking spaces and people who have the right to use that parking lot can park in any of the spaces that exist in the lot. A driveway is dedicated to a unit and the people who do not own or live in that unit do not have the right to park in the driveway. Commissioner Wintzer pointed out that Unit 1 is parked in the garage and Unit 2 parks behind him outside of the garage. Planner Astorga pointed out that that would be part of the parking management which the City does not regulate. Commissioner Savage asked for the criteria that discerns whether or not it is a parking lot. Planner Astorga stated that he determined it was a parking lot because there are more than five parking spaces.

Commissioner Gross ask if the number of parking spaces was the only determining factor. He pointed out that the proposed parking exceeded the minimum and that was creating the issue. Planner Astorga noted that he had added the definitions of parking in his presentation.

Mr. Werbelow stated that they spent a lot of time on their parking plan. He noted that each tandem space was a unit and the family would park in the garage and in a driveway behind it. Two of the garages have parking partners and only two individuals share that space. He explained that it was not random parking where people could park anywhere like they would in a parking lot.

Planner Astorga reviewed Section 2 of his presentation, which focused on the parking issues. The first was interior landscaping of five feet. The applicant proposes four landscaping areas adjacent to the driveway/parking spaces, which is a strip of 2-1/2 feet and then two strip of 5-feet, and then another one of 2-1/2 feet. He noted that they have provided strips of landscaped areas; however, it does not meet the minimum of 5-feet. Another issue is street access and circulation, specifically parking areas designed for five or more vehicles. The LMC language states, "Must not necessitate backing cars on to adjoining public sidewalks, parking strips or roadways. The third issue was driveway widths and spacing. He read, "Residential and multi-unit dwellings and five or more parking spaces requires a minimum drive width of 18-feet. The maximum driveway width is 30-foot". Per the Historic District Guidelines, in the Historic District the minimum spacing requirement is 10-feet. Planner Astorga pointed out the conflict between the LMC requirement and the Design Guidelines. He noted that whenever there is a conflict of regulation the more strict requirement applies. Therefore, the minimum width needs to be 10-feet and this proposal does not meet that requirement. He clarified that it meets the criteria for a multi-unit building, but not in the Historic District.

Commissioner Savage asked if it was possible to resolve the collection of issues by allowing the project the spaces they need on Park Avenue. He believed expanding the parking on Park Avenue would mitigate the problem. Mr. Elliott stated that expanding the parking would require the Planning Commission to interpret it as driveways. Commissioner Savage asked if it would solve the problem of having five parking spaces if they kept the two spaces on Park Avenue and moved the open space on the front to the back. Mr. Elliott answered no.

Commissioner Wintzer asked if parking spaces 13 and 14 were in the side yard setbacks. Mr. Elliott answered yes. Commissioner Wintzer reiterated that parking in the setback is not permitted. Mr. Elliott remarked that the driveway is in the setback and parking is allowed in the driveway on the property.

Commissioner Strachan asked if any of the driveways exceed 30 feet. Planner Astorga gave the widths of all the driveways to show that they were under 30 feet.

Planner Astorga stated that the next section for discussion addressed tandem spaces. He noted that one provision in the Code states that tandem parking is only allowed for single-family dwelling, accessory apartments and duplexes in all zoning districts. However, another provision indicates that tandem parking is allowed in the Historic District. The Staff found compliance with this regulation and asked if the Planning Commission concurred with that finding.

Planner Astorga noted that the next section states that all parking lots shall maintain their required

front and side yard as would be required for any structure. The Staff did not find compliance on this issue.

Planner Astorga remarked that there was no added screening for the parking lot or driveway, and therefore, it does not comply with the criteria.

Planner Astorga noted that adjacent driveways must be separated by an island of 18-feet for a multi-unit dwelling. The Staff did not find compliance with this criteria.

For the purposes of discussion, Commissioner Savage asked if they were talking about a driveway or a parking lot. Planner Astorga stated that the Staff finds that it is both because it has a dual purpose. Commissioner Savage questioned how they could hold an applicant accountable to the most rigorous scenario for a parking lot and the most rigorous scenario for a driveway simultaneously. Planner Astorga believed they could because the use of the space has a dual purpose. You drive through it to get to a parking space in the garage and then you park another vehicle behind it. Commissioner Savage stated that it was called tandem parking. In his opinion it was a driveway and not a parking lot.

Planner Astorga stated that in all the criteria identified in Section 2, only a few apply to a parking space of five or more. He referred to page 13 of the Staff report and noted that there was not compliance with Criteria 1, 2, and 3. Criteria 4 and 5 were not applicable.

Commissioner Strachan clarified that Mr. Elliott was of the opinion that it was not a parking lot because it was broken up by the islands. Mr. Elliott stated that it was designed as a driveway. Commissioner Strachan stated that the fact that it is broken by the islands did not answer his questions. Mr. Elliott explained that the islands break the driveways into separate pieces and going into a garage makes it a driveway. It is not an access way to a parking lot.

The Commissioners and Staff discussed the widths of the islands. Director Eddington stated that the Code did not particularly address this particular situation because this development was multi-family dwelling units. He felt it was unclear on whether or not it could be called a driveway. Director Eddington pointed out that the Planning Commission previously deemed the parking a parking lot because it contained five or more spaces. Based on that determination there were spacing restrictions that Planner Astorga had previously outlined. However, the applicant believed it was a series of driveways. Director Eddington stated that the conflict needed to be resolved and the Planning Commission needed to make a determination this evening.

Commissioner Savage thought this was a good project that would be good for a lot of people. He thought the Planning Commission needed to find a way to solve the problem and to decide if it was easier to solve as a driveway or a parking lot. Commissioner Wintzer remarked that there were problems with either scenario.

Assistant City Attorney McLean advised the Planning Commission that as much as they like the project, they still needed to go back to the Code. If the Code is wrong, it can be changed, but they have the obligation to follow the Code that is in place.

Commissioner Gross felt the unfortunate issue with the problem is that it has a major frontage along

Park Avenue and a major frontage along a recreational parking lot. He assumed ten parking spaces were required for the project and the applicant was proposing 14. He thought a possible solution might be to eliminate four parking spaces and widen the buffers in the back to make them less objectionable and closer to Code. Commissioner Wintzer stated that the problem with that solution is that it would push the cars out into the neighborhood.

Planner Astorga emphasized that the bigger issue is that they do not comply with the design guidelines that says the driveway shall be limited to ten feet. He believed the smaller ones could be reduced but it would be difficult to reduce the ones that are 28.5 feet. Mr. Elliott believed the larger ones could be reduced to 21 feet. Planner Astorga pointed out that the requirement was found in the Historic District Guidelines. It was not a requirement of five or more parking spaces. The requirement applies regardless of the number of parking spaces.

Commissioner Savage stated that as a hypothetical, if the Planning Commission agreed to accept the plan as presented, he wanted to know what would need to be done to implement it. Planner Astorga replied that the Planning Commission would have to direct the Staff to change the LMC. Commissioner Savage assumed the next option would be for the applicant to apply for a variance. He understood that there was no way to approve the plan as designed without changing the LMC. Planner Astorga believed that was the only way.

Director Eddington referred to the Note on page 14 of the Staff report. Astorga read, "The City Engineer may approve minor space and width deviations. At this time no deviations have been made by the City Engineer." Mr. Elliott stated that they had not had the opportunity to visit the site with the City Engineer. Planner Astorga stated that he had many conversations with the City Engineer, which included him reviewing the entire Staff report. When Mr. Cassel has an issue he tries to work it out with Staff. Planner Astorga reported that Mr. Cassel had made no comments, which indicates that he occurs with the current Staff recommendation. Mr. Elliott stated that neither the design professional nor the owners had met with the City Engineer.

Commissioner Savage recommended that the project be set in abeyance until the applicants have the opportunity for review with the City Engineer. If the City Engineer can come up with a solution he supports, the Planning Commission would have a different position to consider. Planner Astorga pointed out that the language he read was from the LMC. Unfortunately, the City Engineer does not have the purview to override the 10-foot requirement for driveways as indicated in the design guidelines. He wanted to make sure that the applicant understood that Mr. Cassel would not be able to change the requirement from 10 to 18 feet.

Commissioner Strachan noted that if the City Engineer finds that it is not a minor deviation, it would tie the hands of the Planning Commission.

Assistant City Attorney believed that part of the conflict was that the Staff was given direction at the last meeting to review it as parking for five or more, and that was the basis of the analysis. Since both meetings were work session, it would be appropriate to re-examine whether or not it is a parking lot or driveways. She believed whichever avenue they take has its own challenges.

Planner Astorga was unclear on whether there was a different interpretation this evening as to whether it is five parking spaces or more. If the Planning Commission were to change their

interpretation, there would still be challenges to overcome to comply with Code. Commissioner Strachan could see no way to bend the Code because it was too far outside of the requirements. In his opinion, it is clearly a parking lot as defined because it has more than five spaces. It is not driveways. Assistant City Attorney stated that the alternative was to direct the Staff to look at LMC amendments for this area. Commissioner Gross was comfortable with that alternative. Commissioner Wintzer was not opposed to changing the LMC, but he thought it would be a quicker process for the applicant to consider redesign work rather than wait for changes to the LMC. Commissioner Wintzer agreed with Commissioner Strachan that there was no way to get around the Code. Commissioner Savage thought the only choice was to follow Ms. McLean's suggestion.

Planner Astorga clarified that the Planning Commission was leaning towards changing the LMC. The Commissioners concurred.

Planner Astorga commented on the Sullivan Road access. The first criteria was to increase front yard setbacks. He noted that all the setbacks met the minimum requirements. Planner Astorga referred to page 21 of the Staff report and reviewed the list of Mandatory Elements Criteria outlined in the LMC. The Staff could not find compliance with 2(b) increased front yard setbacks; 2(d) increased TDRs, open space, and/or preservation of significant landscape elements; 2(f) minimized access to Sullivan Road; 3) Design review under the Historic District Guidelines, 4) Incorporation of Pedestrian and Landscape Improvements along park Avenue, Sullivan Road and Eastern Avenue.

Mr. Elliott commented on the increased setbacks and stated that in the original concept, before the garages, the setbacks were five feet greater than the 20-foot minimum. He pointed out that the setbacks are actually 21 feet, which is one foot greater than the minimum. Planner Astorga stated that there was a dual requirement for setbacks. For a front facing garage the minimum requirement is 25 feet, and everything else is 20 feet.

Mr. Elliott explained his interpretation of the intent of the Code. Commissioner Strachan agreed with Mr. Elliott.

Planner Astorga asked if the Planning Commission agreed with his analysis that it was a double frontage lot. Commissioners Strachan, Worel, and Wintzer agreed. Commissioner Savage stated that there was no ambiguity in his mind that the front of the building was on Park Avenue and the back was on Sullivan. Commissioner Strachan believed the Code was written with the understanding that all those properties were double frontage lots and they would need to give on the Sullivan Road side to get the increased setback on Park Avenue, or visa-versa. He did not think it was necessary to increase the setback on Sullivan Road as long as there was the necessary setback on Park Avenue. He pointed out that the structures is front were historic and did not need to move. Commissioner Strachan believed his interpretation applied to the increased snow storage and to the rest of the criteria in Section 15-2.4-9B. The Commissioners concurred.

Planner Astorga referred to criteria (d) increase TDR, open space and/or preservation of significant landscaped elements. The Commissioners were unaware of any significant landscape elements. Planner Astorga stated that the Staff could make the interpretation that there were no significant landscape elements and, therefore, this requirement was not applicable.

Planner Astorga requested discussion on criteria (e), the elimination of multi-unit buildings. Commissioner Strachan noted that the Code states that the Planning Commission shall review and

evaluate the criteria for all projects along Sullivan Road. The Code does not say that a multi-unit or triplex dwelling is not allowed. In his opinion, it was optional. Commissioner Savage thought the criteria would not apply because there was not a multi-unit or triplex dwelling that could be eliminated. The Commissioners concurred.

Planner Astorga stated that criteria (f), minimize access to Sullivan Road, was in conjunction with the parking analysis. In looking at the site plan, he was unable to interpret that this would be limited access off of Sullivan. Commissioner Strachan thought the Code encouraged minimizing the access, but it is not required. The Code only says that the Planning Commission has to evaluate it. He believed they had already evaluated it in the context of the parking discussion by determining that the access to Sullivan Road as currently designed was too intensive based on the number of parking spaces.

Mr. Elliott pointed out that they were proposing 10 units, which was less than the base density of 14 units. Therefore, they had minimized the access by reducing the density. Commissioner Strachan remarked that if the applicant was able to resolve the parking problem, the access would be minimized further.

Mr. Elliott asked for clarification from the Planning Commission on whether the issue was that the proposed parking was too intensive or that it did not meet Code. Commissioner Savage replied that it did not meet the criteria of the Code. Commissioner Strachan thought it was both issues. The purpose of the Code is to control the intensity of use and that can be done through various means, including parking requirements. Mr. Elliott stated that he did not look at it as being too intense. His interpretation was being able to find a way to apply the Code. Commissioner Savage encouraged Mr. Elliott to explore a way to resolve the Code issues, which would include a reduction in the number of parking spaces.

Assistant City Attorney McLean understood that because the applicant was not maximizing the density that could be on these lots, Commissioner Strachan interpreted that as minimizing the access to Sullivan Road. She asked if there was consensus among the Planning Commission on that interpretation. The Commissioners concurred.

Planner Astorga noted that the Staff interpretation was non-compliance with 4) Incorporation of Pedestrian and Landscape Improvements along Park Avenue, Sullivan Road and Eastern Avenue. However, based on the direction he received for the increased snow storage and the preservation of the significant landscape elements, he thought he could work on finding compliance with the criteria.

Commissioner Strachan thought the project needed to have better pedestrian connections. Commissioner Gross agreed, and believed it was tied in with the parking in the back. Commissioner Strachan pointed out that the Code was more mandatory in this criteria because it says "the plans must save, preserve, or enhance...." Commissioner Strachan stated that if the project preserves or enhances the existing connections he thought that would be a reasonable interpretation. Commissioner Savage thought that would definitely be accomplished on the Park Avenue side because that perspective would be much more attractive than it is currently. Based on the final design, from an aesthetic standpoint he believed the back would be equivalent or superior to the adjacent projects.

Planner Astorga read criteria 5) Parking mitigation. Plans that keep the front yard setbacks clear of parking and minimize parking impacts near intensive uses on Sullivan Road are positive elements of

any site plan. He found that the project did not comply with this criteria. Commissioner Strachan stated that these were things that should occur, but he did not read it as mandatory.

Planner Astorga requested discussion on criteria 6) Preservation of Historic structures and landscape features. He noted that the Staff did not find compliance with the Design Guidelines and the CUP criteria in terms of mass, scale, and compatibility. The issue is that the separation between one historic structure and the new structure is 3-1/2 feet. The second historic structure has a separation of four feet. The interpretation is that it is extremely difficult to have a compatible addition when it is so close to the historic structure. He clarified that these were not additions because they are not connected; however, viewed from the public right-of-way, they would be seen as additions because of the close proximity.

Commissioner Savage asked if there was a provision in the Code that speaks to the specific issue of the distance between the buildings. Planner Astorga replied that the Code does not have a hard answer. However, the Staff finds that 3-1/2 feet is not enough distance and would recommend 8 to 10 feet of separation.

Mr. Elliott pointed out that they would be allowed to do additions to the historic structures. They felt this was a more appropriate way to maintain the historic structures and identify them as being separate; and at the same time keep them close enough to the rest of the units to be part of it. Mr. Elliott believed they had maintained the character of the existing structures and reduced the impacts of the structure behind. He felt the plan was very consistent with the Design Guidelines.

Commissioner Strachan clarified that the historic structures were part of this project. Mr. Elliott replied that they were two units in the project. He explained how the project was designed based on direction from Staff at the pre-application meeting. He reviewed the elevations showing the historic homes and the new building behind. Commissioner Savage thought the new building would need to be moved back a significant distance before the separation would be visible. Planner Astorga noted that the Staff was being strict on the interpretation of compliance with the Historic District Design Guidelines because the applicant had indicated that they would have the highest degree of historic preservation. Commissioner Savage thought the focus should be on questions related to the façade, colors and compatibility between the historic structures and the structures immediately behind them. In his opinion, the contrast of a modern building behind the historic structures would be more apparent than the distance between the buildings.

Mr. Elliott pointed out that they are encouraged not to mimic or replicate the historic structures. It is a delicate balance of design and they tried to place the building where it would have the least impact to the historic structure. As far as he could tell, they had not violated the Code or the Design Guidelines through the process, and they had designed the project with compatibility in mind.

Planner Astorga noted that the applicant would have to work with the Staff on the Historic District Design Review. The Planning Commission was not involved in the HDDR, but he encouraged their feedback and comments for consideration. Mr. Elliott was also interested in hearing the Commissioners comments. He would need to know if they did not find it compatible.

Commissioner Wintzer was uncomfortable with raising the two historic structures. He understood Mr. Elliott's reason for doing it, but it takes them out of the context of the streetscape. Mr. Elliott

stated that he could lower the one on the left by a foot, but they would have to take it out of the flood plain. The structure on the right fits the criteria in the zone and the design guidelines. Commissioner Wintzer suggested that Mr. Elliott look at taking the structures out of the flood plain.

Commissioner Strachan believed the applicant had a challenging battle meeting compatibility. The proposed structure was more modern than the adjacent multi-family structures, and he could not see a seamless transition with the two historic structures.

Chair Worel wanted to see the transition more seamless. She thought the new building was too modern to blend with the historic structures. Commissioner Gross agreed, particularly the view from Park Avenue looking east. Commissioner Strachan thought Mr. Elliott had the opportunity to revise the design to make it work.

Planner Astorga clarified that the Staff was not against co-housing and affordable units; however, they are charged with applying the Code.

Chair Worel called for public input.

Clark Barron, an owner in the Struggler condos adjacent to this project, agreed with the Staff report. In his opinion this project does not comply with Code on the issues of parking and compatibility. He recognized that some of the surrounding structures are very large, but they were built prior to the Historic District Design Guidelines. Mr. Barron remarked that the LMC and the guidelines are in place for a reason and this project should have to comply. Mr. Barron noted that the proponents of the property made them aware that these were the last two historic properties to be developed along Park Avenue. He believed that fact makes a stronger case for making sure it is developed in the right way. Mr. Barron believed the project as designed is not compatible with the surrounding structures. He agreed with the statement that new construction should be subordinate to the historic structures, and this structure is not. Mr. Barron did not agree with the discussion concerning two frontages. He noted that ten people live in the project and eight of the front yards front Sullivan Avenue and only two go the other direction. He was unsure how they could classify Sullivan Avenue as a back yard in terms of setbacks. Mr. Barron asked the Planning Commission to be cautious about counting the green roof as part of the open space. In his opinion it is a slippery slope. Another condo project could build property line to property line, cover the whole roof with grass and call it green space. That is not the intent of open space. Mr. Barron commented on the number of issues and problems with this project and noted that the reason is that it does not fit the lot. He believed there were better uses for this last historic green space.

Jane Crane, an owner in the Struggler condominiums, agreed with Mr. Barron on all the issues. She was concerned about water issues if the historic home next to the Struggler is raised. Her property already gets a lot of water from the snow and she worried about further problems if the elevation is changed.

Ethel Preston, one of the co-housing owners, was unsure what the Planning Commission was looking for in terms of compatibility. She noted that the two developments on either side of this project were built in the 1970's. Ms. Preston asked if the Planning Commission wanted the co-housing to look like a 1970's project. She did not understand their comments about looking more modern than the surrounding units.

Chair Worel explained that her comments was that she would like to see more seamless from Park Avenue so it flows with the historic structures as one property.

Ms. Preston pointed out that another person had said that the building looked too modern and it was not compatible with the surrounding structures. She asked what age they wanted the building to look like.

Commissioner Strachan noted that he had made the statement about being too modern. He could not define compatibility but he knows it when he sees it. Commissioner Savage told Ms. Preston that their comments addressed compatibility with the façade of the two historic buildings from Park Avenue. They were asking the applicant to find a way to make the façade of the new construction look harmonious and compatible with the look of the historic homes. He clarified that the Planning Commission was not recommending 1970 architecture.

Park City Heights – Possible amendments to Subdivision Plat (Application PL-11-01355)

Planner Whetstone reported that the purpose of the work session was to review contemplated changes to the subdivision plat for the Park City Heights Master Planned Development. The Master Planned Development was approved in 2011, along with a preliminary plat. The preliminary plat and the master planned development went through an extensive review over an extended period of time.

It was a concept plan with a master plan, and a lot of details were discussed before the master plan was approved with a series of conditions. Planner Whetstone noted that a number of different elements of the master plan and the preliminary plat were reviewed at the same time.

Planner Whetstone explained that due to the discovery of mine/waste and contaminated soils, the applicant felt it was necessary to create an area for an on-site repository for soils. It would require changing the configuration of the lots, but not the density. The density would remain at 239 units on 239 acres. The number of affordable housing units and market rate units would remain the same. Planner Whetstone recalled that there were eight affordable units that were not required but were being provided in the mix of 79 affordable units that were undefined. Those units have now been defined. She noted that the original neighborhood would be little smaller, but additional park areas were added.

Planner Whetstone stated that the applicant was working with the State on the Voluntary Cleanup Program; however, the remediation plan has not been approved. She had met with the applicant's representative to plan out a strategy and they felt that it was best to come back to the Planning Commission as a work session to determine the required process to address the issues. Planner Whetstone noted that the applicants would have to do a new preliminary plat for Phase 1 if the repository is approved to remedy the soils issues. The question was whether the applicants could come back to the Planning Commission with a new subdivision plat without re-opening the MPD.

Spencer White, representing the applicant, reiterated that the Park City Heights project went through a lengthy approval process and there was a significant amount of discussion between the Planning Commission and the applicants. They knew they would be coming back at each phase and they did not want to surprise the Planning Commission with a different layout. Mr. Spencer noted that they tried to keep everything as close to the original plan as possible. He not believe anything substantial

had changed, but they wanted the Planning Commission had a say in the process.

Mr. White stated that because of the contaminated soil and the amount of contaminated soil, they need to find a solution to clean it up and mitigate the issue. He explained that the best option is to create an on-site repository. In order to do that, they need seven to eight acres of area. Mr. White requested feedback from the Planning Commission to help address the situation.

Mr. White stated that in the original MPD there are 79 affordable/attainable units, and some of the units were not defined. He noted this current proposal defines those units. There are still 28 attached units, which are the IHC affordable units that were brought into the property. The 35 units that were affordable/attainable units from the City are now defined as small lots, single-family detached, high-density. The 16 units from the market rate units would be disbursed through the cottage homes as planned in the original MPD.

Mr. White remarked that they would prefer not to amend the MPD, and they do not believe it is necessary.

Mr. White outlined other changes that were different than the original MPD. Two parcels of commercial were never defined and they were left for someone in the future to potentially develop. With the space required for the repository, those two parcels were eliminated. Commissioner Strachan recalled that those were Parcels I and J. Mr. Spencer replied that this was correct. Mr. White noted that the two parcels were located along Richardson Flat Road and conditional use permits were attached to them in the future.

Mr. White commented on the positive aspects of the plan. He indicated the power corridor that runs up the property and noted that in the original MPD some lots were adjacent to the power corridor. During the planning process a visual analysis was done and those were of concern. Mr. White stated that all but the two highest lots were brought down further and some of the visual concerns were addressed.

Mr. White stated that the small lot, single-family detached units are an alley-loaded product. Some of the alley-loaded cottage homes were eliminated. Going through the Phase I approval process with Engineering and Public Works, they eliminated some of the alley-loaded product to address snow storage and similar issues. Mr. White noted that the design guidelines would stay the same, with the exception of minor modifications for the small single-family detached units.

Commissioner Hontz stated that if the Planning Commission determined that it needed to follow the MPD process based on Code, she wanted to know how that would be different from just amending the subdivision. Planner Whetstone replied that it was two phases. Based on Code, if there is a substantive change that would be considered a change in concept, density, unit type or configuration of any portion, the MPD would be reviewed. Otherwise, the applicants would have to start with a pre-application conference against the General Plan review.

Commissioner Hontz referred to the LMC language and felt strongly that this request met the first sentence, which states that if there is a change to the unit type or configuration, the entire master plan and development agreement is reviewed by the Planning Commission. The sentence did not say anything about a "substantive" change. Commissioner Hontz assumed that the MPD process

would lead to the subdivision replat, and it would only require one or two additional meetings.

Commissioner Hontz recalled that the Planning Commission had concerns relative to soils issues from the beginning and they asked the developer and the City to add language in the development agreement to indicate that there were concerns about soils issues. Mr. White replied that those were two different soils. Commissioner Hontz recalled specifically mentioning the issues on the soils across the street that had to be capped and mitigated. She pointed out that the issues were public safety, health and welfare. She was sympathetic to the problem, but the Code clearly states what they are obligated to do and she believed the applicant needed to come back for an MPD review.

Assistant City Attorney McLean stated that from a legal perspective, different interpretation was one reason why this was scheduled for a work session. She stated that when there is an MPD, minor changes are often done that do not come back to the Planning Commission because it was viewed as non-substantive. Commissioner Hontz stated that she would agree if it related to a window type or moving a house on a lot. However, the language clearly says unit type and configuration, and both of those things occur in this request. She felt they were fully within their rights to require a review of the MPD.

Commissioner Wintzer thought it would be helpful to see a list of everything that was approved and another list of everything they were changing so they could easily compare and determine which changes are substantive and which are not. He was concerned about the same issues in terms of number of units, the amount of open space, and the ridges along the edges. He suggested that the developer pull out the original visual analysis and show that it has not changed. Commissioner Wintzer was not interested in starting the process over, but he would like to compare it to what was already approved. He thought it would also help the new Commissioners understand what was approved and what was being changed.

Chris Gamvroulas with Ivory Development, noted that the Staff report contained 63 conditions of approval and possibly five would have a slight change. He noted that in an effort to make it easy for the Planning Commission visually, they had juxtaposed the plans. Mr. Gamvroulas explained that the previous plan was shown in yellow.

Mr. Gamvroulas stated that the topographical map that everyone was working off of had busts in it, and approximately 13' of issues within the topographical map were not accurate. They now have a very accurate topographical map. He pointed out that the low area by the frontage road is the area that would be filled in with remediated soils. Mr. Gamvroulas stated that they had a letter from DEQ moving them forward in the process of the Voluntary Cleanup Process through the State.

Mr. White clarified that the Voluntary Cleanup Program is State run through the Department of Environmental Quality. Some of the other sites are governed by the EPA. Mr. White pointed out that the DEQ has oversight by the EPA and they are aware of it as well. Mr. Gamvroulas stated that the State and the EPA were encouraging Park City Heights to put in the repository because there are many issues involved with truck the soils off-site. He pointed out that they were trying to resolve the problem as landowners and as citizens.

Mr. Gamvroulas reviewed the changes on the plan and identified the areas that were being

reconfigured. He noted that they were days away from recording the first plat when the soils issue was discovered.

Commissioner Savage understood that there was a discrepancy in opinions related to the nature of the direction going forward, and whether this would open the MPD to a complete review or if they could take a more simple approach. He thought they should address that issue before they spend time on the points outlined in the Staff report.

Director Eddington stated that the question was whether the MPD should be opened for an amendment review, or if they should take it forward as a plat review subdivision, conditioning that review with design guidelines. Commissioner Savage thought it was a question of what they are required to do, rather than what they want to do.

Commissioner Savage stated that if the Planning Commission conducted their review in the format suggested by Commissioner Wintzer, and as a result of that review did not identify any issues that would negatively impact the previously approved plat, he would support a simple modification rather than re-opening the entire MPD. However, he respected Commissioner Hontz's opinion regarding the Code language and he was interested in hearing the opinions of the other Commissioners.

Commissioner Hontz clarified that her concern was about setting precedent because the Code is very clear. She was comfortable with the review level, but she felt they were obligated to follow the Code. Commissioner Hontz stated that on a first glance she thought the changes proposed were good and she did not anticipate a difficult process. However, she would be uncomfortable if another MPD came forward with changes and they had already set the precedent.

Commissioner Strachan thought the applicant needed to go through the pre-application public hearing as required in LMC Section 15-6-4. He noted that the applicant had to go through the hoops before they could get to the discussion that they hoped to have this evening. Commissioner Wintzer thought they could review the changes and have the discussion quickly. Commissioner Strachan agreed that it could be done quickly, but just because it could be done fast, he did not think the applicants should be able to skip the steps to get there. Commissioner Wintzer shared the concern of setting a precedent; however, he thought all the steps could be accomplished in two or three meetings.

Commissioner Thomas was not ready to say that the changes were not substantive, and that still needed to be determined. He supported Commissioners Hontz, Strachan and Wintzer in terms of process and understanding the depth of the changes. If it takes the full process by Code interpretation, that is what they should do.

Commissioner Gross stated that he was not on the Planning Commission at the time of the original approval; however, at first glance he did not think the changes looked that significant. Chair Worel agreed that the request needed to go through the full review process.

Commissioner Savage recommended that in the course of initiating the process, that the Planning Commission achieve the objectives that Commissioner Wintzer recommended as early in the process as possible, so anything substantive would come forth very quickly.

Mr. White expressed his hope that they would not have to start at the beginning and that the review of the MPD could begin from where they left off. Commissioner Strachan pointed out that it was a different Planning Commission and the vote may be the same or it may be different.

The Commissioners and the applicant reviewed the process and what they hoped to accomplish. Commissioner Wintzer requested to see the views on the ridge, a section through the area they intend to fill and what it is and what it is going to be, and what they plan to do on top of the disturbed area.

Chair Worel called for public input.

There were no comments.

The Work Session was adjourned.

DRAFT

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 26, 2013

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Charlie Wintzer

EX OFFICIO:

Thomas Eddington, Planning Director; Kirsten Whetstone, Planner; Matt Evans, Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

The Commissioners met in work session prior to the regular meeting. The work session discussion can be found in the Work Session Minutes dated June 26, 2013.

ROLL CALL

Chair Wintzer called the meeting to order at 7:45 p.m. and noted that all Commissioners were present.

ADOPTION OF MINUTES

June 12, 2013

MOTION: Commissioner Wintzer moved to APPROVE the minutes of June 12, 2013 as written. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington welcomed back Kayla Sintz to the Planning Department as the new Planning Manager.

Director Eddington reported that the City was interviewing for new Planner positions in an effort to bring the Staff up to full capacity.

Director Eddington referred to the Staff Communication items on the June 12th agenda under Staff Communications. The first was Jim Tedford's letter regarding MPDs. He noted that the Staff and the Planning Commission had already addressed the issues outlined in the letter. The Staff had requested additional information based on Mr. Tedford's question as to whether or not the Planning Commission had reviewed his letter. Director Eddington clarified that Mr. Tedford's letter had been reviewed during the MPD discussion and the Planning Commission took his information into account and decided to reduce the extent of the MPD changes in their recommendation to the City Council. Director Eddington noted that the recommendation regarding MPDs was scheduled before the City Council on July 11th. Mr. Tedford would have the ability to voice further concerns or additional amendments at the City Council meeting. Director Eddington wanted the Planning Commission to clearly understand that Mr. Tedford's letter had been addressed.

Director Eddington stated that the second Staff Communication item on the June 12th agenda was the issue of SR248. He noted that Highway 248 is under construction as a UDOT project to expand and repair the road and to create an HOV lane. The project is currently on schedule.

Based on the number of excused absences submitted, Director Eddington asked how many Commissioners would attend the July 10th meeting to make sure they have a quorum. Commissioners Worel, Thomas and Wintzer would be out-of-town. Commissioners Hontz, Gross, Strachan and Savage would attend; therefore, there would be a quorum. Assistant City Attorney McLean asked the four Commissioners who would attend to check the agenda prior to the meeting to make sure they would not have to be recused from any of the items. If that occurred they would have to reschedule the item because the three remaining members would not be a quorum.

Director Eddington noted that the fourth Wednesday in July, which would be their regularly scheduled meeting was the 24th of July and a City holiday. Since there were five Wednesdays in July, he proposed to move the second meeting to July 31st. The majority of Commissioners would be available and they agreed to change the meeting to July 31st.

Commissioner Hontz asked about Planning Commission applications since terms were expiring for three of the Commissioners. Director Eddington explained that the Code is written such that the Commissioners sit as standing members of the Planning Commission after expiration of their term until the City Council accepts applications for their replacement. He recalled a discussion at the last City Council/Planning Commission joint about delaying the application process and leaving the Commissioners standing for an additional six months until the General Plan, Form Based Code, Bonanza Park and other major issues have been completed.

Chair Worel announced that due to the length of the work session and the number of items on the regular agenda, the Planning Commission had agreed to a hard stop of 10:00 to end the meeting, and to continue any remaining items at that time. The applicants on the agenda were given the option to have their items continued immediately instead of taking the chance that their items would not be heard this evening. All the applicants preferred to wait, with the understanding that the item could be continued to the next meeting if it was not heard prior to 10:00 p.m.

Commissioner Thomas disclosed that he would be recusing himself from two agenda items this evening. The first was 124 Norfolk Avenue, and the second was Lots 21-32 Echo Spur.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 30 Sampson Avenue – Ratification of Findings (Application #PL-12-01487)

Planner Matt Evans reported that the Planning Commission reviewed this application on April 24, 2013, at which time the applicant's representative asked to have the item continued. During that meeting the Staff offered testimony from the Chief Building Official, Chad Root, regarding the issue of connecting the elevator shaft to the Main Building via a deck, and whether that would constitute connecting the two building. Mr. Root confirmed that it would be considered a connection between the two buildings. Since that time the applicant sought clarification from the Chief Building Official and asked if it would still be considered a connection if the two structures were somehow independently separate from each other. Mr. Root told the applicant that they would not be considered one building if they were structurally independent from one another.

Planner Evans noted that the applicant also asked Mr. Root for clarification on the basement issue. The Planning Commission had made a finding that the basement was not fully below grade due to the window well issue. Mr. Root provided his opinion based on the Uniform Building Code, that the window wells would not count towards having the basement considered to be above grade. Planner Evans noted that it was only the interpretation of the Chief Building Official and the Planning Commission has the right to make their own interpretation based on their own findings, and the definitions in the LMC.

Planner Evans stated that the same Findings of Facts that applied before still apply, with the exception of eliminating the previous Finding #39, which was the CBO's determination that the structures were somehow connected if the deck structure was to connect to the elevator building.

Jon DeGray, the project architect, was available to answer questions on behalf of the applicant.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Thomas stated that the application that came before the Planning Commission had the upper house and the lower house connected. Those were the drawings submitted with the application. He thought the Planning Commission should be voting on those drawings, unless they were being presented with revised drawings that change the design.

Assistant City Attorney McLean stated that the drawings had not been changed; however, the Staff had provided evidence from the Chief Building Official in the Staff report. She recalled that the Planning Commission was prepared to ratify the findings for denial at the last meeting, but the application requested time to meet the Chief Building Official. After further reflection and the fact that the applicant is able to create a separation in the same design, and the Chief Building Official

did not personally testify before the Planning Commission, the legal recommendation to the Staff was to remove Finding #39 because it was not part of the findings the day of the public hearing.

Commissioner Wintzer understood that the Planning Commission would not be voting on the comment on the drawing that changes the original plans. Assistant City Attorney McLean replied that this was correct. The Planning Commission would be voting on what they saw when this application was reviewed in April.

Commissioner Hontz referred to page 158 of the Staff report, and thought Finding of Fact #12 should be revised to reflect similar language as in Finding #11 to read, "The applicant had not submitted a streetscape analysis as required by the Land Management Code." The fact that the streetscape was not presented to Staff was not the finding. The finding is the fact that it was not submitted by the applicant. Commissioner Savage remarked that the list did not include several other things were not included in the application. He thought Commissioner Hontz had made a good point.

Commissioner Hontz referred to page 159, Finding of Fact #21 and asked if the other Commissioners thought the language should be revised to better reflect the intent. The Commissioners were comfortable with the finding as written.

MOTION: Commissioner Strachan moved to Ratify the Finding of Fact and Conclusions of Law contained on pages 158 through 161 of the Staff Report and as amended, to deny the Steep Slope Conditional Use Permit at 30 Sampson Avenue. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 30 Sampson Avenue

1. The property is located at 30 Sampson Avenue.
2. The property is within the Historic Residential (HRL) District.
3. The property is Lot 3 of the Millsite Reservation Supplemental Plat, which was recorded in 1995.
4. The Lot area is 7,088 square feet, the minimum lot size in the HRL district is 3,570 square feet.
5. The subject property is very steep ranging from flat areas near Sampson Avenue and climbing uphill with slopes reaching between 30-40% before reaching the main body of the lot.
6. The proposal consisted of a single family dwelling of 4,585 square feet which includes a 453 square foot detached garage, a 350 square foot garage entry and a 106 square foot access tunnel which is located below ground.

7. Plat notes indicate the maximum square footage allowed for this lot is 3,000 square feet with an additional allowance of 400 square foot for a garage.
8. A 1998 letter from the (then) Community Development Director Richard Lewis, determined that the 3,000 square foot maximum only applied to the above ground portion of the future dwelling, and that basement areas would not count against the 3,000 square foot maximum so long as they were constructed fully below the finished grade. This letter was recorded on the title of the property.
9. The Land Management Code has been amended numerous times since 1998.
10. An overall building footprint of 2,272 square feet was proposed. Under the current LMC, the maximum allowed footprint is 2,355.5 square feet, based on the total lot area.
11. The applicant submitted a visual analysis, and renderings showing a contextual analysis of visual impacts.
12. The applicant did not submit a streetscape analysis as required by the Land Management Code.
13. The cross canyon view contains a back drop of both structures, a two (2) story home up the hill with a two (2) story garage building in front.
14. The proposed design incorporates a driveway from Sampson Avenue on the top slope of the street and provides two (2) legal off-street parking spaces, which meets the minimum parking requirement.
15. The detached garage/elevator building is set back fifteen feet (15') from the front property line, and the main portion of the building (the habitable portion of the overall dwelling) is located approximately 77 feet from the street.
16. At their closest points, the two buildings are approximately nine (9) feet apart from each other and are attached by a deck with footings, which attaches the elevator building to the upper (second) floor of the main house.
17. The proposed height of the main building (home) and the elevator building is twenty seven feet (27').
18. 2,996 square feet of the total 4,041 square feet of building space is above ground.
19. The building locations and the proposed building designs both climb up the hill from Sampson Avenue. The proposal utilizes virtually the entire lot rather than concentrating the structure on one portion of the lot. The structures by their

placement, massing and height are not located on the lot in a manner that reduces the visual impact.

20. The lot has been deemed to have eight (8) different sides, and thus a Planning Director determination for setbacks has previously been determined and calculated as outlined within the analysis section of the report.

21. The proposed home attempts to maximize the minimum setbacks on each of the property lines. The proposed garage building maximizes the setbacks on the front and on the south property line.

22. There is no proposed screening of the home from Sampson Avenue due to the fact that the home climbs up the hill from the right-of-way, and that there is proposed parking and driveway area in front of the garage. There is no proposed screening of the home between the elevator building and the home due to the fact that the applicant has proposed an attached deck and patio connecting the two structures, thus minimizing any screening opportunities with exception of adjacent properties that are already screened by existing "Gamble Oaks" and other existing vegetation.

23. The scope of the project requires extensive retention of the hillside, and no substantial mitigation has been proposed to reduce the detrimental impacts to the hillside and the design is not appropriate to the topography of the site. The revised design provided by the applicant since the original inception shows substantial retention and retaining walls around the south property line and substantial retention and retaining walls around the garage building on the north property line.

24. The visual analysis cannot include what could potentially be built around the proposed home as doing so would be purely hypothetical.

25. The lot analysis presented by staff for Sampson Avenue and adjacent properties to the subject property are irrelevant for comparison because the study only takes into consideration lot size and home size, and does not take into consideration the height, setbacks, mass and scale of existing historic homes located on adjacent property, or nearby properties, including those located within the same District on King Road, thus making the analysis dissimilar for compliance with the LMC and General Plan.

26. The Existing Home Size Analysis for neighboring properties in the Staff Report does not reflect current LMC requirements, and most of the homes in the area were built prior to the current code requirements and considerations, and thus should not be used when looking at comparable home sizes consider that some of the homes in the analysis could not be built under the current LMC requirements.

27. There are existing historic homes as listed in the Historic Sites Inventory near

the proposed site on Sampson Avenue, including the adjacent 40 Sampson Avenue, (approximately 1,700 square feet), 41 Sampson which is across the street from the subject property (approximately 900 square feet) as well as nearby 60 Sampson Avenue and 115 Sampson Avenue.

28. The proposal does not meet the purpose statement of the Historic Residential Low (HRL) district, specifically §15-2.1-1(C) preserve the character of Historic residential Development in Park City.

29. The proposal does not meet purpose statement (LMC §15-2.1-1)(E) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods.

30. The proposal does not meet purpose statement (LMC §15-2.1-1)(F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

31. The proposed development has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(1) "Location of Development" due to the fact that the building locations and the proposed building designs do not reduce visual and environmental impacts because both climb up the hill from Sampson Avenue, and because the proposal utilizes virtually the entire lot rather than concentrating the structure on one portion of the lot. The structures are not located on the lot in a manner that reduces the visual impact.

32. The proposed development has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(2) "Visual Analysis" because the proposal does not provide screening, vegetation protection, or other design opportunities that could have been incorporated into the design to help mitigate these issues.

33. The proposed development has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(5) "Building Location" due to the fact that the proposal does not coordinate with adjacent properties to maximize opportunities for open areas and preservation of natural vegetation to minimize parking areas.

34. The proposal has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(6) "Building Form and Scale" because the applicant is not proposing "smaller components" nor are they proposing low-profile buildings that orient with the existing contours. Both buildings are large and are not broken into the smaller components as encouraged by this sub-section of the LMC.

35. The proposed has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(7) "Setbacks" due to the fact that the proposed setbacks only help to maximize the building site and are not compatible with other historic structures in the neighborhood.

36. LMC §15-2.1-6(B)(7) requires that the variation in setbacks will be a function of the site constraints, proposed building scales and setbacks from adjacent structures, and the proposed buildings do not consider the site constraints and thus cannot be substantially mitigated.

37. The proposed home has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(8) " Dwelling Volume" due to the fact that the proposed basement adds significant volume to the building, which was an issues that was raised by the City Council in the minutes of the 1994 City Council meeting to approve the Subdivision that created the subject lot.

38. The proposed home is not compatible with existing historic homes in the neighborhood with respect to height, setbacks, mass or scale, and the proposed home and garage buildings offer no substantial mitigation measures necessary to show compatibility with the nearby existing structures.

39. Height within the HRL District is limited to three (3) stories, and the proposal is for two buildings a main structure (home) and a garage with an elevator building that connects to the home by a patio and a deck. The two buildings appear by their placement to be a five (5) story building. Connecting the buildings in this manner does not meet the intent of the LMC §15-2.1-5(B).

40. The basement proposed does not meet the criteria for not having it count against the overall building size maximum of 3,000 square feet as noted on the 1995 Millsite Supplemental Plat, because there are windows and a window well in the basement, making the basement not fully below grade, which was the criteria as described in the Plat note for the property, as stated in Finding of Fact #8.

41. The visual mass of the proposed dwellings have not been mitigated by this home design.

42. Additional parking beyond the minimum two (2) required spaces might be necessary due to the location of the home on a sub-standard street that offers no off-site parking.

43. This Ratification was continued from the April 24, 2013 Planning Commission meeting.

Conclusions of Law – 30 Sampson Avenue

1. The proposed development does not meet the "Purpose" of the HRL District, specifically with respect to LMC §15-2.1-1(C)(E) and (F).

2. The proposed does not meet the criteria for development on steep slopes, specifically Land Management Code §15-2.1-6(B)(1-2), and (6-9).

3. The proposal is not historically compatible with other buildings within the HRL District, or areas nearby with respect to setbacks, height, mass or scale.
4. The proposed development does not meet the intent of the maximum height requirement restriction of no more than three (3) stories as required in LMC §15-2.1-5(B).
5. The reasonably anticipated detrimental effects of the proposed home and garage buildings on a steep slope cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with the applicable standards specifically LMC §15-2.1-6(B)(1-2) and (6-9).

Order

The Steep Slope Conditional Use Permit for the proposed new single-family dwelling 30 Sampson Avenue is hereby denied for the reason specified within the Findings of Fact and Conclusions of Law listed herein.

2. 415 Deer Valley Drive – Plat Amendment (Application PL-13-01910)

Planner Matt Evans reviewed the application for a plat amendment to combine four Park City Lots and two partial lots into one new lot of approximately 8200 square feet. There is an existing home on the property and the applicant is contemplating an addition to the home. In order to achieve the addition the applicant is required to consolidate the lots into one parcel.

Planner Evans distributed copies of an illustration and noted that the green color identified what exists on the site and the blue color indicated what was being proposed. He had also added a proposed deck.

Planner Evans stated that the applicant was also aware that the back part of the property, which has frontage on to platted, but unbuilt Coalville Avenue, is a steep area and they do not contemplate future development in that area. Therefore, the applicant proposes a non-building limit just beyond the hot tub. The area is approximately 3,375 square feet or 60' x 56.25 feet.

Planner Evans noted that page 189 of the Staff report incorrectly showed the lot width as 50 feet. The correct lot width is 56.25.

Commissioner Savage asked if the unbuildable area described included the setback areas. Planner Evans replied that this was correct. He explained that the setback area was shown on the illustration to give an idea of how the house fits within the setback area now, as well as what the applicant was proposing. He stated that the setbacks were the typical 5-foot, 10-foot rear, 15-foot front yard setbacks as required by the zone.

Planner Evans remarked that the garage encroaches over the front property line. As indicated in the Staff report, there is a discrepancy between the built right-of-way and the actual platted right-of-way of approximately 30 feet, and it occurs where Deer Valley and Heber Avenue meet. Planner Evans

believed the house was built around 1977. The applicant would be required to obtain an encroachment agreement from the City Engineer for the garage as it currently extends over the front property line.

David White, the project architect, was available to answer questions on behalf of the applicant.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Hontz stated that if the plat amendment was approved and the applicant proposed new additions, with the garage already has a zero setback, she asked if they would be further impacting a non-conforming use. Planner Evans stated that if the applicant wanted to do anything with the garage, including tearing it down, she would be required to conform to the setback requirement.

Assistant City Attorney McLean explained that under there is a non-conforming use section under the Code which states that the degree of non-conformity cannot be increased. Any change to the garage would have to comply with that Code section.

Commissioner Hontz asked about fencing. She noted that one of the neighbors had fenced around their entire hillside and it is an eyesore and it impedes wildlife movement. She recommended that they prohibit fencing along the proposed non-buildable area or behind the deck.

David White noted that the original site plan shows a fence along both sides of the property line. He asked if the existing fence would have to be taken down. Commissioner Hontz pointed out that the existing fence belongs to the neighbor. Diana Thompson, the applicant, stated that there are stacks of wood in areas where the fence has come down. She was unsure who owned the fence. Mr. White informed Ms. Thompson that the fence was shown on her property. He noted that on the east side the fence was shown going up as far as the hot tub. On the west side it was shown going all the way up.

Director Eddington thought it looked like the neighbor's fence was on Ms. Thompson's property. The Commissioners agreed. Commissioner Hontz assumed that the applicant would not want the neighbor to rebuild the fence on her property. Therefore, the neighborhood would have to go through the process to build the fence on their property.

Assistant City Attorney McLean pointed out that the Code only requires permits for fencing over 4 feet.

Commissioner Hontz referred to page 193 of the Staff report, Finding of Fact #11. She felt the language was confusing and the finding should be revised to indicate that future development must meet the setback requirements at the time of application. Commissioner Hontz corrected Condition of Approval #6 to indicate that there was only one ten foot (10') wide public snow storage easement. The word "easements" should be changed to "easement."

Commissioner Strachan thought Finding of Fact #11 could be deleted because the Code would address the setbacks for future development. Commissioner Hontz agreed.

Director Eddington suggested a revision to Finding # 7 to replace the word “non-conforming to with “non-complying”. The revised Finding would read, “The homes is **non-complying** with respect to the front yard setback requirement, and the existing garage has a zero foot setback where fifteen feet is required.”

Commissioner Hontz asked if the Commissioners thought Condition #4 needed further clarification regarding the non-buildable area and fencing. Director Eddington recommended adding a sentence to Condition #4 stating that, “This no-build area shall include all structures (e.g. buildings, fencing, etc.). No vegetation shall be disturbed in this area.” The Commissioners were comfortable with the revision to Condition #4 as stated.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for the plat amendment a 415 Deer Valley Drive based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance and as amended. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 415 Deer Valley Drive

1. The property is located at 415 Deer Valley Drive within the Residential (R-1) District.
2. The overall property is made up of four (4) full Park City Survey Lots and two partial lots totaling 8,437 square feet.
3. There is an existing home on the property that straddles two lots.
4. The applicant is proposing to combine the lots in order to construct a rear addition to the home, as well as an interior remodel. The plat amendment is necessary due to the fact the home straddles two lot lines and the required setbacks would encroach on the other two lots (as well as the partial lots).
5. Although the existing home is near Old Town, it is not historic and is not identified on the Historic Sites Inventory.
6. There is a discrepancy between the platted location of where the Heber Avenue and Deer Valley Drive rights-of-way converge and the physical location of Deer Valley Drive, which has left a gap of approximately twenty-five to thirty feet (25'-30') between the street and the garage.
7. The home is non-complying with respect to the front yard setback requirement, and

the existing garage has a zero foot (0') setback where fifteen feet is required.

8. The property has frontage onto both Deer Valley Drive and Coalville Avenue. However, Coalville Avenue is not a built roadway, and is likely never to be built due to the steep terrain of its location.

9. The proposed lot meets and exceeds the minimum lot size established in the R-1 District, as the minimum lot size is 2,812, and the proposed plat amendment will create a lot of 8,437 square feet.

10. Potential development on the property is limited by the steep terrain in the rear. For this reason, the applicant has voluntarily agreed to limit the potential development area within the back 60 feet of the proposed lot.

Conclusions of Law – 415 Deer Valley Drive

1. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
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.
4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval – 415 Deer Valley Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Modified 13-D sprinklers will be required for new construction as required by the Chief Building Official at the time of review of the building permit.

4. A proposed no-build area shall be shown on the final mylar which delineates the rear sixty feet (60') of the lot as a "non-buildable area." This no-build area shall include all structures (e.g. buildings, fencing, etc.). No vegetation shall be disturbed in this area.
5. The garage encroachment agreement from the City Engineer will be required prior to the recording of the plat.
6. A ten foot (10') wide public snow storage easement will be required along the Deer Valley Drive side of the property only.

**3. 124 Norfolk Avenue – Plat Amendment
(Application PL-13-01880)**

Commissioner Thomas recused himself and left the room.

Planner Astorga reviewed the application for a plat amendment to accommodate an addition to an existing non-historic structure at 124 Norfolk. The request was to combine 2-1/2 Old Town lots into one lot of record. Summit County records indicated that the existing structure was built in 1981 and it was constructed over two lot lines.

Planner Astorga reported that the applicant had also submitted a Historic District Design review for a proposed remodel and a small 46 square foot addition to the existing house, but within the current footprint, which is 2-1/2 lots of record. Planner Astorga pointed out that the applicant could not move forward with a remodel or the addition until the platted lot lines are moved.

Jonathan DeGray was present to answer questions on behalf of the applicant.

The Staff recommended that the Planning Commission conduct a public hearing, review the application and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

Chair Worel asked about the encroachment of the retaining wall onto 52 King Road, as stated in the Staff report. Planner Astorga replied that a wood tie retaining wall encroaches onto the property by a foot or less. He noted that a condition of approval requires the applicant to resolve the issue by working out an encroachment agreement with the neighboring property owner. Removing the retaining wall would be another option if the applicant and the neighbor could not come to an agreement. Chair Worel asked if removing the retaining wall was realistic. Planner Astorga replied that it was not a realistic solution, but the adjacent property has to approve the encroachment of the wall in its existing location. He noted that it could become a civil issue between the two owners. Planner Astorga pointed out that if the applicant could not resolve the issue with the neighbor, the retaining wall would need to be moved and relocated fully on their property.

Commissioner Strachan asked if the addition to the house would come back for a CUP. Planner Astorga answered no, because the proposed addition would be less than 1,000 square feet and the addition itself would not be on a steep slope.

Chair Worel opened the public hearing.

There were not comments.

Chair Worel closed the public hearing.

Commissioner Strachan reiterated the need for a Land Management Code change for the standard of plat amendments. In his opinion, Good Cause was nowhere near being stringent enough.

Commissioner Gross requested that for future applications the Staff label and identify the site better. Planner Astorga noted that it was an issue they have with the PDF. The mark-ups do not show up when the exhibits are printed. He would try to rectify that for the future.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council for the 124 Norfolk Subdivision Plat amendment, in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the draft ordinance. Commissioner Savage seconded the motion.

VOTE: The Motion passed unanimously. Commissioner Thomas was recused.

Findings of Fact – 124 Norfolk Avenue

1. The property is located at 124 Norfolk Avenue.
2. The property is located in the HR-1 District.
3. The proposed lot is 4,687.5 square feet in size.
4. The minimum lot size within the HR-1 District is 1,875 square feet.
5. The lot width of the proposed lot is sixty two and a half feet (62.5').
6. The minimum lot width within the HR-1 District is twenty-five feet (25').
7. The maximum footprint for a lot this size is 1,801 square feet.
8. The site contains a single family dwelling.
9. The applicant would like to remodel the existing non-historic structure.
10. The existing non-historic structure was built over two (2) lot lines.
11. There are no other violations or non-compliances found on the site.
12. No remnant parcels of land are created with this plat amendment.

13. According to the certified Existing Conditions & Topographic Survey, a wood tie retaining wall encroaches onto the neighboring property, 52 King Road.

14. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 124 Norfolk Avenue

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 124 Norfolk Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment (or Record of Survey) for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. If recordation has not occurred within one year's time, this approval for the plat 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 applicant shall resolve the wood tie retaining wall which encroaches onto 52 King Road by obtaining an encroachment agreement from that neighboring property owner or by removal of the wood tie retaining wall before the plat recordation.
4. A 10' (ten foot) snow storage easement shall be dedicated to Park City across the Property's frontage on Norfolk Avenue.

**4. 489 McHenry Avenue, Echo Spur – Plat Amendment
(Application PL-12-01629)**

Planner Astorga reviewed the application for Lots 17, 18 and 19 of the Echo Spur Development Replat located at approximately 489 McHenry Avenue, which is to be known as Echo Spur Drive in the future. The request is to combine the three Old Town lots into one lot of record.

Planner Astorga reported that the Planning Commission reviewed this request during a work session on September 12th, 2013. The various items discussed at the work session were outlined on page 214 of the Staff report. A site visit and another work session were held on December 12th. Items for discussion included specific questions related to the road dedication, the 2007 Settlement agreement, discussions regarding ridgeline development, a vantage point analysis, and possibly placing a square footage limitation on the proposed plat amendment and future plat amendments for the adjacent property owners to the south. The discussion also addressed traffic and access, and height and topography.

Planner Astorga stated that the applicant was proposing to build a single-family dwelling over the three lot combination of these platted historic Old Town lots. The applicant was not interested in building a duplex and has already moved forward with plans to build a single-family dwelling. Planner Astorga noted that the applicant had submitted a model that was prepared by his architect.

Planner Astorga reviewed the plat amendment and the associated exhibits. He presented an Alta Survey that was done on a previous submittal. The Alta Survey showed the original topography before the road was built. Planner Astorga reviewed the plat map showing the three lots at the very end of what is being called Echo Spur Drive.

Planner Astorga reviewed a vantage point analysis provided by the applicant. He clarified that Deer Valley Drive was not an official vantage point; however, the applicant had submitted the analysis to show the project would look from Deer Valley Drive from the roundabout, as well as a closer view. The applicant had also submitted a cross-valley view analysis showing the approximate elevations from PCMR.

Commissioner Savage asked Planner Astorga to further explain the cross-valley analysis. Planner Astorga stated that as defined in the LMC, the point of the ridge analysis from various vantage points is to determine whether or not it the structure breaks the skyline. If it does, it creates an issue. The applicant had taken the photograph from the same elevation on the opposite side of the valley.

Commissioner Wintzer assumed the proposed house would come down to the lowest lot. Commissioner Savage asked if the house was modeled into the photograph presented. Planner Astorga answered no. Commissioner Savage asked if they would eventually see it modeled into the photograph.

Scott Jaffa, representing the applicant, explained that the analysis was only done to show that the site did not break the ridgeline. The house would be located further down the hill. Commissioner Savage asked where the photo was taken from. Mr. Leeto Tlou, the applicant, replied that it was taken from the Green Condos on the Aerie, which is an equivalent elevation to the site.

Planner Astorga clarified that there was no dispute with the elevation. The issue is that the elevation goes down and then up again on both sides, regardless of whether it is viewed from east to west or north to south.

Planner Astorga reviewed the elevations. Mr. Jaffa stated that the houses in front were the existing elevations that were surveyed on those homes. The proposed single-family house would be behind those homes. They had projected how the neighborhood would look at build-out.

Planner Astorga noted that the Staff and applicant had spent time reviewing the minutes from the September 12th and December 12th meetings, and believe they have addressed all the concerns.

The Staff recommended that the Planning Commission review the application, conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval. Planner Astorga stated that if the Planning Commission were to forward a positive recommendation and the City Council approved the plat amendment, the application would have to come back to the Planning Commission for a Steep Slope CUP.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Wintzer questioned how the Staff could find that it was not on the ridgeline. Going through the topo map and what he saw on Google Earth, he was certain it was a ridge. He could run a pencil lines down the contour line on the map provided as an exhibit and it was clearly a ridge. Planner Astorga replied that they were calling it a ridge and read the language on page 217 of the Staff report. "The LMC indicates that Ridges shall be protected from Development, which Development would be visible on the skyline from the designated Vantage Points in Park City." He stated that of the ten listed vantage points, the only one that would qualify as being visible was the cross valley view. Commissioner Wintzer noted that the Staff report also states that, "The Staff does not consider this area to be a ridge due to the difference in the ridgelines." He disagreed with that statement.

Planner Astorga stated that the Staff could change that specific finding based on the statement read from page 217. He clarified that it would be a ridge; however, it is not a ridge that needs to be protected because as viewed from the cross valley view it does not break the skyline.

Commissioner Wintzer emphasized the importance of having it defined. They have all said that ridges are the most important views in Park City and they cannot choose to say this was not a ridge but argue that the next application is a ridge. They need to call it a ridge and specify the reasons why it can be developed on. Planner Astorga commented on development that has already occurred on that ridge.

Commissioner Hontz pointed out that some of those developments may have come in before the ridgeline Code. She knew for sure that most of the developments came in before they had the Steep Slope CUP, which would have affected where those could have been built and probably would have restricted them from going as high up on the ridge. Planner Astorga agreed. However, he noted that most of those developments would not break the skyline. Commissioner

Hontz did not believe those developments set a precedent because they were done under a different Code and a different time. They could not be compared.

Commissioner Wintzer stated that if the Planning Commission were to approve this plat amendment, he wanted to make sure they had a good reason they could defend on the next ridgeline.

Assistant City Attorney McLean stated that with the surrounding developments, it would be challenging to defend a lawsuit. She recognized that things have been built over a series of years, but some of it was built recently.

Commissioner Hontz referred to page 243 of the Staff report, the minutes of September 12, 2012, fifth paragraph, and the question she had asked about the road. As reflected in the minutes, she was told that it would go before the City Council for dedication in December 2012. She noted that when the Planning Commission visited the site it still had not been done and she asked if progress has been made. Planner Astorga replied that there was some progress. The City Engineer, Matt Cassel, intend to have the City Council review it during a meeting in May and accept the road and dedicate it. However, the City Council decided to move the item to a date in September. Planner Astorga reported that he had received additional clarification from Matt Cassel that if for some reason the City Council does not accept the road, it would then become a private drive.

Commissioner Hontz pointed out that in September 2012 the Planning Commission was told that there were issues with that road that would have to be addressed, paid for, managed and mitigated. In December 2012, as reflected in the minutes on page 255 of the Staff report, they were told that there were issues with the road. She noted that the issues are still pertinent and it road is still not dedicated to the City. Commissioner Hontz stated that it would be an entire year from the first time the Planning Commission heard it and the issues still remain. There are obviously problems and she had concerns related to the safety of that road as well as the roads around it.

Council Member Alex Butwinski explained that there were two primary issues. One is that the gate at the end of the road was not adequate and it basically ended in a cliff. The City Council had other issues with accepting the road itself, such as the retaining wall and how it was mitigated. The City Council also wanted time to discuss whether or not they had any recourse for the way it was mitigated.

Commissioner Wintzer asked if the City Council would eventually accept it as a City road. Council Member Butwinski stated that it would depend on what the Staff comes back with in September. He recalled that safety was the main reason for the delay. Council Member Butwinski stated that there was an issue that the aesthetics of the wall and the way it was built did not conform. The wall started to fail and it was mitigated again, but not to their satisfaction.

Commissioner Hontz asked about the bond for the landscaping. Council Member Butwinski stated that the applicant could have bonded for that but the City decided not to.

Commissioner Wintzer referred to page 294 of the Staff report, and asked for the dimension from the lowest lot line to the house and the setback. Mr. Jaffa replied that it was 15-feet. The Code requires 10-feet.

Commissioner Thomas asked if all the topos were taken off of the Alta Survey that were done by Jack Johnson. He also asked if the existing natural grade had been documented based on the Alta Survey. Planner Astorga stated that the discrepancy between the Alta Survey and the other survey was a 6-foot difference from the highest to lowest elevation.

Commissioner Hontz pointed out that the front yard setback would be Third Street. Planner Astorga stated that if that were the case, the minimum setback would be 10-feet. Commissioner Thomas recommended that they establish that for the applicant moving forward. Planner Astorga remarked that if this plat amendment is approved, a condition of approval would prohibit access off of Third Street. Commissioner Hontz clarified that every time this application came before the Planning Commission, access from Third Street has been a significant concern. Planner Astorga replied that the Staff heard her concerns, which is why they added the condition of approval prohibiting construction and access.

Commissioner Hontz stated that as she goes through the previous minutes and details the Planning Commission's concerns and issues, she did not believe any of their requests or issues had been addressed. In her opinion, the design does not do enough to mitigate the ridge. Commissioner Hontz stated that the issue is not whether or not it breaks the skyline. The issues relates to LMC Section 15-7.3-1(D) Subdivision requirements, where the Planning Commission can place restrictions due to the character of the land. She believed the LMC requirements make it very challenging to build on these lots in this manner.

Commissioner Hontz had concerns about the road dedication. Based on their capabilities in terms of reviewing a plat, the streets master plan, street development patterns and public health, safety and welfare are issues they can take into consideration. Those issues have not been addressed because they do not know whether the road and the retaining wall are safe and would be accepted by the City. She personally preferred that they not be accepted because she would not want the taxpayers to pay for any of that moving forward; however, it stills needs to be safe.

Commissioner Hontz commented on the landscaping and stated that the bare retaining wall from all the vantage points is a concern. She noted that in addition to the combination of these lots, they have to take into account the other lots in the vicinity, which was an application they would discuss later this evening. They need to consider how the cumulative impacts of these plat amendments would impact the neighborhood. Commissioner Hontz referred to page 256 of the Staff report and noted that the first, third, and fourth paragraphs mention that Third Street is a dedicated roadway that is unacceptable for access, and the traffic impacts generated from this one proposed house. She pointed out that it was a public health, safety, and welfare good cause limitation that the Planning Commission needed to understand before they could move forward. She reiterated that none of the issues have been addressed and they keep coming back.

Planner Astorga asked if the other Commissioners concurred with Commissioner Hontz. Commissioner Wintzer agreed with her comments with the exception of traffic. These are platted

lots and thought it would be difficult to say that the roads do not accommodate the lots; particularly since the applicant was reducing the density from what could be built. Commissioner Hontz clarified that she based her comments on the plat amendment checklist, which indicates that the Planning Commission can use the streets master plan and their limitations as substandard. In her opinion, the roads are dangerous, which is much worse than substandard. She did not believe the burden should be on the public to accommodate any extra traffic that might be unsafe to themselves or to others.

Commissioner Savage questioned the statement that it should not be the burden of the public to make sure that the roads to platted lots are safe. Commissioner Hontz replied that it was her personal opinion, but she felt the burden should be on the developer if they want to develop the property. The road is not suitable, which is why the City has not accepted it as a public road.

Commissioner Savage understood that the road would either be integrated into the City public road system or not. If not, the developers would be responsible for it as a private road, and he assumed the City Engineer would have oversight to make sure it adhered to a certain level of standards related to health, safety and welfare.

Assistant City Attorney McLean understood that the road has been built to City standards. Commissioner Wintzer argued that her understanding was not quite correct. The road failed once and it was corrected; therefore, he was uncertain whether it was built to City standards. Commissioner Wintzer pointed out that it was an issue for the City Engineer and not the Planning Commission.

The applicant, Leeto Tlou recalled from another meeting that the City Engineer had said that Rossi Hill and the proposed Echo Spur were built to Code, and that Ontario was the only substandard road. Commissioner Wintzer believed that both Rossi Hill and Ontario were substandard streets.

Commissioner Savage commented on the ridgeline issue and noted that the current Code is ambiguous as to the definition of a ridge line. He noted that Planner Astorga had tried to provide examples of the current definition as it relates to breaking the skyline from various vantage points, which was better than nothing. He agreed with Commissioners Wintzer and Hontz, that if you look at the piece of property within the context of a relatively small geographic area, it is an elevated feature. In the process of working on the next iteration of amending the Land Management Code in conjunction with the General Plan, Commissioner Savage thought it was important to come up with a geometric model that defines whether something is or is not a ridgeline within the context of a topological map of the area and certain agreed to distances from which that metric would be measured. As opposed to taking photographs, it would produce a straightforward topological analysis. Commissioner Savage stated that on every topological map things go up and things go down. Wherever something goes up, stops and starts going down could be called a ridgeline. He pointed out that it can happen on a large or small scale, and the Planning Commission needs to determine how they want it defined in a way that is consistent with the objectives of how they want development to proceed as a consequence of the revisions of the General Plan.

Planner Astorga remarked that another provision in the Code, the Sensitive Lands Overlay, talks about various features such as waterways, etc., and it mentions specific mitigation and prohibiting construction on specific ridgelines. He noted that this property was not within the Sensitive Lands Overlay which would prohibit such development on these geographic features.

Commissioner Savage stated that he was not in favor of allowing people to build houses on ridgelines. However, he was also not in favor of prohibiting people from building homes in areas where there may be a ground swell that could be conceived as a ridge by looking at a relatively close-in topological map. Commissioner Savage thought it was important to resolve that issue in an appropriate way in the LMC. The Staff would be able to do the analysis and the result would be black and white without any ambiguity.

Commissioner Thomas agreed with the idea of being able to define a ridge in both written word and geographically on drawings. However, that is a future process and they needed to resolve the current issue. He stated that 100 years ago they would have defined it as a ridgeline, but as it was pointed out early, now it would not be defensible in a court case. Commissioner Thomas was comfortable with the ridgeline aspect.

Commissioner Strachan believed it was a ridgeline from the beginning as evidenced in previous minutes. However, that would be the end of the analysis, assuming the applicant would get enough votes to move forward. Commissioner Strachan felt the good cause standard could not be met because of the unique attributes of the site. Good cause standards require mitigation of the negative impacts. The Planning Commission has not been able to see how combining these lots together would mitigate the impacts. They have seen a proposal but no mitigation solution efforts. They have also seen health, safety and welfare concerns with the road and the access on the substandard streets. Commissioner Strachan questioned how they could find good cause for this plat amendment. He stated that without the combination, if they were kept as three separate lots, they would still have the problems of substandard streets, building on a ridgeline and mitigating the negative impacts that would be caused by building in that location.

Regarding the fact that other houses were built around the ridgeline, Commissioner Strachan stated that the problem was that a prior owner came in and destroyed the ridgeline. Therefore, the other houses viewed at this point in time all look different than they would have if that ridgeline had remained intact. He did not think they could say it did not violate the Code because other houses exist around it and there is no ridgeline. He believes it violates the Code now and it certainly would have violated the Code before any illegal activity of removing the ridge occurred. Commissioner Strachan thought the applicant had an uphill battle on Good Cause.

Mr. Tlou how much weight the Planning Commission puts on documentation, the LMC, the vantage points and documentation to support, and the professional opinions of others versus a declaration of I'll know it when I see it. Commissioner Strachan replied that it is not a simple declaration that it is a ridgeline, because there is a ridgeline definition in the Code that says, "Breaks the skyline from certain vantage points." It defines the vantage points and one is the cross canyon view. He noted that the Staff report contained a cross canyon view, which is objective documentation of a violation of the ridgeline ordinance. Commissioner Strachan stated that regardless of whether the applicant had pictures taken from other vantage points that did not show ridgeline violations, if there is a

ridgeline violation from the cross canyon view or any of the formal vantage points outlined in the Code, they could not build on it.

Commissioner Savage was unclear why Commissioner Strachan thought the cross canyon view showed that the house would break the skyline. Commissioner Strachan clarified that the broken skyline is one that is created by the ridge they were proposing to develop on or around. Mr. Tlou stated that if that is the skyline that is broken and it is declared a ridgeline, anything over 150 feet in any direction could not be built upon. Commissioner Strachan replied that this was correct based on his reading of the Code.

Commissioner Savage stated that from his reading of the Code, the house shown on the left-hand side of the slide did not break the ridgeline from that particular vantage point, which differed from Commissioner Strachan's opinion. However, if he were to move closer and close to the house and his relative perspective gets larger and larger, it would eventually break the skyline and he would see the shape of the house in the sky. Commissioner Strachan pointed out that Commissioner Savage would no longer be cross across canyon if he moved closer and closer to the house. Commissioner Savage stated that in looking across the canyon, the ridgeline that you see according to the skyline is the highest most ridgeline. That is the ridgeline that meets the sky. He did not think it was every ridgeline below it. Commissioners Hontz and Strachan disagreed. The Commissioner discussed several examples with differing opinions on what breaks the skyline.

Commissioner Savage stated that as a practical definition of ridgeline as something that intersects the skyline, there is no way to convince him that the cross valley view is a skyline.

Commissioner Thomas stated that in his mind there was no doubt that it was a ridgeline based on the topography seen from an aerial photo. He pointed out that whether or not the house breaks the skyline depends on where you stand. Commissioner Savage agreed. His point is that the Staff had done an analysis consistent with the definition in the Code. According to their interpretation, the house does not break the skyline from any of the vantage points. Commissioner Savage agreed that it was a ridge, but he also agreed that it did not break the skyline. Commissioner Strachan stated that the Code does not use the word "Skyline". He read the definition of a ridgeline area from the LMC, "The top ridge or crest of a hill or slope." Crest of a hill is defined as, "the highest point on a hill or slope that is measured continuously throughout the property. Any given property may have one crest of hill." He reiterated that Skyline is never mentioned.

Planner Astorga referred to LMC Section 15-7.3-2(D) and the language that mentions skyline. Commissioner Strachan read the languages, "...which development would be visible on the skyline from the designated vantage points." He pointed out that skyline was not in the definition of a ridgeline. Commissioner Hontz stated that the paragraph she was reading had other concerns for subdivision, including ridgelines. She had identified other general health, safety and welfare concerns related to that and not just the ridgeline issue. She agreed with Commissioner Strachan that the ridgeline definition was not tied to the skyline.

Commissioner Savage stated that if the ridgeline does not include a skyline based definition, he estimated that 50% of the homes in Park City violate the definition of ridgeline.

Planner Astorga clarified that he was not disputing that this was a ridgeline or an elevated feature. However, the language in LMC Section 15-7.3-2(D) stated that they shall protect ridges which will be visible on the skyline from a designated vantage point. In this case, the structure would not be visible from nine of the ten vantage points. The tenth vantage point where it was visible was the cross valley view. Commissioner Strachan did not think it was possible to ever break the skyline on a cross valley view. Commissioner Savage disagreed.

Since the Commissioners had agreed to a 10:00 stop time and it was evident that this item needed further discussion, Assistant City Attorney McLean advised the Planning Commission to conduct a public hearing and continue the item to the next meeting.

Chair Worel opened the public hearing.

Sean Kelleher commented on the wall and the road. He stated that the wall was completed approximately two years ago and it has gone through the last two winters. He explained that the road was not brought to dedication because the City Engineer, Matt Cassel, was very sick last fall and the entire process was delayed. Mr. Kelleher stated that everything done for both the wall and the road were done to Mr. Cassel's specifications. He noted that the retaining wall was entirely rebuilt after it collapsed and it was rebuilt to the City specs. The road was always fine, but they spent the last year working on bullet points to make sure some of the minor elements were addressed. Mr. Kelleher stated that Matt Cassel had recommended that the City Council accept all the infrastructure. At the time that was done, two remaining items were in the process of being complete. One was the barrier at the end of the road, which is now complete. The second was the removal of landscape. Mr. Kelleher remarked that the City remains fully bonded with a deposit for more than the value of what is left to do. They plan to take it back to the City Council for acceptance within the next few months. He pointed out that the road was built with a sidewalk and to the right width. Therefore, he could not imagine why they could consider the road or the retaining wall to be substandard.

Commissioner Wintzer indicated two large planters at the bottom of the retaining wall. He was always under the impression that they would be planted with landscaping that would screen the concrete face of the wall.

Mr. Kelleher understood that originally it was part of the landscaping plan, but that was before he became involved. In discussions with the neighbors, they adjusted some of the landscaping to the top of the wall and along the sides too meet the requests of the neighbors.

Commissioner Wintzer suggested that putting landscaping in those planters would soften the wall and make it a nicer looking project.

Mr. Kelleher understood from Matt Cassel that acceptance of the infrastructure and whether the road is public or private was a separate issue from any of the replats being discussed in Echo Spur.

Chair Worel closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the plat amendment for 489 McHenry Avenue to July 10, 2013 with direction to Staff to clarify and state the interpretation of the ridgeline requirements and analysis with respect to this particular application and in general, with respect to the current generation of the Land Management Code.

Planner Astorga was concerned that July 10th would not give the Staff or the applicant time to address the issues and meet the deadline for the Staff report.

Assistant City Attorney McLean suggested that the Planning Commission provide their direction to Staff and then make a motion to continue. Commissioner Savage withdrew his motion.

Commissioner Savage pointed out that there was a fundamental disagreement between certain Commissioners as to what the appropriate definition of a ridgeline and its interpretation within the context of the LMC, and it was causing polarity on this particular application. He did not think the Commissioners could resolve the issue amongst themselves without further clarification from Staff regarding the basis for their interpretation. Commissioner Savage stated that his direction would be for the Staff to clarify, substantiate and make their position known so the Planning Commission could understand it and decide whether or not they agree with it.

Commissioner Wintzer stated that his concern with combining the lots was the ridgeline encroachment on Lot 19. It is a plotted lot with access to a street. By combining the lots and going further down the hill, they increase the ridgeline encroachment. If the applicant was willing to increase the setbacks on the downhill side as a way of mitigating some of that on Lot 17, he thought they could find a way to make it work by controlling how far it goes down the hill. If the applicant was willing to look at decreasing the setback, he would feel like they had tried to mitigate the ridgeline encroachment.

Commissioner Thomas agreed with Commissioner Wintzer about mitigating the effect of the ridgeline. He noted that as it gets closer to the end of the knoll, the visual impact of the ridgeline is more dramatic and visual from other parts of the community.

Commissioner Strachan thought the analysis of the ridgeline on page 217 of the Staff report was the Staff's best attempt at their interpretation of the ridgeline ordinance, and he was comfortable with that. He also agreed with Commissioner Wintzer. If they could pull back Lots 17 and 18 from the nose of the ridgeline it might resolve the problem.

Commissioner Savage supported the interpretation of the ridgeline analysis that was incorporated in the Staff report. He personally could see no reason to modify the application design in a way that changes the boundary conditions on the lot to change the ridgeline encroachment. In his opinion, if it encroaches it should not matter by how much. It was either encroachment or not encroachment.

MOTION: Commissioner Hontz moved to CONTINUE the plat amendment for 489 McHenry Avenue to July 31, 2013. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Due to the late hour and the earlier decision for a 10:00 p.m. stop, the remaining agenda items were continued.

5. **Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3 and Chapter 2.16 regarding Building Height (Application PL-13-01889)**

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the LMC Amendments to July 10, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

7. **Lots 21-32, Echo Spur – 9 Lot Subdivision (Application PL-12-01717)**

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE Lot 21-32, Echo Spur 9 lot subdivision to July 10, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed 6-0. Commissioner Thomas abstained.

The Park City Planning Commission meeting adjourned at 10:30 p.m.

Approved by Planning Commission: _____

Planning Commission Staff Report



Subject: 305 Park Avenue Plat Amendment
Author: Anya Grahn, Planner
Project Number: PL-13-01912
Date: July 10, 2013
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the 305 Park Avenue Plat Amendment, located at the same address, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Description

Applicant: Mathew Styczynski and Elizabeth Lin
Location: 305 Park Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential attached, single-family residential, vacation rentals
Reason for Review: Plat Amendments require Planning Commission review and a recommendation to City Council

Proposal

The applicant is requesting a Plat Amendment for the purpose of combining all of Lots 1 and 2 of Block 3 of the Snyders Addition to Park City. There is an existing historic home that straddles the lot line on the property that is identified as Significant on the City's Historic Sites Inventory (HSI). The applicant wishes to combine the lots in order to move forward with renovations which will be subject to Historic District Design Review (HDDR) approval. No application has been submitted for renovations to this property, though Planning Staff met with the applicant in a pre-application meeting to discuss options for adding a garage and deck addition on April 3, 2013. The Plat Amendment approval and recordation is necessary prior to the approval of a HDDR.

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- (A) Preserve present land Uses and character of the Historic residential Areas of Park City,
- (B) Encourage the preservation of Historic Structures,
- (C) Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,

- (D) Encourage single family Development on combinations of 25' x 75' Historic Lots,
- (E) Define Development parameters that are consistent with the General Plan policies for the Historic core, and
- (F) Establish Development review criteria for the new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

The 305 Park Avenue property is listed on the Historic Sites Inventory (HSI) as a "Significant" site which includes an 1895 structure. Historically, the house was two (2) stories with a rectangular footprint, narrow end to the street. The tax records indicate that sometime between 1957 and 1968, a fire reduced the house to one (1) story. The second floor and attic were rebuilt between 1990 and 1995, creating a central-block-with-projecting-bay type house. The accuracy of the reconstruction is unknown. The HSI form states that there were no historic photographs of the historic structure; yet, the 1990 variance explains that the reconstruction was based on original drawings and photographs. The original frame house was a house type built in Park City during the mining era; however, the extent of the alterations to the main building diminishes its association with the past and makes it ineligible for listing on the National Register of Historic Places.

Per LMC 15-2.2-4, existing historic structures that do not comply with building setbacks are valid complying structures. The historic structure is a valid complying structure, though it straddles the property line that separates Lots 1 and 2.

On September 4, 1990, the Board of Adjustment (BOA) approved three variances for height and encroachments. Variances run with the land. The BOA approved a one foot (1') encroachment into the required three foot (3') required north side yard setback to create a two (2) car parking pad. A one foot three inch (1'3") encroachment was approved into the required ten foot (10') rear yard setback to accommodate a four foot (4') wide stairway enclosure, providing a second access point to the second story; this setback reduced the rear yard setback from ten feet (10') to seven and one-half feet (7.5'). Finally, the BOA approved a five foot (5') height variance to permit the house to be constructed to thirty-eight feet (38'). The September 4, 1990, staff report specifies that a thirty-three foot (33') maximum height was permitted at that time. The report notes that the structure would be reconstructed based on the scale of original drawings and photographs. The historic structure, before losing its second story to a fire, was thirty-eight feet (38') tall. In total, the BOA approved the following in 1990:

- A one-foot (1') encroachment into the required three foot (3') required north side setback for the construction of the parking pad.
- A one foot three inch (1'3") encroachment into the required ten foot (10') rear setback.
- A five foot (5') height variance.

In April 2013, the applicant submitted a HDDR Pre-application and met with the Design Review Team (DRT). The applicants suggested adding an accessory garage addition

adjacent to the porch. They would also like to expand the footprint of a rear deck. The applicant plans to make a full HDDR submittal once the plat amendment is approved. Work will not be allowed to commence until the plat amendment is recorded.

Analysis

The historic house currently straddles the lot line between Lots 1 and 2 of the Snyders Addition, Block 3. The plat amendment is necessary in order for the applicants to make improvements to the structure.

	HR-1 Zone Designations	Existing Conditions
Lot Area Square Feet	4,688 SF (Based on 62.5'x75' lot)	3,934 SF—one lot measuring 25 feet x 75 feet (1,875 SF);the other measuring approx. 27.15 feet x 75 feet (2,059 SF)
Maximum Building Footprint	1,576.8 SF	1,379.8 SF (Total home size: 3,934 SF)
Maximum Height	27 feet (3 stories)	38 feet (3 stories)
North Side yard Setback	5 feet	6.8 feet (structure only, not parking pad)
South Side yard Setback	5 feet (Property borders Third Street ROW)	10 feet
Front Yard Setback	10 feet	20 feet
Rear Yard Setback	10 feet	7.5 feet

The BOA approved the one foot three inch (1'3") encroachment into the ten foot (10') rear yard setback in order to accommodate a four foot (4') wide stairway enclosure at the rear of the house. The BOA also approved the thirty-eight foot (38') height of the structure, which exceeds the current twenty-seven foot (27') height limit.

Aside from an HDDR and Building Permit if the applicant wishes to add an addition to the house, there are no other regulatory processes anticipated for this property. The site is not on a steep slope.

Good Cause

Planning Staff believes there is good cause for the application. Combining the Lots will allow the property owner to move forward with site improvements, which include a possible rear deck expansion and garage addition. The plat amendment is necessary in order for the applicants to utilize future plans, and if left un-platted, the property remains as is. Moreover, the plat amendment will resolve the issue of the historic structure straddling an interior lot line and will utilize best planning and design practices, while preserving the character of the neighborhood and of Park City.

Staff finds that the plat will not cause undo harm on any adjacent property owner because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Process

The approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

Department Review

This project has gone through an interdepartmental review. No additional issues were raised regarding the subdivision.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was published in the Park Record.

Public Input

No public input was received at the time of writing this report. Public input may be taken at the regularly scheduled Planning Commission public hearing and at the Council meeting noticed for August 1, 2013.

Alternatives

- The Planning Commission may forward positive recommendation to the City Council for the 305 Park Avenue Plat Amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the 305 Park Avenue Plat Amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the 305 Park Avenue Plat Amendment.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The proposed plat amendment would not be recorded and two (2) existing lots would not be adjoined. Any additions to the historic house would not be permitted as the house sits on two (2) lots.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the 305 Park Avenue Plat Amendment, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Plat

Exhibit B – Existing Conditions Survey

Exhibit C – Vicinity Map/Aerial Photograph

Exhibit D – 1990 Variance

Exhibit A – Draft Ordinance with Proposed Plat

Ordinance 13-

AN ORDINANCE APPROVING THE 305 PARK AVENUE SUBDIVISION PLAT LOCATED AT 305 Park Avenue, PARK CITY, UTAH.

WHEREAS, the owner of the property located at 305 Park Avenue, has petitioned the City Council for approval of the Subdivision; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on July 10, 2013, to receive input on the proposed subdivision;

WHEREAS, on July 10, 2013, the Planning Commission forwarded a positive recommendation to the City Council; and,

WHEREAS, on August 1, 2013, the City Council held a public hearing on the proposed subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the proposed 305 Park Avenue Plat Amendment.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The 305 Park Avenue Subdivision Plat Amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 305 Park Avenue within the Historic Residential (HR-1) Zoning District.
2. The property is shown on the Historic Sites inventory as a “Significant Site” and includes a 3,934 square foot mining-era home constructed in 1895.
3. Currently, the property is two (2) Old Town Lots, Lots 1 and 2 of Block 3.
4. The applicants are requesting to combine two (2) Old Town lots into one Lot.
5. The plat amendment is necessary in order for the applicant to move forward with any future improvements to the structure.

6. The amended plat will create one new 3,934 square foot lot. The existing lots measure 25 feet x 75 feet (1,875 SF); the other measuring approx. 27.15 feet x 75 feet (2,059 SF).
7. The existing historic house straddles Lots 1 and 2 of the Snyders Addition.
8. The three story structure is thirty-eight feet (38') tall, thus exceeding the twenty-seven feet (27') height limit.
9. On September 4, 1990, the BOA approved a one-foot (1') encroachment into the required three foot (3') required north side setback; a one foot three inch (1'3") encroachment into the required ten foot (10') rear setback, creating a seven and one-half foot setback; and a five foot (5') height variance. The height variance allowed for a structure of 38'. In 1990, the maximum height permitted in the zone was 33'.
10. Any proposed additions to the existing historic home will require a review under the Design Guidelines for Historic Districts and Historic Sites through the HDDR process.
11. The maximum building footprint allowed is 1,801 square feet per the HR-1 LMC requirements. The current footprint square footage is 1,379.8, which would allow a maximum footprint addition of 197 square feet. The historic structure is a valid complying structure, though it straddles the property line that separates Lots 1 and 2.
12. Any new additions to the rear of the historic home would require adherence to current setbacks as required in the HR-1 District, as well as be subordinate to the main dwelling in terms of size, setback, etc., per the requirements of the adopted 2009 Design Guidelines for Historic Districts and Historic Sites.

Conclusions of Law:

1. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
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.
4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an

extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. No building permit for any work that expands the footprint of the home or would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.
4. Modified 13-D sprinklers may be required by the Building Official for renovation of the existing structure.
5. A ten foot (10') foot wide public snow storage easement will be provided along the frontage of the property.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ____ day of August, 2013.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

305 Park Avenue Subdivision

A replat of Lots 1 & 2
Block 3, Park City Survey



NARRATIVE

1. Survey requested by: Matthew N. Styczynski & Elizabeth C. Lin.
2. Basis of survey: found street monuments as shown.
3. Date of survey: April, 2013.
4. Location of monument: as shown.
5. Located in the Southeast Quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian.
6. The owners of the property should be aware of any items affecting the property that may appear in a title insurance report.

LEGAL DESCRIPTIONS
Original Deed Description

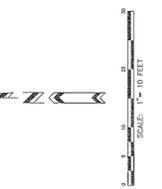
Lot 1 and 2, Block 3, Amended Plat of Park City Survey, according to the official plat thereof on file and of record in the Summit County Recorder's Office.

305 Park Avenue Subdivision

Beginning at the Southeastly Corner of Lot 1 and the Southeastly Corner of Block 3, Park City Survey, according to the official plats thereof, on file and of record in the Summit County Recorder's Office, and running thence North 23°38' West, along the Westerly Right of Way of Park Avenue and the Northernly Right of Way of Third Street, a distance of 66.40' to the Northernly Corner of said Lot 2; thence South 66°40' West, along the Northernly boundary of said Lot 2, 75.00 feet, more or less, to the Northernly Corner of said Lot 2; thence South 23°38' East, along the Northernly boundary of said Lot 2, 75.00 feet, more or less, to the Northernly Right of Way of Third Street and the Southernly boundary of said Lot 1, 75.00 feet, more or less, to the Point of Beginning; containing 3,934 square feet, more or less.

SURVEYOR'S CERTIFICATE

I, J.D. Galley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 359005, do hereby certify that I have supervised a survey of the herein described property and that this plat is a true representation of said survey.



OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned, Matthew N. Styczynski and Elizabeth C. Lin, owners of the herein described 305 Park Avenue Subdivision, Block 3, Park City Survey, having caused this Replat Survey Map in the office of the County Recorder of Summit County, Utah, in accordance with Utah law.

Also, the owner hereby irrevocably offer for dedication to the City of Park City, Utah, the herein described portion of the above described plat shown on the plat in accordance with an irrevocable offer of dedication. In witness whereof, the undersigned have set their hands this _____ day of _____, 2013.

By: Matthew N. Styczynski
Owner

Elizabeth C. Lin
Owner

ACKNOWLEDGEMENT

STATE OF UTAH
County of Summit:

On this _____ day of _____, 2013, Matthew N. Styczynski and Elizabeth C. Lin personally appeared before me, the undersigned Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that they are the owners of the herein described 305 Park Avenue Subdivision and that they manifested the above Owner's Declaration and Consent to Record freely and voluntarily for the purposes set forth herein.

My commission expires: _____

NOTARY PUBLIC
RESIDING IN _____ COUNTY, _____

APPROVAL AS TO FORM

I APPROVE AS TO FORM THIS MAP AND RECORD THIS _____ DAY OF _____, 2013 A.D.

BY: _____
PARK CITY ATTORNEY

ENGINEER'S CERTIFICATE

I FIND THIS PLAT TO BE IN ACCORDANCE WITH THE INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2013 A.D.

BY: _____
PARK CITY ENGINEER

PLANNING COMMISSION

APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2013 A.D.

BY: _____
CHAIRMAN

WATER RIGHTS DISTRICT

WATER RIGHTS DISTRICT NO. _____
RESIDING IN _____ COUNTY, _____

BY: SNYDERVILLE BASIN WATER REGULATION DISTRICT

CERTIFICATE OF ATTEST

I CERTIFY THIS RECORD OF SURVEY MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SUMMIT COUNTY, UTAH, ON THIS _____ DAY OF _____, 2013 A.D.

BY: _____
PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE

APPROVED AND ACCEPTED BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2013 A.D.

BY: _____
MAYOR

RECORDED

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____

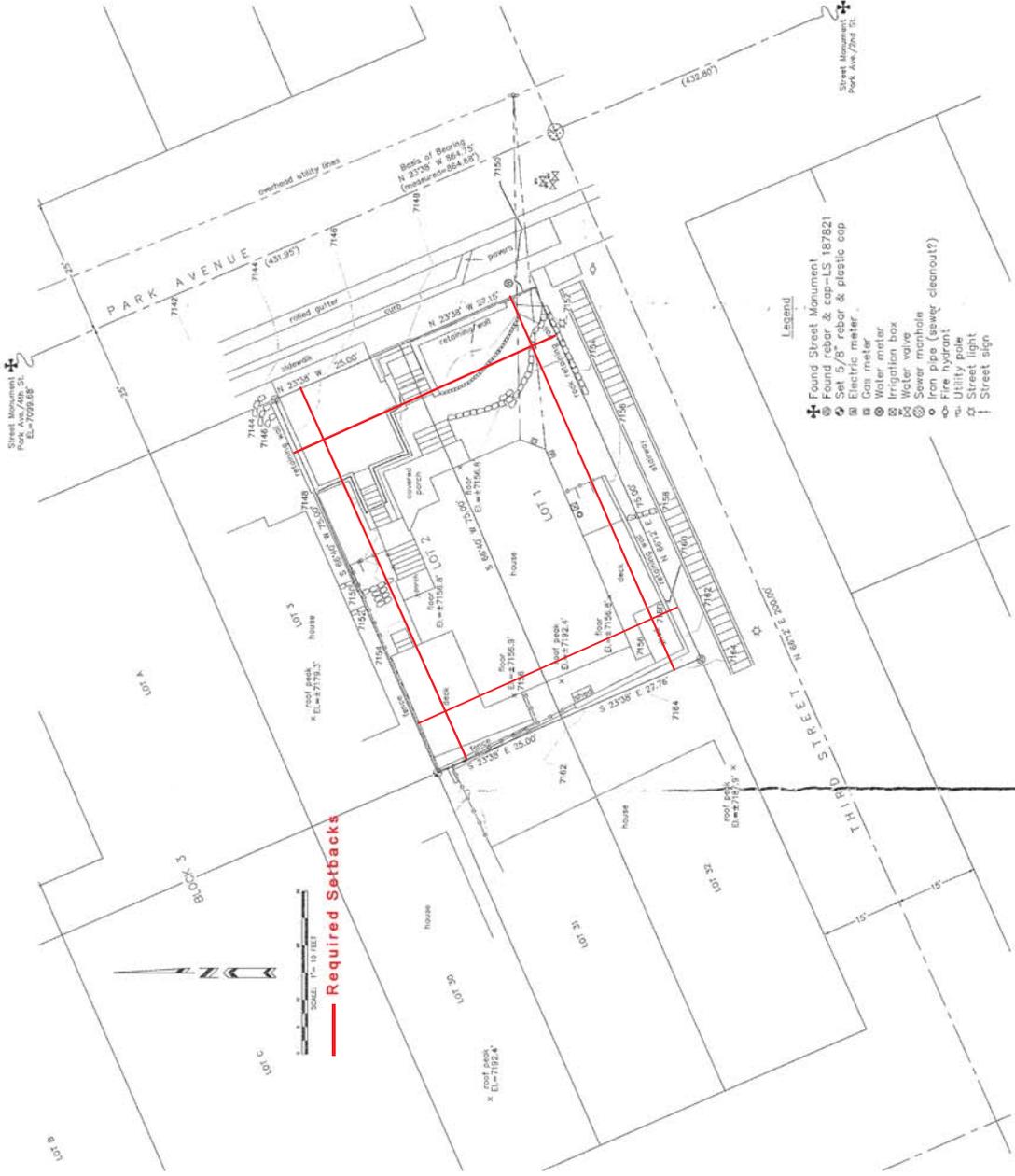
DATE _____ TIME _____ PAGE _____

BOOK _____

FEE _____

RECORDER _____

Park City Survey Block 3, Lots 1 & 2



NARRATIVE

1. Survey requested by: Matthew N. Styczynski.
2. Purpose of survey: locate the deed description, improvements and the topographic relief.
3. Basis of survey: found Street Monuments as shown. Block dimensions are from the Park City Monument Control Map by Bush & Gudgeal, Inc. of Park City, Utah. Block 3, from the Map of Park City by Caldwell & Richards Engineers, traced from the original map July, 1927.
4. Date of survey: April 18, 2013.
5. Property monuments set or found as shown.
6. Located in the Southeast Quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian.
7. The owners of the property should be aware of any items affecting the property that may appear in a title insurance report.
8. Monument found at the intersection of Park Avenue and 4th Street, from the Park City Monument Control Map.

DEED DESCRIPTION

Lot 1 and 2, Block 3, Amended Plat of Park City, Survey, according to the official plat thereof on file, and of record in the Summit County Recorder's Office; Lot 1 containing ±2,099 sq. ft., Lot 2 containing ±1,875 sq. ft.

SURVEYOR'S CERTIFICATE

I, J.D. Gabley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 359005, do hereby certify that I have supervised a survey of the hereon described property and that this plat is a true representation of said survey.



Approved: _____
Date: August 13, 2013



Alpine Survey, Inc.
19 Professor Drive
Park City, Utah 84302
(435) 605-6016

RECEIVED
MAY 03 2013
COUNTY CLERK



THE BOARD OF ADJUSTMENT
PARK CITY, SUMMIT COUNTY, UTAH

IN RE: Requests for variances at 305 Park Avenue, Ken Martz as follows:
1' encroachment into the north side setback
1'3" encroachment into the rear setback
5' height variance

Petition #V90225) Findings of Fact
) and Order

The Board of Adjustment of Park City, Utah met on Tuesday, September 4, 1990 for a regularly scheduled and noticed meeting. After determining that a quorum of members of the Board were present, the Board conducted its scheduled business. Among the petitions heard by the Board was the above entitled petition.

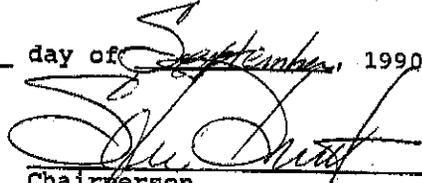
The requested variances are a result of the applicant's desire to return the structure to its original historic design, and at the same time improve a difficult parking and circulation situation. The variances are being requested as a result of improvements to health/safety issues and because of the historic nature of the building. The improvements will be consistent with other structures in this area of Park Avenue and the HR-1 zone.

After hearing all interested parties and considering all relevant facts, the Board of Adjustment APPROVED the two setback variances and the requested height variance for the structure at 305 Park Avenue, based upon the findings set forth in Section 5.6 of the Land Management Code:

1. That the strict application of the Code would deprive the owner of the property rights and privileges available to others owning similar property within the same zone, and
2. The deprivation would result from conditions on the property not of general application to other properties in the zone, and
3. The granting of the variances would not be detrimental to the public health and safety or contrary to the comprehensive

plan, and strict adherence to the letter of the Code would cause hardships, the imposition of which are not necessary in order to carry out the general purpose of the plan.

Dated this 12 day of September, 1990.



Chairperson
Board of Adjustment

MINUTES OF PARK CITY BOARD OF ADJUSTMENT
MARSAC MUNICIPAL BUILDING
SEPTEMBER 4, 1990

IN ATTENDANCE: Chairman Steve Deckert, Mike Eberlein, Mark Freeman,
Dell Fuller, and Diane Zimney

ABSENT & EXCUSED: Tom Sedgwick

EX OFFICIO: Suzanna McIntyre, Senior Planner
Steve Osguthorpe, Planner I
Shauna Kerr, Assistant City Attorney
Gwen Beere, Administrative Secretary

Agenda Item #1 (Introduced by Chairman Deckert)

Approval of Minutes for the meeting of May 29, 1990

MOTION: Mike Eberlein moved to approve the minutes of May 29, 1990 as written. Motion seconded by Mark Freeman. Motion passed unanimously.

Agenda Item #2

Approval of Minutes for the meeting of June 5, 1990

MOTION: Mike Eberlein moved to approved the minutes of June 5, 1990 as written. Motion seconded by Diane Zimney. Motion carried.

Agenda Item #3

Request for variances at the side and rear at 305 Park Avenue,
Ken Martz

Senior Planner McIntyre stated that this application is unique because the variances are a result of the applicant's desire to return the structure to its original historic design and put back the second story as it was originally. Included in the packet as background information were the State Historical Survey, a 1940's tax photo which shows the second story, the historical information included in Park City's Listing on the National Register of Historic Places, and various elevations proposed for restoring the structure. Mr. Martz is participating in the Historic Grants program and is very dedicated to this project.

Planner McIntyre explained that at the same time that Mr. Martz is putting the second story back on the building he is also improving the parking and circulation by creating two off-street parking spaces on his property. Under the Land Management Code, parking

Board of Adjustment
Meeting of September 4, 1990
Page 2

is not required to be provided when a property is remodeled. This improvement will require a one-foot encroachment into the sideyard. Planner McIntyre continued that Mr. Martz is encumbered on the parcel due to the porch and stairs already existing in that location.

Planner McIntyre stated that Mr. Martz is also requesting an encroachment into the rear setback of 1'3" from the standard rear setback requirement of 10', in order to have a 4'-wide stairwell enclosure, providing his second access point from the second story. This addition was required by Chief Building Official Ron Ivie because the second story must have adequate egress.

The third variance request is for a 5' height variance, Planner McIntyre continued. She commented that typically the Staff would not be in support of allowing maximum height up to 38'. However, the drawings have been scaled from the original photographs of this building and 38' was the height of the building. Planner McIntyre informed the Board that historically this area of Park Avenue was where the more affluent citizens resided and there are several other buildings of a comparable height in the area.

Planner McIntyre pointed out that the Historic District Commission has reviewed these plans and approved them. The property was posted and notices sent to adjacent property owners within 300'. A phone call was received the day of the meeting from Jim Totoro who was opposed to the variances. Unfortunately Mr. Totoro's long distance call was cut-off and the Staff was unable to find out the nature of his opposition.

Planner McIntyre stated that the Staff feels that the replication of the structure is very significant, and a fine effort on the part of the applicant; and that it contributes to Park City's listing on the National Register of Historic Places. At the same time, it meets the modern-day codes and requirements for health/safety.

Following the Staff report, Planner McIntyre stated that the Staff has reviewed the findings listed in the Land Management Code and recommends the Board of Adjustment approve the two requested setback variances and the requested height variance for the structure at 305 Park Avenues, based upon the following:

1. That the strict application of the Code would deprive the owner of the property rights and privileges available to others owning similar property in the same zone, and
2. The deprivation would result from conditions on the property not of general application to other properties in the zone, and

PARK CITY PLANNING DEPARTMENT
STAFF REPORT

TO: BOARD OF ADJUSTMENT
FROM: PLANNING STAFF
DATE: SEPTEMBER 4, 1990
Re: 305 PARK AVENUE - REQUEST FOR VARIANCES

I. PROJECT STATISTICS:

Applicant:	Ken Martz
Project Address:	305 Park Ave.
Request:	A 1' encroachment into the side setback; A 1'3" encroachment into the rear setback; A 5' ht. variance
Zoning:	HR-1
Adjacent Land Uses:	Single Family, Multi Family Residential
Date of Application:	August 9, 1990
Date of Staff Report:	August 30, 1990
Staff Planner:	Suzanne McIntyre
Staff Recommendation:	APPROVE

II. BACKGROUND INFORMATION:

The Planning Department has received an application for two setback variances and a height variance for the structure at 305 Park Avenue. This application is unique because the requested variances are a result of the applicant's desire to return the structure to its original historic design. The building is a historic structure included in Park City's listing on the National Register of Historic places and is being remodeled as part of the Historic District Grants Program. The remodel includes the addition of a second story which was originally part of the building. The applicant is making every effort to return the building to its original historic appearance.

The Staff has taken the position of supporting this application due to the applicant's ambitious goal of returning the structure to its original design, and at the same time improve a difficult parking and circulation situation. The variances are being requested as a result of improvements to health/safety issues and because of the historic nature of the building. The improvements will be consistent with other structures in this area of Park Avenue and the HR-1 zone.

305 PARK AVE.
PAGE 2

III. PROJECT DESCRIPTION:

Three variances are being requested in this application:

1' encroachment into the north side setback (3' req'd),
1'3" encroachment into the rear setback (10' req'd), and
5' height variance (33' max. allowed)

1. In the HR-1 zone a 3' side setback is required. As part of the renovation of this structure the applicant would like to provide two off-street parking spaces. However, due to the location of the existing front porch and sidewalk, he is unable to adequately fit the 9'-wide stalls onto the property without encroaching into the setback. Since this is a remodel of an existing structure, provision of off-street parking is not required by the Land Management Code. However, the applicant believes the provision of two off-street spaces will not only provide better parking for the occupants of the house, but relieve parking pressures created by on-street parking in the winter. The Staff believes the 1' encroachment is minor and will be offset by the benefits provided by the off-street parking and would not be required if the on-site restrictions did not already exist.

2. The required rear setback in the HR-1 zone is 10 feet. A 1'3" encroachment has been requested because of the requirement by the Chief Building Official that a 4'-wide enclosed stairway be provided as an egress from the second story of the building.

The addition has been designed to be architecturally compatible with the existing building and has been reviewed and approved by the Historic District Commission which supports the design, both architecturally and from a health/safety standpoint. The Staff supports the requested variance because the second story must have adequate egress.

3. A 5' height variance has also been requested. A variance of this type would not be supported by the Staff for a new structure because the height is not in compliance with today's Land Management Code. However, its allowance would promote the intent of the HR-1 zone by encouraging the retention of an existing historic structure and its adaptive reuse rather than furthering the decline of the District by encouraging the structure's demolition. The requested height variance is consistent with the structure's original design and with other historic homes on Park Avenue.

305 PARK AVE.
PAGE 3

PUBLIC INPUT STATEMENT: The property has been posted and legal notice sent to the property owners within 300' and as of August 31, 1990 no public input has been received.

IV. STAFF RECOMMENDATION:

The replication of the structure is being proposed in order to return this historically significant structure back to its original configuration and at the same time make it meet the modern-day codes and requirements for health and safety. Due to Park City's listing on the National Register of Historic Places for our Mining Boom Era Homes, the City has consistently taken the position that adjustments should be permitted whenever possible in order to facilitate renovation of existing historic structures.

Based upon the findings set forth in Section 5.6 of the Land Management Code as listed below, the Planning Staff recommends the Board of Adjustment **APPROVE** the two requested setback variances and the requested height variance for the structure at 305 Park Avenue.

1. That the strict application of the Code would deprive the owner of the property rights and privileges available to others owning similar property with in the same zone, and
2. The deprivation would result from conditions on the property not of general application to other properties in the zone, and
3. The granting of the variances would not be detrimental to the public health and safety or contrary to the comprehensive plan, and strict adherence to the letter of the Code would cause hardships, the imposition of which are not necessary in order to carry out the general purpose of the plan.

Planning Commission Staff Report



Subject: LMC Amendments
Author: Francisco Astorga, Planner
Date: July 10, 2013
Type of Item: Legislative – LMC Amendments
Height in the Historic Residential and the RC Districts.

Summary Recommendation

Staff recommends that the Planning Commission review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider forwarding a positive recommendation to the City Council to adopt the ordinance as presented in Exhibit A.

Description

Project Name: LMC Amendments – Regarding development in the HRL, HR-1, HR-2, and RC Districts
Applicant: Planning Department
Proposal: Revisions to the Land Management Code

Background

The Planning Commission originally discussed the definition of story during a work session discussion on August 22, 2012. Then during a Planning Commission work session discussion held on September 12, 2012 staff recommended reviewing the interpretation of a “story” as currently defined in the Land Management Code (LMC). During this meeting, the Commission showed concerns regarding the current Building Height parameters and how they applied to split-level concepts. It was interpreted that a three (3) story split-level per the current LMC definition of a story would qualify as multiple stories adding up to six (6). Staff introduced an additional regulation which was based on the internal height of a structure measured from the lowest floor level to the highest roof form. Planning Director Eddington indicated that the Planning Staff would work with different scenarios and come back with alternatives.

During a regular meeting dated September 26, 2012, Staff introduced amendments to the LMC to address planning and zoning issues that came up in the past year. The proposed amendments provided clarification and streamlining of processes, procedures, and definitions, etc. During this meeting the same maximum internal height measurement provision was drafted.

During the September 26, 2012 Planning Commission meeting, many items were forwarded to the City Council for review and possible adoption. Regarding Building Height measurement and story definition, the Commission continued the proposed amendments to a later date. The Planning Commission found the exhibits in the Staff report to be helpful, but expected additional information based on the discussion at the

last meeting. The Commission requested to see an exercise on a variety of un-built lots in Old Town, both downhill and uphill, that maxes out the heights using stories as an example to see what the mass and scale and height would do. The Commission requested to see an idea of “worst case” scenario. The Planning Department committed to provide a variety of examples on un-built lots, however, it was recognized that many lots do not have historic structures on them which can be demolished through an administrative building permit. The Planning Department proposed to come back with the information requested as well as other scenarios they had created for massing and volume on various slopes. The Planning Commission would be able to see how different aspects of the LMC work in each scenario depending on the slope.

During the November 28, 2012 Planning Commission meeting many other items were forwarded to the City Council for review and possible adoption including the new Building Height parameter to limit the maximum internal height of a building. Because of the amount of LMC amendments, staff was unable to deliver the prepared presentation on stories as the Planning Commission requested to continue the presentation to December 12, 2012.

On December 12, 2012 the Planning Department prepared the different scenarios and wanted to hear as much input as possible from the Planning Commission. Due to the late hour that evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. Staff briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

On January 9, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **downhill** lots.

On February 13, 2013 the Planning Department discussed with the Planning Commission specific scenarios regarding Building Height in the Historic Residential Districts (HRL, HR-1, & HR-2) through a hands-on exercise relating to **uphill** lots.

These last two Planning Commission work session discussions were based on the current Building Height parameters which include the following:

- No structure shall be erected to a height greater than twenty-seven feet (27') from existing grade.
- Final grade must be within four (4) vertical feet of existing grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and garage entrance.
- A structure may have a maximum of three (3) stories. A basement counts as a first story.
- A ten (10) foot minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish grade on all sides of the structure.

- Roof pitch must be between 7:12 and 12:12. A green roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch.
- Garage on Downhill Lot building height exception: The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

The direction received from the Planning Commission, which resulted from the many different meetings shown herein, was to replace the current requirement of a maximum of three (3) stories with an internal maximum height provision. The Planning Commission did not feel inclined to amend the other Building Height parameters such as the maximum building height of twenty-seven feet (27') measured from existing grade, the required roof pitch, etc.

In response to that direction, on May 8, 2013 the Planning Department proposed adding a new parameter to the Building Height. This parameter was to replace the maximum number of stories by adding a provision which indicated a maximum height measured from the lowest floor level to the highest roof form. The actual maximum number proposed was based on a scale factor depending on the roof pitch of said structure. See attached Planning Commission minutes, Exhibit H – Planning Commission regular meeting minutes 05.08.2013. The Planning Commission expressed concerns with how the new provision would relate to the ten foot (10') horizontal step as it was discussed that it may need to have a numeric value other than saying that it would occur on the third floor. The Commission was not comfortable forwarding a recommendation to the City Council without seeing the drafted verbiage regarding the roof pitch exception.

Public comment was also made during this time which focused on the 3-story versus internal height issue, structured with exposed foundations below the first floor, roof pitch options, different ways of controlling visual height and mass. The Planning Commission continued this item to allow staff to address the comments from the Planning Commission and the public.

The Recreation Commercial District (RC) District has specific requirements for single family dwellings and duplexes under LMC § 15-2.16-5. Subsection L & M refers to Building Height which mirrors the same language for the HRL, HR-1, and HR-2. If the Building Height is amendment for these three (3) Historic Residential Districts, this same language should also be amended in the RC District to reflect the same standard for consistency.

Building Height Analysis

Currently, the specific height of a story is not codified. The LMC defines a story as:

The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof Structure.

There is no maximum or minimum number of feet. The height of a structure is simply measured from existing grade, not to exceed twenty-seven feet (27'). After analyzing the impacts of the "split-levels" and more specifically "multiple split-levels" concept on a standard lot of record and possibly over longer lots, staff recommends adding another provision to the LMC related to Building Height. By regulating the maximum height measured from the first story floor plane to the point of the highest wall top plate that supports the ceiling joints/roof rafters, the mass, volume, and scale of the "split-level" concept can be limited so that they do not overly step up and down the hillside. Staff recommends that the Commission forward a positive recommendation to the City Council by adding the following regulation to the Building Height provisions to replace the current three (3) story maximum requirement:

~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. Attics that are not Habitable do not count as a Story.

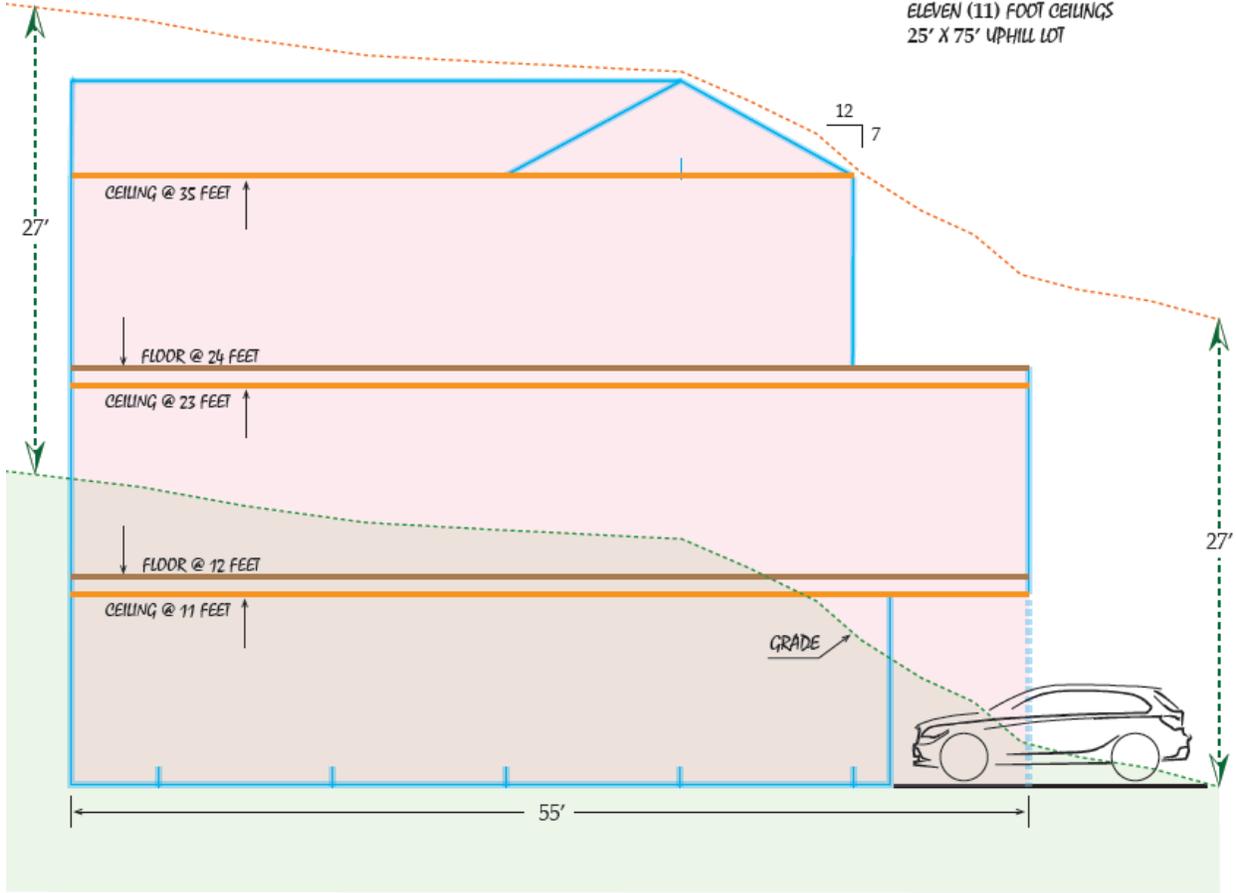
At this time the Planning Department also recommends adding clarifying language to the ten foot (10') minimum horizontal step. Staff finds that added language in red below clarifies where the horizontal step should occur. Staff has seen projects that have extended ceilings from the mid-level to the top level that technically removes the required horizontal step as this portion of the structure did not provide a third (3rd) story. The clarifying language requires that all projects that have the same massing of a three (3) story building to have such horizontal step. See language to be added:

~~A ten foot (10') minimum horizontal step in the downhill façade is required for the third (3rd) Story of a Structure, unless the First Story is located completely under the finish Grade on all sides of the Structure. On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right of Way is allowed.~~ The horizontal step shall take place at a maximum height of twenty three feet (23') from where the rear elevation meets existing Grade.

Staff finds that added language in red above clarifies where the horizontal step should occur. Staff has seen projects that have extended ceilings from the mid-level to the top level that technically removes the required horizontal step. The clarifying language requires that all projects that have the same massing of a three (3) story building to have such step. The exhibit below further clarifies the step back:

ALLOWED:

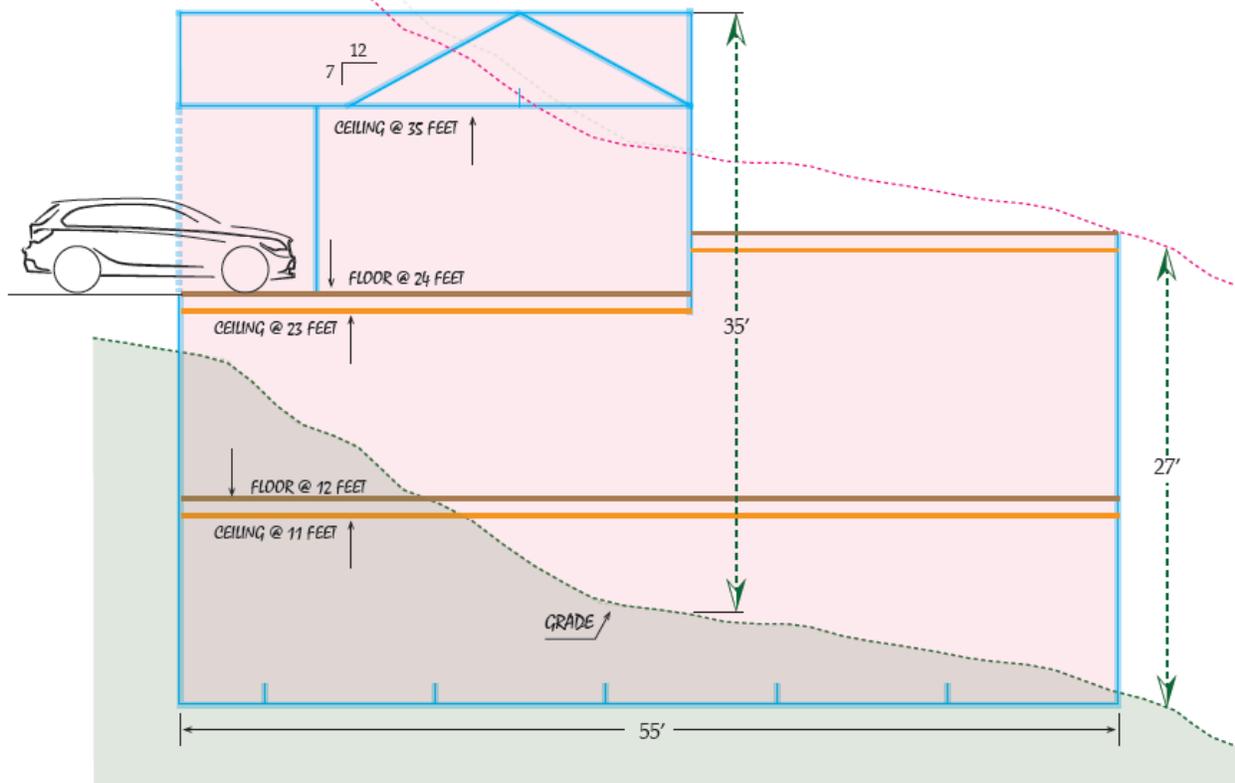
THREE (3) STORIES
THIRD STORY TEN (10) FOOT HORIZONTAL STEP
ELEVEN (11) FOOT CEILINGS
25' X 75' UPHILL LOT



Above: diagram showing uphill lot scenario

ALLOWED:

THREE (3) STORIES
THIRD STORY "TEN (10)" FOOT HORIZONTAL STEP
ELEVEN (11) FOOT CEILINGS
25' X 75' DOWNHILL LOT



Above: diagram showing downhill lot scenario

Staff finds that the roof pitch also needs to be clarified to reflect the following:

ROOF PITCH. The primary roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof, or a roof which that is not part of the primary roof design may be below the required 7:12 pitch.

(1) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same Structure.

The above provision clarifies the required roof pitch for green roofs as well as it adds a specific parameter of measurement which is not any additional height that what would be required for a standard Old Town roof form. The LMC defines a Green Roof as:

A roof of a Building that is covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems. This does not refer to roofs which are colored green, as with green roof shingles.

This regulation allows the “split-level” concept (internally) but regulates the vertical area that can be used to accommodate such concept. These figures were derived from having three (3) stories (or levels) measuring a maximum eleven feet (11’) wall height and one foot (1’) floor joists.

During the work session discussions and regular Planning Commission meetings regarding the LMC annual review, the Planning Department also discussed adding an exception to the required roof pitch for additions to Historic Structures if they can be found in compliance with the Design Guidelines for Historic Districts and Historic Sites. Staff recommends adding the following language to the exception section of each one of the Historic Residential Districts (HRL, HR-1 & HR-2), as well as the Recreation Commercial District (RC) specifically for single family dwellings and duplexes:

ROOF PITCH. Exceptions to the minimum roof pitch requirements may be granted by the Planning Director during the Historic District Design Review approval process based on compliance with review criteria as stated in the Park City Design Guidelines for Historic Districts and Historic Sites. Such exceptions to roof pitch may be granted to allow historic roof forms for additions to Historic Structures when the proposed roof pitch is compatible with the style of architecture.

Existing Historic Structures Analysis

Staff recognizes that the three (3) Historic Residential Districts and the RC District contain the following language related to existing historic structures:

Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height.

[...]

Staff recommends adding language ~~that indicates~~ that includes Building Footprint and Building Height to the provision that would indicate that Historic Structures that do not comply with these additional parameters are also considered valid Non-Complying Structures. The proposed language would read as follows:

Structures that do not comply with Building Setbacks, **Building Footprint, Building Height**, Off-Street parking, and driveway location standards are valid Non-Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height.

[...]

Process

Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption. City Council action may be appealed to a court of competent jurisdiction per LMC § 15-1-18.

Notice

Legal notice of a public hearing was posted in the required public spaces and published in the Park Record.

Public Input

Public hearings are required to be conducted by the Planning Commission and City Council prior to adoption of Land Management Code amendments. The public hearing for these amendments was properly and legally noticed as required by the Land Management Code. Ruth Meintsma shared public comment during the May 8, 2013 public hearing. Ms. Meintsma focused on several items found [in](#) Exhibit H.

Significant Impacts

The proposed amendments provide clarification of the Building Height and Existing Historic Structures as currently outlined in the LMC. The amendments address the mass and scale of new construction as it relates to residential development in the Historic District. Existing structures which do not conform to these regulations will be treated as non-complying Structures and regulated under LMC § 15-9-6.

Recommendation

Staff recommends that the Planning Commission review the proposed amendments to the Land Management Code (LMC) for Chapter 2 as described in this report, open the public hearing, and consider forwarding a positive recommendation to the City Council to adopt the ordinance as presented in Exhibit A.

Exhibits

- Exhibit A – Proposed Ordinance
- Exhibit B – Planning Commission work session discussion minutes 8.22.2012
- Exhibit C – Planning Commission work session discussion minutes 9.12.2012
- Exhibit D – Planning Commission regular meeting minutes 9.26.2012
- Exhibit E – Planning Commission regular meeting minutes 11.28.2012
- Exhibit F – Planning Commission work session discussion minutes 1.09.2013
- Exhibit G – Planning Commission work session discussion minutes 2.13.2013
- Exhibit H – Planning Commission regular meeting minutes 05.08.2013

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTIONS 15-2.1-4, 15-2.1-5, 15-2.2-4, 15-2.2-5, 15-2.3-5, 15-2.3-6, 15-2.16-5(L), 15-2.16-5(M), & 15-2.16-6 REGARDING EXISTING HISTORIC STRUCTURES AND BUILDING HEIGHT IN THE HRL, HR-1, HR-2, & RC DISTRICTS.

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; and

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods and commercial districts; and

WHEREAS, the City's goals include maintaining effective transportation and parking, maintaining the resort community regarding architectural consistency and excellent design and enhancing the economic viability of Park City's Main Street Business Districts; and

WHEREAS, Chapters 2.1, 2.2, and 2.3 Historic Residential Districts (HRL, HR-1, and HR-2) and Chapter 2.16 Recreation Commercial (RC) District, provide a description of requirements, provisions and procedures specific to these zoning districts that the City desires to clarify and revise. These revisions concern existing historic structures and building height; and

WHEREAS, the Planning Commission held work session discussions on August 22, 2012, September 12, 2012, January 9, 2013, and February 13, 2013 and provided input and direction during their regular meetings on September 26, 2012, November 28, 2012, and May 8, 2013 and discussed the proposed LMC amendments as outlined in this report; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meeting on June 26, 2013, and forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on _____, 2013; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, preserve historic structures, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2- Sections 15-2.1, 15-2.2, 15-2.3, and 15-2.16. The recitals above are incorporated herein as findings of fact. Chapter 15-2.1, 15-2.2, 15-2.3, and 15-2.16 of the Land Management Code of Park City are hereby amended as redlined (see Attachment 1).

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ____ day of _____, 2013

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney

Attachment 1

Chapter 2.1 - Historic Residential-Low Density (HRL) District

15-2.1-4. EXISTING HISTORIC STRUCTURES.

Historic Structures that do not comply with [Building Footprint](#), [Building Height](#), Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height.

(A) **EXCEPTION.** In order to achieve new construction consistent with the Historic District Design Guidelines, the Planning Commission may grant an exception to the Building Setback and driveway location standards for additions to Historic Buildings:

- (1) Upon approval of a Conditional Use permit,
- (2) When the scale of the addition or driveway is Compatible with the Historic Structure,
- (3) When the addition complies with all other provisions of this Chapter, and
- (4) When the addition complies with the International Building and Fire Codes.

15-2.1-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a Story within this zone. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.~~ Attics that are not Habitable Space do not count as a Story.

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the rear elevation meets existing Grade.~~

(C) **ROOF PITCH.** The primary Rroof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof, or a roof ~~which-that~~ is not part of the primary roof design may be below the required 7:12 pitch.

(1) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same Structure.

(D) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT.** The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

(5) **ROOF PITCH.** Exceptions to the minimum roof pitch requirements may be granted by the Planning Director during the Historic District Design Review approval process based on compliance with review criteria as stated in the Park City Design Guidelines for Historic Districts and Historic Sites. Such exceptions to roof pitch may be granted to allow historic roof forms for additions to Historic Structures when the proposed roof pitch is compatible with the style of architecture.

Chapter 2.2 - Historic Residential (HR-1) District

15-2.2-4. EXISTING HISTORIC STRUCTURES.

Historic Structures that do not comply with [Building Footprint](#), [Building Height](#), Building Setbacks, Off-Street parking, and driveway location standards are valid Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height. All Conditional Uses shall comply with parking requirements of Chapter 15-3.

(A) **EXCEPTION.** In order to achieve new construction consistent with the Historic District Design Guidelines, the Planning Commission may grant an exception to the Building Setback and driveway location standards for additions to Historic Buildings:

- (1) Upon approval of a Conditional Use permit,
- (2) When the scale of the addition or driveway is Compatible with the Historic Structure,
- (3) When the addition complies with all other provisions of this Chapter, and
- (4) When the addition complies with the International Building and Fire Codes.

15-2.2-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

~~(A) — A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.~~ Attics that are not Habitable Space do not count as a Story.

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the rear elevation meets existing Grade.~~

(C) **ROOF PITCH.** ~~The primary R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof, or a roof ~~which that~~ is not part of the primary roof ~~design~~ may be below the required 7:12 pitch.

(1) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same Structure.

(AD) BUILDING HEIGHT EXCEPTIONS. The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT.** The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

(5) ROOF PITCH. Exceptions to the minimum roof pitch requirements may be granted by the Planning Director during the Historic District Design Review approval process based on compliance with review criteria as stated in the Park City Design Guidelines for Historic Districts and Historic Sites. Such exceptions to roof pitch may be granted to allow historic roof forms for additions to Historic Structures when the proposed roof pitch is compatible with the style of architecture.

Chapter 2.3 - Historic Residential (HR-2) District

15-2.3-5. EXISTING HISTORIC STRUCTURES.

Historic Structures that do not comply with [Building Footprint](#), [Building Height](#), Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height.

(A) **EXCEPTION.** In order to achieve new construction consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites, the Planning Commission may grant an exception to the Building Setback and driveway location standards for additions to Historic Buildings, including detached single car Garages:

- (1) Upon approval of a Conditional Use permit,
- (2) When the scale of the addition, Garage, and/or driveway location is Compatible with the historic character of the surrounding residential neighborhood and the existing Historic Structure,
- (3) When the new Construction complies with all other provisions of this Chapter, and
- (4) When the new Construction complies with the Uniform Building and Fire Codes and snow shedding and snow storage issues are mitigated.

15-2.3-6 BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height.

Final Grade must be within four vertical feet (4') from Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The Planning Commission may grant an exception to the Final Grade requirement as part of a Master Planned Development within Subzone A where Final Grade must accommodate zero lot line Setbacks. The following height requirements must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone.~~ [A Structure shall have a maximum height of thirty five feet \(35'\) measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.](#) Attics that are not Habitable Space do not count as a Story. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A for the extension of below Grade subterranean HCB Commercial Uses.

(B) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A consistent with MPD requirements of Section 15-6-5(F). ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the rear elevation meets existing Grade.~~

(C) **ROOF PITCH.** ~~The primary R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof, or a roof ~~which-that~~ is not part of the primary roof design may be below the required 7:12 pitch.

(1) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same Structure.

(D) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

(1) An antenna, chimney, flue, vent, or similar Structure, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT.** The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from existing Grade.

(5) **ROOF PITCH.** Exceptions to the minimum roof pitch requirements may be granted by the Planning Director during the Historic District Design Review approval process based on compliance with review criteria as stated in the Park City Design Guidelines for Historic Districts and Historic Sites. Such exceptions to roof pitch may be granted to allow historic roof forms for additions to Historic Structures when the proposed roof pitch is compatible with the style of architecture.

Chapter 2.16 – Recreation Commercial (RC) District.

15-2.16-5. SPECIAL REQUIREMENTS FOR SINGLE FAMILY AND DUPLEX DWELLINGS.

[...]

(L) **BUILDING HEIGHT.** No Single Family or Duplex Dwelling Structure shall be erected to a height greater than twenty-seven feet (27'). This is the Zone Height for Single Family and Duplex Dwellings. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirements must be met:

(1) ~~A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. Attics that are not Habitable Space do not count as a Story~~

(2) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finished Grade on all sides of the Structure. ~~On a structure in which the first Story is located completely under finished Grade, a side or rear entrance into a garage which is not visible from the front façade of Street Right of Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the rear elevation meets existing Grade.~~

(3) Roof Pitch. ~~The primary R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof, or a roof ~~which that~~ is not part of the primary roof ~~design~~ may be below the required 7:12 pitch.

~~(a) A Green Roof is allowed on a Structure where it will not increase the visual mass, nor create additional shade on an adjacent property when compared to the allowed 7:12 to 12:12 roof pitch on the same Structure.~~

(M) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, and similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) Elevator access. The Planning Director may allow additional height to allow for an elevator compliant with the American Disability Acts standards. The Applicant must verify the following:

- (a) The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.
- (b) The proposed option is the only feasible option for the elevator on the site.
- (c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) Garage on Downhill Lot. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

(5) **ROOF PITCH.** Exceptions to the minimum roof pitch requirements may be granted by the Planning Director during the Historic District Design Review approval process based on compliance with review criteria as stated in the Park City Design Guidelines for Historic Districts and Historic Sites. Such exceptions to roof pitch may be granted to allow historic roof forms for additions to Historic Structures when the proposed roof pitch is compatible with the style of architecture.

15-2.16-6. EXISTING HISTORIC STRUCTURES.

Historic Structures that do not comply with [Building Footprint](#), [Building Height](#), Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height. All Conditional Uses shall comply with parking requirements of Section 15-3 of this Code.

(A) **EXCEPTION.** In order to achieve new construction consistent with the Design Guidelines for Historic Districts and Sites, the Planning Commission may grant an exception to the Building Setback and driveway location standards for additions to Historic Buildings upon:

- (1) Upon approval of a Conditional Use Permit,
- (2) When the scale of the addition or driveway is Compatible with the Historic Structure,

- (3) When the addition complies with all other provisions of this Chapter, and
- (4) When the addition complies with the International Building and Fire Codes

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
AUGUST 22, 2012**

PRESENT: Charlie Wintzer, Brooke Hontz, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Mathew Evans, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code Amendments – General Discussion

Planner Kirsten Whetstone reported that the Staff was doing an annual update of the Land Management Code. She handed out a Staff report that outlined a few of the major changes for consideration. Additional minor changes were not included in the Staff report. Planner Whetstone pointed out that four pages of the Staff report was a pending ordinance for these various amendments.

Planner Whetstone reviewed the redlined packet of amendments. The first was Review Procedure under the Code and addressed different sections of the Code related to review procedures, primarily the appeal process. Planner Whetstone explained that the primary reason for the change was that an applicant could not go through two appeals with the City. It has to move on to a court jurisdiction. She noted that it applied to design reviews, administrative reviews and final actions that get appealed to the Planning Commission and then to the Board of Adjustment.

Planner Whetstone acknowledged that the Planning Commission had only been given the material this evening. She recommended that the Planning Commission read the material and the pending ordinance and come prepared to discuss it at the next meeting on September 12, 2012.

Chair Wintzer asked if the next meeting would be a work session discussion or whether the Planning Commission would be asked to take action. Planner Whetstone stated that the LMC amendments would be noticed for public hearing and discussion, but no action would be requested.

Planner Whetstone referred to the redlined amendment addressing changes to roof pitch, patios and the proposal to require a building permit for certain impervious surfaces in the Historic District.

Planner Whetstone noted that the section titled Master Planned Developments was a relook at various items and issues raised over the past year regarding master planned developments in Old Town and criteria that should be looked at in Master Planned Developments.

Planner Whetstone referred to Chapter 10 – Board of Adjustment and noted that that redlined version removes the Special Exception. The Board of Adjustment is allowed to grant variances and various things, and they can also act on a Special Exception, which is no longer in the State Code. The Staff proposed to delete the Special Exception, but they had not decided what to replace it with. Some of their ideas would be presented to the Planning Commission at the next meeting for discussion.

Planner Whetstone commented on the Definitions Section and the proposal to add definitions for green roofs, impervious surface, split level, story, half-story, and a zero net energy building.

In response to a question of whether or not the Planning Commission would take public input on the proposed amendments, Chair Wintzer believed it was best to hold public comment until the next meeting to give the Planning Commission the opportunity to review the material handed out this evening. Chair Wintzer encouraged the Commissioners to carefully read the proposed amendments and contact the Planning Department with any questions prior to the next meeting. Director Eddington stated that Planner Whetstone was the lead planner on the amendments; however, other Staff members would also be involved. He encouraged the Commissioners to contact Planner Whetstone to schedule a time to meet with her or another Staff person.

Assistant City Attorney McLean commented on the review process for Historic District Design Review, as well as Administrative Conditional Use Permits. She explained that the proposed change came out of litigation involving 811 Norfolk, in which the court ruled that the City process applied in that case had excessive appeals, which is not allowed by State Code. However, Section 302 of the State Code allows for an application process that allows designation of routine land use matters. An application of proper notice will receive informal streamlined review and action if the application is uncontested, and shall protect the right of each applicant and third party to require formal consideration of any application by a land use authority; and that that decision can be appealed. Ms. McLean stated that that portion of State Code reflects the process the City has where the Staff review is a streamlined review that can be taken to the HPB and further appealed to the Board of Adjustment. Ms. McLean remarked that the amendment tailors the language to more closely reflect the State Code language to make clear that their intent is to follow the State Code.

Commissioner Strachan asked for the impetus behind the changes to the MPD portion of the Code, Chapter 6. Director Eddington explained that the Master Planned Development process began in 1994 and at that time it was allowed in most of the zones. It has morphed over the years and MPDs are allowed in some zones and disallowed in others. The language has been altered and it is now at a point where MPDs are allowed in the Main Street zone if it crosses over into another zone. The intent is to clean up the language and make it more applicable.

Director Eddington noted that a related discussion on the Kimball Arts Center was scheduled before the City Council to consider the opportunity to have that project go through an MPD. Projects on infill lots are challenging and currently there is no opportunity to look at an MPD. Director Eddington clarified that the City Council would not take action on the Kimball Arts Center. It would simply be a policy discussion on whether to allow an MPD to be applied in that situation. Director Eddington invited the Commissioners to attend the City Council meeting to hear that discussion. He clarified that it would be a general policy discussion and not specific to the Kimball Arts Center.

Commissioner Strachan pointed out that the information handed out this evening had a definition of story and split level. Therefore, when the Planning Commission provides the Staff direction for the next work session on the story issue, they should not ask for those definitions because they have already been provided.

Commissioner Savage noted that the applicants who had their projects continued this evening had stayed for the work session because the Planning Commission committed to have a discussion regarding the interpretation of story, independent of the proposed amendments. He pointed out

that whatever changes are made to the LMC would not apply to these applications. Commissioner Savage believed the Planning Commission needed to discuss the interpretation question in an effort to provide those applicants some guidelines related to their projects as a consequence of the continuation.

Planner Whetstone agreed that it was a two-prong discussion. One was an interpretation of the current Code and the other would be the LMC amendment that addresses potential reasons for different interpretations.

Commissioner Thomas was unsure if they could resolve both issues this evening without first seeing the minutes from the Planning Commission and City Council meetings when the Steep Slope criteria was established. He vaguely recalled talking about stories and heights and he would like to have those documents to clarify some of the issues.

Assistant City Attorney McLean recalled, and as reflected in the Code, that the three stories was under the Historic District height limitations for each zone; and not part of the Steep Slope CUP. Commissioner Thomas concurred, but he still felt that the previous minutes were important because it pertained to the discussion.

Planner Katie Cattan provided a brief history of the process. She explained that when the Planning Commission went through the Steep Slope process there was a 10 foot limit per story. It was quantifiable for Staff to enforce the 10-foot story limit. However, when the process reached the City Council level, the 10-foot limit per story was removed. That changed the clarity because people could expand the stories and work up the hill.

Planner Cattan recalled that the reason for removing the 10-foot limit was based on construction issues on some of the challenging slopes, particularly for the garage. The City Council decided to take out the 10-foot limit for the garage level to create a garage entrance on grade.

Planner Whetstone remarked that the current definition of story in the LMC does not make sense because the City Council took out the vertical measurement. Commissioner Thomas thought it still made sense, but it changed the definition. Planner Whetstone pointed out that the LMC does not address how the stories should be added up.

Commissioner Savage asked Commissioner Thomas to explain his perspective on the story issue and his concerns.

Commissioner Thomas stated that the issue evolves from the beginning of the Steep Slope criteria. The intent was to reduce the mass and scale of projects that were coming before the Planning Commission. They were seeing projects that cascaded up as high as eight stories. Therefore, size, visual impact, and commonality with other projects in the neighborhood became a primary concern. Steep Slope criteria was established to reduce the mass and scale. Commissioner Thomas believed the Planning Commission clearly intended to have a Code that created buildings that had more commonality with the historic character of the community. He noted that the Steep Slope process included discussions about number of stories, modifying grade, maximum heights, and shifts in building. It was not isolated to the number of stories inside the volume. It was also the impact from across the canyon.

Commissioner Thomas recalled the 10-foot per story limit and he thanked Planner Cattan for reminding him that the City Council had made that modification. Commissioner Thomas stated that the floor to ceiling issue was still defined in the definition. He believed the issues have been clarified and defined, but they need to see the minutes and come together on the interpretation.

Commissioner Savage believed there was a clear misunderstanding on the definitions since three applications came from the Planning Commission with a recommendation to approve, and the Planning Commission would not move forward on those applications based on interpretation. If the Planning Commission thinks the Staff misinterpreted the definition, he wanted like to hear the Staff's reasoning.

Director Eddington stated that part of the challenge was the vertical measurement between finished floor to finished floor. What is not addressed in the definition is the issue of a half floor and/or a split level. Depending on where they take a section drawing, a project could end up with three or six levels if they are split levels. Director Eddington remarked that finished floor to finished floor was ill-defined in the definition section of the Code.

Commissioner Strachan believe there were two separate issues. The first is from which point inside the structure to take the vertical measurement. The second is the issue of getting around the story requirement by creating separate accessory structures. There may not be three stories in one structure, but cumulatively there could be several. Commissioner Savage agreed, and felt they could have divided the applications this evening into those two different parts. Commissioner Savage concurred; however, those projects were still tied to the definition of a story and different interpretations.

Planner Whetstone read the definition of a half-story taken from the Webster definitions. "A half story is an uppermost story, which is usually lighted by dormer windows in which a sloping roof replaces the upper part of the front wall". She clarified that the definition only talks about half stories on the upper portion.

Commissioner Strachan stated that he attended the City Council meeting when they approved the LMC amendments proposed by the Planning Commission. He recalled from the discussion that the Council took the position that what happens inside the structure does not matter if the applicant is bound by the 27 foot requirement. The City Council was not concerned with how large the story could get, which is the problem they have today.

Commissioner Thomas pointed out that the Code does not say you can have 3.5 or 3.25 stories. It specifically says three stories, whether the stories are 10 feet floor to floor, 9 feet floor to floor, or 12 feet. Using an example similar to a plan they saw this evening, Commissioner Savage thought they could keep the outside looking exactly the same and reconfigure the inside to where it would adhere to the three story rule. If applicants have that ability they would be compliant. Beyond that he did not understand why they should care how the inside is configured.

Planner Whetstone explained that the Staff interpreted some projects as three stories because it had a mezzanine or landing. She asked if they should count a landing that gives character inside a

house as a story. Planner Whetstone felt that was the issue that needed clarification.

Chair Wintzer stated that the mistake they continually make is that they write the Code with words and not with pictures. He suggested that the Staff prepare drawings that clarify and interpret the definition of a story. Commissioner Strachan noted that the definition of a basement in the LMC does show a drawing.

Commissioner Hontz stated that she attended the same City Council meeting that Commissioner Strachan had referenced, and the entire reason for removing the 10-foot limitation was to create flexibility between the three stories and the height. The City Council felt that defining 10-feet per story would limit flexibility. Commissioner Hontz thought they were where they were supposed to be based on the idea of flexibility. She understood that the Planning Commission needed to come to some consensus, and believed the City Council had set them up for this.

Commissioner Thomas stated that not allowing the additional half level above three stories reduces the mass of the building. In effect, that is working according to the initial intent of the Code. Commissioner Savage argued from the perspective that if someone presents a plan that is compliant with Code, it is no one's business what it looks like inside. Chair Wintzer and Commissioner Thomas explained why they disagreed with Commissioner Savage. Commissioner Savage thought the criteria should be based upon whether it is consistent with the objectives about how it looks from across the valley. The valley does not know how many stories are in the building. Commissioner Thomas pointed out that if a limit is not set on the number of stories it can cascade up the hill. That was the reason for having the criteria. Commissioner Savage believed that could be constrained by footprint, setbacks and other constraints from the outside.

Chair Wintzer clarified that the Planning Commission could not move forward on any applications as long as they are in conflict with Staff on the definition of story.

Planner Cattan suggested that they talk about whether a story that goes up 5 feet in elevation is considered a half story or one story. She stated that if the Planning Commission agrees that the three applications seen this evening were 3-1/2 stories, then the Staff interpreted the Code wrong by saying that the level of a story could be split.

Planner Whetstone referred to a house on Park Avenue that has a door, two windows, a roof and dormers. The structure is a simple box without a basement. It has a 9 foot ceiling because of the roof pitch. Based on her research, that structure is a 1-1/2 story house.

Chair Wintzer called for public input on the issue of a story. Speakers were advised to keep their comments general and not related to a specific project.

Craig Elliott with the Elliott Work Group asked the Commissioners to clear their minds of their own opinions and listen to his comments. Mr. Elliott regretted that he had not come before the Planning Commission to argue the three-story issue during the amendment process. At the time he thought it dealt primarily with Ridge Avenue and 75' lots that had 50 feet of grade change. Mr. Elliott stated that the interpretation had become such that it was changing the way he thinks about what they were doing in town. Mr. Elliott remarked that the Code definition is nearly identical to the definition

in the International Residential Code and the International Building Code. It talks about a story being vetted from a floor level to the floor level next above. That means perpendicular to the floor or the roof; and not to the side. Mr. Elliott noted that the Building Code never addresses a shift in floor plane. He pointed out that the discussion is about a shift in floor plane and not different floors or different stories. It is all one floor that shifts. He stated that being able to shift the floor plane is a fantastic tool for an architect because it provides variety, the opportunity for interest, and delight. It is something that is valuable and can add interest to the town and the community, and not just the interior of a space.

Mr. Elliott stated that he lives in a split level house in Thaynes. He designed it, built it and has lived there for 18 years. He has been in Park City for 19 years and he never thought they would be having this discussion.

Mr. Elliot stated that an interpretation like this is not going to protect neighboring property owners or Park City. It is not going to provide additional value to the community. It will not reduce the densities in these houses because they will design them differently. Instead of having a garage with a level above it and three stories, the garage will be the top floor with two floors below it, just like all the houses on the east side of Lowell. Mr. Elliott remarked that the solutions they have seen through the shift in the floor plane gives variety and building mass above a garage. It is an opportunity to do something good. Mr. Elliott stated that if everything is pushed down to the same floor, they would be digging a deeper hole. They would be trucking more dirt out of town and driving more dump trucks. It would require more shoring and more concrete to support and retain the earth around it. The result will be more dangerous to the adjacent house than what already exists. Mr. Elliott reiterated that changing the interpretation will not change the amount of square footage that people build, and it will not improve the character of the architecture on the street. It will not change how things look from across the valley.

Mr. Elliott commented on issues that deal with the depth of a lot. Discussions over the past year with Staff have been about building multiple buildings on a lot and the story definition made by individual buildings. Mr. Elliott stated that a story is defined across the entire lot. A 140 feet deep lot is typical of what is going on. Different colors, forms and shapes are unique to Park City and the goal is not to put everything into the same box.

Mr. Elliott stated that he was not interested in doing any more houses on a steep slope in town. He has three under contract that he intends to finish. If the interpretation goes in the direction of their discussion it will not benefit the town and it will not benefit the people who own the property.

Commissioner Thomas stated that Mr. Elliott's interpretation of story and that a story is relative to the immediate space below, goes back to the notion of stepping a house completely up the hillside. He noted that the Code was created to put a limitation on that.

Mr. Elliott drew a sketch of a storied house to make his point.

Commissioner Strachan asked Mr. Elliott for his opinion on how the definition of a story applies to a structure that has a number of detached accessory structures, but has the appearance cross-canyon of seven or eight stories. Mr. Elliott replied that on a lot deeper than 75', separate buildings

in a surrounding context was not a bad thing. Commissioner Strachan asked Mr. Elliott's opinion if the compatibility requirement was the only regulation and there was no objective limitation. Mr. Elliott stated that as some who does design work, he believed the context of the site and where you build is the most important element in any design.

Commissioner Thomas thought Mr. Elliott would agree as a professional that they also have the responsibility to look at how a structure fits into the compatibility of a community and its impact on the historic character of the community in terms of mass, scale and size. He remarked that the Code originated with trying to create a Code that resulted in more commonality with the historic character of the community. Commissioner Thomas stated that the building could still be stepped in the process Mr. Elliott identified in his diagram, but only three stories were allowed.

Chair Wintzer suggested that the Staff schedule this as a work session item and come back with a series of drawings that show different scenarios to help define the definition of a story.

Commissioner Hontz stated that the Code change was precipitated by multiple structures that came in. She was not on the Planning Commission at the time and she opposed one of the structures. She came in a demonstrated that it did not meet the Code. Commissioner Hontz stated that when she came to the Planning Commission with her concerns they agreed with her but could not make that finding, and it went to the City Council. She believed it would have been a better design had it done what they were trying accomplish this evening. That era is the reason why they got to three stories. She did not want to turn back the clock. Commissioner Hontz stated that she lives in a two-story house; however by Staff interpretation, it is actually one story. There are many consequences to contemplate and she thought the Planning Commission should refine what they wanted to see come back. She needed time to read and digest the definitions and personally did not want more input before they had the conversation.

Director Eddington suggested that the Staff come back with a set of clear drawings to help the Planning Commission understand and aid in their discussion. Chair Wintzer noted that the Planning Commission had three applications that were waiting on an answer to the question. He thought the Staff should come back with a professional opinion on the definition of story.

Commissioner Savage acknowledged that he was not on the Planning Commission when the definition was written. However, speaking from logic, he believed the constraint that was applied related to the mass, scale and appearance from the exterior. In his opinion, a story is what is directly above and not what is on the other end of the building.

Director Eddington pointed out that the definition as written talks about the interior and floor plane to floor plane; and that is the challenge. He agreed that the intent may have been misguided in the definition, but they have to work within the definition. Commissioner Savage stated that if floor plane to floor plane is a vertical measurement, he would argue that at least one structure they saw this evening was never more than three stories at any point.

Planner Evans noted that not all development in Old Town require a Steep Slope CUP. Therefore, some structures with the same scenario may have been approved by various Staff members under

the HDDR process and never came before the Planning Commission. Commissioner Savage stated that if that did occur, it would be valid precedence independent of the CUP requirements. Planner Evans noted that he currently has two applications that do not require a Steep Slope CUP that do exactly what they were talking about. Commissioner Thomas felt that was another reason to come to some agreement on interpretation.

Assistant City Attorney McLean explained that the definitions were in the Code. In thinking about this issue, she directed them to the definitions in the last chapter and the key words, 1st story, story and structure. They should also look in the H Districts for guidance on what constitutes a story. Commissioner Savage requested that the Staff email a document to the Planning Commission that includes all the components of the Code that would help prepare them for the next meeting. Director Eddington offered to provide that documentation and include images.

Jonathan DeGray was not opposed to the Planning Commission discussing heights and levels and amending the Code for future projects. However, he agreed with Ms. McLean about looking at the Code as written because the projects currently before them were based on that Code. It was important for the Planning Commission to come back with a solid interpretation on what is written.

Chuck Heath asked about process and the time frame for taking action on the projects that were continued this evening. His project was continued once for additional information and when the information was provided, it was continued again because there was a question about interpretation. He felt it was important for the Planning Commission to define the interpretation of a story so these projects could move forward or go away. Chair Wintzer stated that the issue should be resolved at the next meeting. Once they have that resolution, they could begin discussing projects that were continued for that reason.

Assistant City Attorney McLean pointed out that the applications this evening were continued to a date uncertain. To be fair to the applicants, the Planning Commission should resolve the issue at the September 12th meeting and the items could be re-noticed for the meeting on September 26th.

Commissioner Thomas clarified that he raised the issue because he had heard three different interpretations of a story and he felt it was important to have a consistent interpretation that benefits the community.

The Work Session was adjourned.

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
SEPTEMBER 12, 2012**

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Adam Strachan, Jack Thomas, Thomas Eddington, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of Story & Height

The Staff recommended that the Planning Commission discuss the interpretation of story as currently defined in the LMC.

Planner Astorga stated that in 2009 the Planning Commission and City Council held several meetings to discuss amending the Land Management Code. At that time the Steep Slope Conditional Use permit criteria was updated, as well as the overall height and how height is measured. It also addressed specific regulations related to the HR-1, HR-2 and the HRL District. Planner Astorga reviewed the existing regulations using a hand-drawn illustration.

Planner Astorga remarked that the major change in 2009 was the requirement to add a 10 foot setback for the third story. Another regulation indicated that final grade had to be within 4 feet of existing grade. The maximum number of stories was limited to three, and the basement counts as a first story. Planner Astorga pointed out that on a 30% lot and with the 27' height regulation, the numbers for a 10' setback do not work. If the entire lot is 30%, the minimum setback has to be 18 feet. Planner Astorga noted that another item added to the LMC in 2009 was that the roof pitch had to be between 7:12 and 12:12.

On a downhill lot, if the applicant wanted to accommodate a tandem two-car garage, an exception could be authorized for up to 35' instead of 27' to accommodate tandem garages. The Code indicates that a single family dwelling must have at least two parking spaces.

Planner Astorga noted that items were also removed from the LMC in 2009. The Planning Commission had the ability to allow a maximum height of up to 45 feet on lots with slopes 30% or greater, and that was removed.

Planner Astorga read the definition of a story per the current Land Management Code. "The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall pate for the roof structure." Planner Astorga stated that the Staff has recently received several applications on downhill lots, where different architects have introduced a split level concept. He requested that the Planning Commission discuss split level this evening.

Planner Astorga reviewed a diagram to show the shift in levels and the staircases dividing the structure. He noted that the application would meet all the requirements of the LMC, with the exception of the number of stories based on interpretation of the definition.

Commissioner Thomas believed the present interpretation is the same interpretation the Planning Commission has given in the last two meetings. According to the strict definition of the Code as written, the diagram shown exceeds the three-story limit. Commissioner Thomas agreed that the

definition needed to be modified and corrected, and he thought the Planning Commission should consider the modification as suggested by Staff. He favored the idea of varying the floor plates as long as they stay within the maximum height. The Staff had suggested 37-1/2 feet as a discussion point, and Commissioner Thomas thought it was an appropriate height and closer to the intent.

Commissioner Thomas pointed out that when the Code first came before the Planning Commission there was a 10-foot story criteria that would have allowed more flexibility. When it went to the City Council, that criteria was modified and changed and the result affected the process. The Commissioners concurred.

Planner Astorga stated that the Staff understood the concerns and was prepared to introduce a solution, which would add a regulation to the Land Management Code. The measurement would be the vertical distance between the lowest finished floor towards the highest point on the highest ridge. The Staff believes that if they could implement that specific regulation, it would stop the terracing affect that could take place on a longer than usual lot.

Planner Astorga presented a diagram to show how the Staff reached the 37-1/2 feet height recommendation.

Commission Thomas felt that the overall maximum height made the story discussion less significant. Director Eddington felt it was best to define a story as one above the other and add a vertical maximum measurement. Planner Astorga pointed out that the intent for the 7:12 to 12:12 range was to encourage variety and avoid every building having the same pitch. Director Eddington remarked that the steeper the slope, the more impacted the project would be by the vertical measurement.

Planner Astorga stated that the Planning Commission researched the definition of story in other ski resort town. Based on that research, The Staff recommended changing the definition of story to, "That portion of a building included between the upper surface of a floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the top most floor and the ceiling or roof above." He asked for feedback from the Planning Commission on the proposed definition. Planner Astorga noted that the difference between the existing language and the proposed language is the reference to the floor next above it. He remarked that the language mirrors the definition of a story per the International Residential Code.

Commissioner Thomas stated that if they remove the three story restriction and add a new height restriction, the definition of a story has less meaning. However, he liked having some commonality with other communities on what is logical in the building world. Commissioner Thomas thought that cleaning up the story definition was a good idea.

Director Eddington clarified that the Staff had not considered completely removing the three-story issue. They had talked about giving better definition and parameters to a mezzanine or a split level. Commissioner Thomas thought they needed to think of the effects of half-story. Under the current definition, some of the cross sections are six stories. He felt the definition was too restrictive.

Commissioner Gross thought the 25% limitation on the intermediate floor seemed reasonable. Commissioner Thomas wanted to see diagrams of how that would work before making a decision. He suggested taking input from the design community to see if there were other conditions they had not thought about. The idea sounded good and he would like to support it, but he wanted to understand the fallout and what situations could occur under different scenarios. He felt the discussion was going in the right direction, but it needed to come back for further consideration.

Director Eddington stated that the Staff would work with different scenarios and come back with alternatives.

Commissioner Hontz was leaning towards the revised definition of a story because the new language clarifies that it has to be above. She favored keeping the 3-story limitation and the additional height limitation. She agreed with Commission Thomas about looking for unintended consequence.

Commissioner Thomas believed the intent of the Code is to reduce the mass and scale of houses in the Historic District, but there should be some flexibility in doing that.

Commissioner Strachan asked if the definition of mezzanine floor or loft had been pulled from somewhere. Planner Astorga recalled that it was a combination from Crested Butte and other towns. The language was not pulled word for word and the Staff tweaked it specific to Park City. Commissioner Strachan thought it set up inconsistent and vague language in the Code. He felt the revised definition of a story and the 37-1/2 overall height limitation was sufficient. The architects would have the ability to do what they wanted inside those parameters. He believed the mezzanine, loft, or intermediate floor definition was unnecessary and would only create problems. Director Eddington clarified that Commissioner Strachan was not concerned about split levels or mezzanines. Commissioner Strachan replied that this was correct. He thought it everything could be accomplished by the stepping requirement, setbacks, and a change to the height requirement. He was concerned that the 25% floor area calculation would be hard to do because the total floor area of the story in which it is placed would not be calculable. There would be so many half stories and steps that they would never reach the 25% point. Commissioner Thomas agreed.

Commissioner Thomas believed a critical step was the addition of the 37-1/2 foot height limitation, because it restricts the height of the building without being concerned about the stories inside. However, he still wanted time to think it through to make sure they were not opening Pandora's box.

Director Eddington stated that the Staff would come back with code definitions that address that issue, as well as definitions that would address keeping in the story and mezzanine.

Commissioner Hontz suggested keeping the story definition as revised and the 37-1/2-foot height limitation, and not the mezzanine definition. From her reading, when it is stepped, there would never be a loft or a split level. Commissioner Strachan asked if Commissioner Hontz was suggesting that a story is the portion of the building included between the upper surface of any floor and the upper surface of the next floor above, and that measurement could be taken from anywhere in the home. Commissioner Strachan provided a scenario based on Commissioner Hontz's interpretation. He noted that not all the floors in the diagram may expand the width of the home.

Director Eddington stated that it would be the entire width of the home depending on where the sections are drawn.

Commissioner Strachan was concerned about a building cascading up the hillside on a long lot. Director Eddington explained how the 37-1/2 overall height limitation would address that issue. Commissioner Strachan felt the explanation made it more certain that the mezzanine definition and the three story definition were not needed, as long as the height controls the cascade effect up the hillside and the concern for the cross canyon view.

Commissioner Thomas pointed out that the cross sections, like the example they were looking at, was consistent with the Code, as long as it remains under the 37-1/2 foot limit. However, under the current definition, the cross section would show six stories. Commissioner Strachan stated that without a cross canyon view, it would be difficult to know if that home would present the cascade problem. Commissioner Thomas replied that it has a footprint restriction and a maximum height from one point to another point.

Chair Worel thanked Planner Astorga for the background information he provided. It was helpful to see how other communities address these issues.
Chair Worel opened the public hearing.

Craig Elliott, an architect with Elliott Work Group, felt the Planning Commission was headed in the right direction as far as capping maximum height and removing the requirements for floors. He noted that most sites have cross slope in addition to the slopes front and back. Removing the discussion about stories and maximizing the height and using the 27 foot grade makes a lot of sense with respect to a 75-foot deep lot. Mr. Elliott presented an image of homes in Park City that was taken from the Marsac parking lot. He noted that the majority of buildings in the photograph do not meet the existing current Code for various reasons, but it is a great depiction of what Park City is and can be. He chose that photograph because it is one of the steepest sections in Old Town. Mr. Elliott would like to have the discussion on lots greater than 75 feet deep and breaking the building into separate buildings or structures that are not connected. He believed there was an opportunity to maintain the existing character and scale, and still give people with larger lots the ability to create diverse and interesting projects. Mr. Elliott agreed with the discussion about removing the floor definition. He liked the cap of the building and the maximum height and following the 27 foot grade, as long as it pertains to a typical lot depth. Variations in lot depth and shape becomes a separate issue.

Joe Tesch disagreed with Commissioner Thomas' comment that the idea of the Code was to reduce massing and height. That was the case in 2009, but additional suggestions were made in 2011. There were joint meetings with the Planning Commission, Planning Staff and City Council and the idea of reducing height and size further was rejected. Mr. Tesch remarked that they were dealing with what occurred in 2009, but the idea is to not go smaller. Operating today under the impression of a mandate to reduce what has been occurring is a mistake. Mr. Tesch stated that another thing that came out of those joint discussions was that Park City is different neighborhoods and one size does not fit all. His recollection for those discussions was that there was no mandate for any neighborhood to attempt to reduce height or massing.

Chuck Heath, the applicant for 916 Empire, understood that there were recommendations to change the Code and possibly the rules. He wanted to know how this would affect his application, since his application was submitted under the current Code.

Assistant City Attorney McLean explained that Mr. Heath was vested under the Code in place at the time his application was submitted, and the interpretation of that Code. If the changes are less restrictive Mr. Heath could avail himself of that, but if they are more restrictive, he was still vested under the current application.

Mr. Heath asked how the new interpretation would differ from the current Code and how it would affect his application.

Commissioner Thomas clarified that the Planning Commission was talking about general amendments to the LMC with regard to stories, and not specific to any project. He recommended that Mr. Heath talk with the Staff regarding the interpretation to evaluate whether it would be more beneficial to move forward with his current application or wait until the changes are made and adopted and then resubmit his application.

Mary Wintzer commented on Mr. Tesch's remarks about there not being a mandate. She thought the visioning result had brought this to the forefront. Over 400 people responded and the City spent \$60,000 to do a survey. People overwhelmingly talked about scale and wanting to keep the small town feel and the historic nature. Ms. Wintzer believed the home on Ontario was the poster child for loopholes and being able to build a house far out of scale of the adjacent historic home. Ms. Wintzer believed there was wide sentiment among many people in Old Town to look at mass and scale to keep with natural setting, historic character and the small town feel.

The Work Session was adjourned.

Exhibit D

Planning Commission Meeting
September 26, 2012
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changes would not permit that. The reason for a master planned development does not match the construction of one building in one zone on one lot. He was unsure what changes were being proposed, but he hoped they could prevent that from occurring.

Coleen Webb an owner in the Town Lift condos stated that her building is next to the Kimball Arts Center. She is a part-time resident in Park City and it is difficult to always attend meetings when a subject of interest is being discussed. She tries to attend as often as she can. Ms. Webb stated that she would not be in town on October 24th. She is on the Board of the Town Lift Condominiums HOA. Last week the Board members and residents met with Robin and others from the Kimball Arts Center to express their concerns and the impacts that would be created for the residents living next to the Kimball Arts Center, and what an expansion under an MPD would do to their property. Ms. Webb also had concerns with how a project that size would affect the look and feel of Old Town if the MPD goes through. Ms. Webb was comforted when she saw the concern the Planning Commission had for the neighbors when discussing the Stein Eriksen project and the Richards annexation. As a neighbor to the Kimball and a resident of Old Town, she hoped the Planning Commission continues to be that detailed and that interested in what the change of allowing an MPD could do on Main Street. It is more than a white fence or one house in your face impact. It impacts the Historic District and those who live there and abide by the 84 page guidelines of the Historic Preservation Board. Ms. Webb was not opposed to amending the LMC to make them better over time, but it is important to understand the circumstances as to why they were put in place to protect the Historic District. Ms. Webb stated that everyone respects the Kimball and the HOA and owners want the Kimball Arts Center to expand. They would like the property improved and the programs expanded. They have been great neighbors and have worked together many times with the Kimball Arts Center; but the issues that an MPD would allow has caused them great concern. She asked the Planning Commission to consider the impacts that would be created by allowing MPDs in a community that is so dedicated to keeping the District historic. Changing the LMC for a one-time project would hurt what the rest have tried to maintain and the rules they have lived by in Old Town.

Chair Worel closed the public hearing.

Commissioner Hontz thought the Planning Commission should discuss some of the issues in the Chapters that would be continued to give the Staff direction for the next meeting.

Building Height Measurement and Story Definition

Commissioner Hontz found the exhibits in the Staff report to be helpful, but she had expected additional information based on the discussion at the last meeting. She wanted to see an exercise on a variety of unbuilt lots in Old Town, both downhill and uphill, that maxes out the heights using stories as an example to see what the mass and scale and height would do. She wanted an idea of worst case scenario. Commissioner Hontz remarked that they look at the existing built environment in analyzing the definition and the application. They overlook what type of development could occur on the existing vacant lots. She recalled a recent application where the applicant was asked to do that exercise and he was unable to show that he could build a house on the lot. Commissioner Hontz pointed out that based on the proposed language a house could not be built on a 40% slope.

She believed the analysis was important to make sure they would not make all the vacant lots in Old Town undevelopable.

Planner Francisco Astorga stated that the Staff could provide the variety of examples on unbuilt lots. However, there are a number of lots that are not listed as Landmark or Significant status, and could potentially be demolished and rebuilt. Planner Astorga proposed to come back with the information requested as well as other scenarios he had created for massing and volume on various slopes. He believed they could create specific worst case scenarios. Director Eddington thought that the Planning Commission would be able to see how different aspects of the Code work in each scenario depending on the location of the slope.

MOTION: Commissioner Hontz moved to CONTINUE the LMC amendments for Chapter 2-Zoning Districts; Chapter 6-MPDs; Chapter 7-Subdivisions; and Chapter 15-Definitions as identified in the Staff report to October 24, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission discussed the remaining LMC amendments outlined in the Staff report.

Amendment to require a building permit for driveways, parking areas, patios and other non-bearing construction that create impervious areas.

Planner Whetstone noted that the Planning Commission discussed this change at the last meeting. The Staff had recommended a building permit for all flat work in all zones. Requiring a building permit would ensure that all LMC requirements are met. Currently a building permit is not required and it is difficult to know when flat work is being done and whether it meets the requirements.

City Engineer, Matt Cassel, stated that the amendment allows the City to be proactive on an issue they have struggled with for years. When someone calls to ask if his neighbor has a permit for a patio or driveway, they have to inform that person that a permit was not required. The City then has to follow up to make sure the work was done within the requirements and many times they find Code violations. The intent is to communicate with people before work is started. He used 170 Daly Avenue as an example. They were fortunate enough to catch it before the driveway was poured; otherwise, the owner would have a new driveway that accessed at the intersection. Mr. Cassel explained that it would be a simple permitting process. The owner would be required to pay a minimal fee and have their plans reviewed for Code compliance before starting any work.

Chief Building Official, Chad Root, stated that another factor is to provide guidance for the homeowners who do the work themselves in an effort to reduce the number of neighbor issues. If a permit is required City-wide, the City has control over types of materials, size, and encroachment issues. Mr. Root pointed out that most jurisdictions outside of Utah regulate all flatwork and driveway work. Utah has a State Adopted Code that adopts the minimum standards, and the minimum standards cannot be exceeded. The proposed LMC amendment would provide a mechanism around the provision in the State Building Code and allow the ability to regulate driveways and flatwork in Park City.

Exhibit E

Planning Commission Meeting
November 28, 2012
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by a private, non-private, educational, religious, recreational, charitable, or philanthropic institution serving the general public”.

Commissioner Strachan thought Public and Quasi-Public should be capitalized in the definitions, and should say “Public Uses” with “Use” capitalized and “Quasi-Public Use” capitalized.

Commissioner Strachan asked if there was a definition for Industrial, and if so, that should also be capitalized. Director Eddington stated that there was not a definition for Industrial, and the Staff would write one. Commissioner Strachan thought “Commercial and Industrial” was redundant language. Planner Whetstone pointed out that it was actually Light Industrial (LI). Park City does not have a zone that allows straight Industrial business. Planner Whetstone thought that they should also define a “lodging project”.

The Planning Commission moved on to the remaining LMC Amendments.

Chair Worel stated that due to the late hour and the number of amendments that still needed to be discussed, Planner Francisco Astorga would give a presentation on Stories and the Planning Commission would discuss the proposed changes at a work session on December 12th.

Planner Astorga referred to page 164 of the Staff report, and an added regulation related to the split level concept. He had failed to put the language in the ordinance and he wanted that mistake clarified. He noted that the regulation language should be added between bullets C and D on pages 198, 200 and 201. The regulation read, “The overall height of a structure measured from the lowest point of the finished floor to the highest exterior ridge point shall not exceed thirty-seven and a half feet (37.5’). Planner Astorga noted that the language was introduced to the Planning Commission on September 12th, at which time the Commissioners had issues with the language and wanted to explore specific scenarios.

Planner Astorga stated that the Staff had prepared the different scenarios and wanted to hear as much input as possible from the Planning Commission. However, due to the late hour this evening, there was not enough time to sufficiently review the scenarios and give the Planning Commission the opportunity to brainstorm and provide comments. He noted that the regulation was applied to scenarios on a flat lot in the worst case scenario. The same was done on uphill lots at 15% grade, 30% grade, 45% grade and 60% grade. Consideration was given to the fact that many buildings are not historic and could be demolished for brand new construction.

Planner Astorga noted that Commissioner Thomas was absent this evening and his input on the regulation would be valuable based on his professional expertise. Planner Astorga apologized if any members of the public had waited for this discussion, but he felt it was better to wait and give the issue the time it needs to make sure everyone is on the same page and that they fully understand what was adopted in 2009.

Planner Astorga briefly reviewed some of the visuals to give the Planning Commission and the public a preview of the massing scenarios.

Commissioner Hontz was unsure if she could support the regulation because the historic portion of the structure could be on the bottom. She would like to see the step on new construction. Director Eddington stated that the Staff would have drawings to present at the next meeting to help address her concern. Commissioner Hontz felt that by now the Planning Commission should have a good understanding of the changes made in 2009, but it would be important to understand the effects of applying the new definitions. At this point, she was not comfortable with half stories and split levels shown in the scenarios provided. Commissioner Strachan agreed. He suggested that Planner Astorga redraft a couple of options because the ones shown were difficult to understand.

Planner Astorga clarified that he was not speaking about stories at this point. His comments related to the regulation regarding overall height on page 164 of the Staff report. Commissioner Strachan requested that Planner Astorga re-draft the definition of split level and story. Commissioner Wintzer suggested that the Staff draft two or three definitions to give the Planning Commission a choice.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, addressed the overall height of 37.5 feet. She assumed the language, "...from the lowest point of the finished floor..." probably means from the lowest point of the lowest finished floor. Ms. Meintsma thought better language would be, "from the lowest point where grade meets footprint", because often the lowest floor is quite a bit above grade and sometimes on piers. She requested that the Planning Commission consider her suggested revision because where the grade meets footprint is where the massing begins visually.

Commissioner Hontz thought Ms. Meintsma made a good point, however, under the current Code you could not build on piers because of the four-foot return to grade regulation. Planner Astorga noted that it would also not be approved through the design guidelines.

Director Eddington agreed that Ms. Meintsma made a good point and the Staff would discuss her revision.

Craig Elliott commented on the Story issue. He was generally comfortable with the resolution, but he wanted to confirm his understanding of how the zone works. On a very large parcel with multiple structures the height resets with each structure. He wanted to make sure that was still the case.

Commissioner Strachan replied that it was subject to discussion at the work session on December 12th.

Mr. Elliott felt it was important to keep because otherwise the Code, particularly in the HR1 addresses designers to create smaller buildings in scale and mass. If they do not allow that to happen in this form, they would encourage larger buildings in scale and mass on those types of properties. The unintended consequence of trying to limit something would only create what they do not want. Mr. Elliott wanted to make sure this issue was addressed in the process so they get the right things in the historic district.

Commissioner Wintzer asked Mr. Elliott to give an example. Mr. Elliott stated that he has worked on several properties, but he was hesitant to give an example because those projects may come back to the Planning Commission. Mr. Elliott provided a hypothetical example to explain the importance of keeping with what the Code currently allows to keep structures smaller in the historic district. Chair Wintzer was concerned about the cross canyon views. Mr. Elliott stated that the nature of Park City is that looking across the canyon you see a series of buildings that march up and have different colors, shapes and forms. That was the intent of his comments at a previous meeting when he talked about the quality of design and the ability to solve those issues as designers.

Chair Worel closed the public hearing.

Planner Astorga remarked that interpretation of story was the reason why they were having this story discussion. Based on discussions in July and August the height did not reset. Commissioner Strachan believed there was a difference of opinion as to how to read the Code based on Mr. Elliott's comments. The purpose of the work session is to determine what they uniformly believe the Code says.

Planner Whetstone reviewed the list of topics for discussion on page 154 of the Staff report and identified the ones that were time sensitive for recommendations to the City Council.

1. Pre-application process, review process for Historic District Design Review and revisions to the notice Matrix (Chapters 1 and 11).

Planner Whetstone referred to page 157 and noted that language was added to Strongly recommend that the Owners and/or Owner's representative attend a pre-application conference with the Planning and Building Departments. She clarified that the existing language requires a pre-application conference. She explained that if a pre-application conference is required it becomes an application and can be vested. The Staff felt that changing the language to "strongly recommended" resolved many of the issues. A pre-application conference benefits the applicant and the Staff believed the applicants would still request one.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council for the amendment to Item 1 as written. Commissioner Hontz seconded the motion.

VOTE: The motion passed by all Commissioners present.

Planner Whetstone stated that (B) on page 157 address proposed language to the Appeals process for administrative applications (HDDR's and Administrative CUPS) including revisions to the Notice

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
JANUARY 9, 2013**

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Jack Thomas, Mick Savage, Adam Strachan, Charlie Wintzer, Thomas Eddington, Kirsten Whetstone, Francisco Astorga, Matt Cassel, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapter 2 and 15

Commissioner Wintzer provided a topo map of Old Town showing every ridge. He requested that the Staff use the map to prepare for a future discussion regarding ridges.

Planner Astorga remarked that the objective this evening was to make sure the Staff and the Planning Commission were correctly interpreting building height in the Historic Residential Districts; the HR-1, HR-2 and the HRL. He noted that some of the Commissioners have been on the Planning Commission long enough to understand heights in Old Town; while others have only been on the Planning Commission a short time. The Staff believed this work session would be a good exercise for everyone.

Planner Astorga explained that the Staff chose scenarios of different slopes starting at 15%, 30%, 45% and 60% for uphill and downhill lots. The structures were designed to the highest maximums allowed by Code in terms of height and footprint and the setbacks were minimized to create the worst case scenario. Planner Astorga wanted this exercise to be a true discussion and he wanted the Commissioners to ask questions and critique the individual scenarios.

Planner Astorga reviewed the LMC Height Restrictions as outlined in the Staff report. The allowed height is 27-foot maximum from existing grade. Final grade shall be within four-feet of the existing grade around the periphery. A structure may have a maximum of three stories. A ten-foot minimum horizontal setback is required. The roof pitch must be between 7:12 and 12:12. The downhill lot has an exception for the tandem garage. Planner Astorga recalled previous discussions regarding exceptions to roof pitch; however, until that was adopted he preferred to focus on the existing Code.

Commissioner Savage asked for clarification on how existing grade is defined. Planner Astorga replied that existing grade is the existing topography. Commissioner Savage wanted to know how they could be certain that the grade was not changed. Commissioner Thomas explained that the topo is examined at the beginning of the project and the grade is examined at the end of the project. The Building Department should be able to confirm whether the grade has been manipulated. Commissioner Hontz thought Commissioner Savage made a good point because there are situations where the previous owner changed the grade of the site. She recalled a project where Planner Astorga realized that the grade had been change and suggested that the Planning Commission add a condition that the structure should be built from the previous existing grade and not the current existing grade. Commissioner Hontz stated that if someone moves the dirt now and calls it existing grade ten years later, they would probably get away with it. Commissioner Thomas pointed out that it is supposed to be natural existing grade.

Commissioner Savage asked if there was a way to make a definite determination on grade. Commissioner Thomas replied that if there is an interpolation to be made between the existing grade and the natural grade, the Planning Director has the purview to make that decision. Planner Astorga recalled that when the Code was amended in 2009, a specific definition of existing grade was added. Planning Director stated that existing grade is defined as the grade of a property prior to any proposed development or construction and activity. Therefore, it is the grade prior to any altering of the site. Commissioner Savage pointed out that the language states, "prior to any proposed" altering of the site. Commissioner Hontz agreed. She may not be proposing to do anything, but that would not keep her from moving dirt on the site. Commissioner Savage thought it was important to find a way to tighten the definition with respect to interpolation of some extension of natural topological grade.

Director Eddington explained that the Staff visits the site and assesses the grade. If the existing grade appears to be different than what is shown on the topo, the Staff assesses the natural grade which, by definition, is "The grade of the surface of the land prior to any development activity or any other manmade disturbance or grading. The Planning Department shall estimate the natural grade not readily apparent by reference".

Commissioner Savage was satisfied that the existing definition addressed his concern. Commissioner Thomas remarked that grade is a game that had been played and he expected it to continue.

Planner Astorga reviewed the first scenario, Scenario A, on a downhill lot. A blue line represented the property lines. The lot is 75' in length. The first scenario had the requirement of one exterior and one interior parking space. He noted that the property could be designed with two interior parking spaces. The structure was three stories. In this particular scenario the lot was accessed from the left-hand side. Planner Astorga reminded the Commissioners that these examples were worst case scenarios. Based on the access in this scenario, the front yard setback increased from 10-feet to 18-feet because of the minimum standard of the parking pad. He indicated the 10' setback on the downhill façade. This scenario was drafted at a 15% grade and it would not require a review by the Planning Commission because it does not reach the 30% or greater requirement. The project could be three stories, meet the 10-foot setback and still meet the height requirement. Planner Astorga pointed to the line indicating existing grade. Two other redlines showed 4' up or down from grade. This scenario had a one-car garage. The second required parking space was outside.

Commissioner Strachan noted that the basement was almost totally submerged, and he asked how low it could go. Planner Astorga replied that the basement could be completely submerged. Director Eddington referred to the heavy red line indicating existing natural grade, and noted that it could go 4' down from there and expose more light in the basement. Commissioner Strachan pointed out that someone could also make the floor 25' feet high and dig down further. It would provide very little light but they might not care. If someone wanted to excavate more dirt to increase the square footage of the overall home, they could do that. Commissioner Thomas commented on the ramifications that would occur with over-excavation. He questioned whether it was unrealistic to define a basement depth. Commissioner Wintzer thought the control would be shoring engineering to address the issue of digging a large hole three feet away from the neighbor.

Commissioner Strachan remarked that larger basements have been the trend in more recent applications and the amount of excavation continues to grow. Because the lots are so steep, the portion that daylights gets bigger with the slope and results in significantly more excavation in the back. He understood that the LMC states that the effects of excavation must be mitigated, but he believed it was a very loose standard.

Commissioner Thomas was unsure about placing a restriction on the depth of the lowest level. Commissioner Hontz suggested that they continue with the presentation before discussing specific restrictions, since the other scenarios may help provide the answers.

Planner Astorga presented the second scenario, Scenario B, which was also a 15% slope. The difference between this scenario and the previous scenario is that scenario two has two interior parking spaces. The setback was only 10' feet from the front. Planner Astorga noted that in the second scenario, the third floor was completely buried. The Code indicates that window wells could be approved, however, the setbacks must be at least 5' and the window wells could encroach 4' onto the side yard setback. Planner Astorga stated that some of the basement space could be used for mechanical equipment, but he did not believe anyone would use an entire floor for that purpose.

Commissioner Strachan asked why there was not a 10-foot setback. Planner Astorga replied that the basement was buried completely. The setback is only required for the third floor above grade.

Planner Astorga presented the third scenario, Scenario C. It was still a 15% slope, however, the difference between the first two scenarios and the next two was that the building would go down the slope. In scenarios one and two the driveway went up 14% positive grade. In the next two scenarios, the driveway goes down 14% negative grade. Planner Astorga noted that the roof pitches in all the scenarios were designed at 7:12 pitch, to again create the worst case scenario.

Commissioner Savage commented on the tendency towards thinking that taking a structure to the maximum allowed by Code is negative. He did not believe the end result was always negative, and sometimes it could be positive. Commissioner Savage stated that maximum utilization of a lot is within the rights of the applicant, and the Planning Commission should not consider that to be a negative independent of subsequent analysis.

Planner Astorga reviewed the scenario, which showed one interior and exterior parking space. Because the grade goes down 14%, the vehicle is stored on the main floor. Due to setbacks and the roof pitch, the third story is smaller than in the first two scenarios, which affects overall square footage. Planner Astorga stated that the floor area in this structure was 2100 square feet. The floor area in the first scenario was 2400 square feet, and 2500 square feet in the second scenario. He noted that the third scenario would have a walkout level on the lower basement.

Commissioner Thomas noted that most cars are fairly long and the larger vehicles can exceed 18' long. He pointed out that the bumper on larger vehicles touch the front of the house on one end and the property line at the other end. He was not in favor of adding to the front yard setback, but there is a challenge with larger vehicles. Director Eddington stated that if someone has that large of

a vehicle, they would probably reduce the square footage of the house to make the garage larger. Commissioner Hontz remarked that instead of reducing the house size, people build the minimum size garage and park on the street. Either that or they park one car in the garage but leave the door open because the vehicle extends out, and then park their other cars in the street. Commissioner Hontz believed that the standards were not working and there were many questions on how to resolve the garage issue.

Commissioner Savage asked who was responsible for making decisions regarding parking and parking density on the streets. Director Eddington replied that Public Works handles parking issues. Since this was an issue with respect to car length, Commissioner Savage thought it would be appropriate to have Public Works look at a regulation that would prohibit cars greater than a certain length from parking in the driveway unless the driveway is a certain length. Commissioner Thomas pointed out that such a regulation would create an enforcement issue. Commissioner Hontz noted that enforcement is contracted out; therefore, Public Works would not be the enforcers. She believed it was a larger problem than just trying to solve it on paper. Commissioner Hontz thought they needed to look at places with 14% uphill and 14% downhill. She could not think of too many with 14% uphill; and the downhill ones were disasters.

Commissioner Wintzer indicated the potential for a green roof in one area, and noted that it could create living space per the Code. In that situation, the green roof was an issue of increasing square footage, not being compatible with the house. Commissioner Thomas stated that in Park Meadows, for a flat roof less than 4:12, the maximum height is reduced from 33' to 28'. Director Eddington replied that the rule did not apply in Old Town. Commissioner Thomas thought it might be worth considering that for Old Town. If they could encourage green roofs and reduce the heights, the visual impact of the volumetric would be overwhelming. If they allow flat roofs they should have a reduced height below 27'. Commissioner Wintzer thought the green roof issue in Old Town should be revisited because allowing green roofs was passed without any input from the Planning Commission. The language basically allows green roofs in Park City without consideration for compatibility with historic structures or other related issues. Commissioner Wintzer agreed that flat roofs were better in Park City's climate than pitched roofs, but he thought the green roof scenario should be revisited for Old Town.

Planner Astorga reviewed scenario four, Scenario D, which was still at 15% grade. This scenario had two interior parking spaces. The basement was exposed with a rear walkout. The garage was tandem. The house size was 2050 square feet, which was slightly decreased from the previous scenario at 2100 square feet.

Planner Astorga presented scenario five, Scenario E, which was on 30% grade and would require Planning Commission review. It was a downhill scenario because at 30% there was no way to go up. The driveway was 14% grade with one exterior and one interior parking space. The lower level had a rear walkout. Planner Astorga noted that the lot would meet the height requirement and the 10' foot stepback would become 20 feet. The house size at 2200 square feet was slightly larger than some of the 15% grade lots.

Planner Astorga noted that the black lines in all the scenarios indicated the story. The stories in all the scenarios were designed at 10' each.

The sixth scenario, Scenario F, was also 30% grade. There were two interior cars. This scenario breaks the maximum height of 27'; however, the Code states that for a two-car garage in tandem configuration, a height of 35' would be allowed. This scenario would meet the Code.

Commissioner Thomas asked for the allowed length of a tandem garage. Planner Astorga replied that the Staff capped the length at 37 feet. The Code does not indicate the length of a two-car garage in tandem configuration. It only specifies that the garage must be 11' x 20' for a single car and 20' x 20' for a double car garage not in tandem. Commissioner Strachan asked if the garage could be larger than 400 square feet but not smaller. Planner Astorga replied that it could be larger. The 400 square feet is the standard used for allowances. Commissioner Thomas pointed out that the impact of having a tandem garage on a downhill lot over 30% was dramatic. He has a tandem garage on his home and it is less than 32 feet long. He parks two smaller cars in tandem and the larger car on the other side. Commissioner Thomas believed it was realistic to have an 18' car on one side and a 13' car on the other side, parked 16" apart. He expressed concerns about designing to the maximum and suggested that they design for the minimum.

Planner Astorga stated that for consistency with the LMC, the Staff decided to cap the garage length at 37' to achieve a 400 square foot garage. Commissioner Thomas stated that a 400 square foot garage could still be accomplished with a 34' length. Director Eddington stated that the downside of a shorter garage is the inability to park two larger cars, which puts one on the street. Another downside is lack of space to store skis.

Commissioner Hontz remarked that a current problem in Old Town is that people were not using their tandem garages. Rather than focusing on the dimensions of the garage, a better idea might be to have the square footage of the garage count against the overall square footage of the house. If someone wants a larger garage it would reduce the size of their house. Commissioner Thomas stated that his concern was the visual impact of the overall mass. Commissioner Hontz was not opposed to having tandem garages as an option, but they continue to see repercussions resulting from tandem garages. To address Commissioner Thomas' concern, Commissioner Hontz suggested resolving the problem from a height standpoint rather than square footage. Commissioner Thomas asked if the Code currently has a depth limit for tandem garages. Director Eddington replied that the Code did not specify a depth limit; however, the depth would be defined and limited by the 35' foot height limitation. Commissioner Thomas agreed with Commissioner Hontz's suggestion to stay within the height limitation and not allow height exceptions for tandem garages.

The Commissioners discussed flat roofs on tandem garages. Commissioner Savage asked what advantage that would be for Park City. Commissioner Thomas replied that aesthetically it demasses the volumetrics and it allows the second space in the garage to get a car off the street.

Planner Astorga offered to consider their suggestions to see what would work. He asked if the Commissioners would be more comfortable if the height exception was closer to 32' rather than 35'. Commissioner Savage preferred to leave it alone. Commissioner Thomas outlined the worst that could be done on the premise of a worst case scenario. Director Eddington pointed out that the depth of the garage could not exceed the minimum depth for an internal parking space within the Code, which is 40 feet.

Commissioner Hontz pointed out that Scenario F was on a 30% grade and would require a Steep Slope CUP. She clarified that the Planning Commission currently has the ability under the Steep Slope CUP to deny a height exception. The purpose of this discussion was to codify certain requirements so applicants would know upfront that a height exception would not be granted.

Commissioner Savage understood that the height exception was in place to encourage tandem parking, but now they were concerned that people would use the tandem garage for storage and not cars. Commissioner Strachan stated that whether the garage is used for storage or cars, it would still have the visual impact Commissioner Thomas had mentioned.

Planner Astorga presented the seventh scenario, Scenario G, which was on a 45% grade. He noted that development on steeper slopes was unusual, but it does occur and it was worth the discussion. This scenario was allowed one exterior and one interior parking space. The garage was 11'x 20' and it would meet the exception. The only issue was the 10' setback at the end of the structure. A portion of the house would have to be shaved, otherwise it would be on stilts. Planner Astorga noted that the structure could not accommodate any type of walkout because it would not meet the 4-foot grade provision. Commissioner Gross pointed out that they could build a deck to level it out.

Commissioner Strachan wanted to know why living space could not be stilted. Commissioner Hontz stated that it would violate the 4-foot return to grade requirement. Commissioner Thomas did not believe the Code addressed stilt houses. Planner Astorga believed it was a question for the Historic District Design Review analysis.

Director Eddington noted that a deck could not exceed the setback because it would exceed 30" above final grade. Planner Astorga pointed out that a workable deck in this scenario would require a very creative solution. Commissioner Thomas thought this scenario demonstrated that the steeper the slope, the more difficult it was to build a house. Commissioner Strachan agreed, however, he used the drawing to show how the livable space could be increased. In his opinion, a deck is usable space, even if it is not technically considered livable space. The Commissioners discussed additional issues related to building on the steepest slopes. Commissioner Hontz believed the Code was written on the idea of 15-30% slopes. Planner Astorga noted that steeper slopes push the designers to move forward on a split level. Commissioner Thomas stated that the discussion had focused on stepping the exterior of the facade and the massing of the building. However, in terms of impact to the community and over-excavating the site, he wondered whether they should begin thinking about stepping the foundation to create a reasonable depth and maximum excavation requirement.

Commissioner Hontz referred to scenarios on extremely steep slopes and asked what happens when the driveway exceeds 14%. The average slope may be 45% or 60%, but the initial portion of the slope is 80% or 100% and a 14% driveway could not be reached within the setbacks. Commissioner Gross assumed that the percentage was calculated from the edge of the right-of-way to the building envelope. Planner Astorga stated that in his analysis he found that one thing affected another thing in the Code. In his experience, nothing could be built on a slope greater than 30% without a variance. However, Park City is different because of its historic character and

topography and someone could apply for a variance. The 14% grade is a standard in the LMC, which the Board of Adjustment has the ability to override with appropriate findings. Commissioner Hontz pointed out that someone could ask for that variance or a six or four foot front yard setback variance. Commissioner Wintzer stated that a variance request typically goes to hardship. In most cases, the hardship is that the person could not build as large they would like. In his opinion, that hardship could be mitigated by building a smaller house and shifting it on the lot; however, the Board of Adjustment does not take that fact into consideration when reviewing the variance request. Commissioner Wintzer did not believe hardship was valid in those cases.

Commissioner Savage asked how often hardship cases go before the Board of Adjustment and how often they get approved. He questioned whether the Board of Adjustment would actually grant a variance if the only hardship was the inability to build a larger home. Commissioner Strachan pointed out that most people do not give home size as the hardship. Instead, they make the case that their lot is difficult to build on.

Commissioner Thomas asked if a tandem garage could be done on a very steep uphill lot. Director Eddington stated that it would exceed the 35 feet before the second car, and there is no exception on an uphill lot. Commissioner Thomas clarified that he was talking about the impact to grade below ground. He asked them to imagine an uphill lot with a tandem garage on a 100% slope. If the garage depth is 35 feet, there would be a 35' retaining wall on the backsides of that garage, which creates a significant impact. He thought consideration should be given to discouraging tandem garages on super steep slopes. Director Eddington asked if someone should be allowed to put a theater room underground if they chose not do a tandem garage. Commissioner Strachan felt the problem was the requirement for two parking spaces. If the lot is steep enough, it would be impossible to have two cars on site. He stated that one option would be to combine two or three 25' x 75' lots so they could access the driveway on an angle. He believed the issue was how deep to excavate and whether they could step back the problem, similar to stepping back the height problem.

Planner Astorga presented Scenario H, which was at 45% grade and two interior parking spaces. The driveway was 14%. This scenario would require an exception. Mandatory increased setbacks were placed on the rear because of the grade provision. Planner Astorga believed they would most likely see a split level with this scenario.

Commissioner Strachan asked why they were looking at the exceptions assumed. Planner Astorga replied that it was due to the requirement for two interior spaces. Commissioner Thomas clarified that there was an exception in the Code that allows the Staff to make the ratio determination. Commissioner Gross pointed out that they could also apply the green roof scenario that was discussed earlier. Planner Astorga recalled from the Code that a garage in tandem configuration could be as much as 35-feet. Commissioner Strachan stated that going to 35-feet would require an exception. It is not entitled. Planner Astorga read from the Code, "The Planning Director may allow additional height on a downhill lot to accommodate a single-car garage in tandem configuration." Commissioner Thomas pointed out that the tandem configuration could still be achieved by going to a green roof for the other segment and stay within 27-feet. Commissioner Wintzer stated that if half of the roof was a green roof, he was unsure how that could be considered historically compatible. Commissioner Thomas believed that should be a separate discussion. Planner Astorga stated that the Staff was in the process of drafting specific language for the LMC as an

exception to the 7:12, 12:12 provision, if it complies with the guidelines and is granted by the Planning Director. The Commissioners discussed possible alternatives for meeting the requirements in Scenario H without an exception.

Commissioner Thomas recalled that the 7:12, 12:12 provision was established in an effort to find compatibility with the historic character of Old Town. Before the Code change people were flattening out the roof and making the volumetric as large as possible. If they decide to allow green roofs, they need to think it through and define the specifics.

Planner Astorga reviewed Scenarios I and J together. Both were on 60% grade. Scenario I has one exterior parking space, and Scenario J has two interior parking spaces. Planner Astorga noted that there were major issues with variances in both scenarios. If such a lot existed with 60% grade, it would again make sense to try and do a split level concept.

Commissioner Hontz pointed out that in addition to not meeting the height due to the garage, it also would not meet Code because the driveway could not be returned to within 4-feet of natural grade. The bottom two floors would also have to be on stilts. Scenarios I and J could not be built based on all three reasons.

Planner Astorga had prepared another packet of scenarios on uphill lots that he would present at a work session on February 13th.

**496 McHenry Avenue, McHenry Subdivision Replat – Plat Amendment.
(Application #PL-12-01717)**

Due to a conflict, Commissioner Thomas recused himself from this discussion and left the room.

Planner Astorga reviewed the application for the proposed McHenry subdivision replat. Sean Kelleher was the property owner. Planner Astorga reported that Mr. Kelleher owns approximately 12 lots of record. Three do not meet the minimum lot size; therefore, the lot lines would need to be shifted for development.

Planner Astorga reported that the current plan is to construct seven single-family houses that would be accessed from an underground, shared parking garage. The Staff report outlined specific points for discussion, and Planner Astorga requested that the Planning Commission provide direction to the Staff and the applicant on how to proceed. As part of the discussion, the Staff report also included the minutes from the December 12th meeting, at which time the Planning Commission held a site visit and a work session discussion on the three lots down the street from Mr. Kelleher's property.

Mr. Kelleher provided a power point presentation reviewing the history and background of the property. He has been in the periphery of Rossi Hill for a long time, but he has never come before the Planning Commission. Mr. Kelleher stated that when he first became involved with the property in 2006, he was a tenant in common with Mr. Bilbrey, a former owner. Mr. Bilbrey retained all the development rights for the property and Mr. Kelleher was the traditional silent partner. Mr. Kelleher remarked that his only involvement regarding plat applications that came forth since 2007 was to sign the plat as a co-owner of the property. All discussions and decisions made on the property

**PARK CITY PLANNING COMMISSION
WORK SESSION MINUTES
February 13, 2013**

PRESENT: Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Kirsten Whetstone, Francisco Astorga, Polly Samuels McLean

WORK SESSION ITEMS

Land Management Code – Discussion of height/story in Chapters 2 and Chapter 15.

On January 9, 2013 the Planning Commission discussed a number of scenarios prepared by the Staff that could occur on downhill lots. The Commissioners would review scenarios for uphill lots for discussion this evening. Planner Astorga had prepared specific scenarios for 50%, 30%, 45% and 60% slopes. He wanted to make sure the Staff and Commissioners had the same understanding regarding the current Land Management Code height provisions in the HR-1, HR-2 and HR-L zones.

Planner Astorga noted that the blue lines on the drawings in the packet represented the property lines on 75' lots. The red line on the bottom represented the grade. The bold red line was the existing regulation that indicates that the final grade shall be within four feet of existing grade on the periphery of each structure. The red line on top was the maximum height, which was capped at 27'. Planner Astorga noted that the Staff had designed what they considered to be worst case scenarios.

Planner Astorga presented Scenario A at 15% grade. The scenario has one exterior and one interior parking space, which pushed the front yard setback to 18 feet; the minimum area required for the exterior parking. This scenario has a mid-level access and a top level rear walk-out. It would be impossible to have a walk-out on the mid-level because it would not be within four feet of existing grade. Director Eddington pointed out that there could be windows on the mid-level. Planner Astorga agreed, noting that there could also be window wells on the basement level. Commissioner Gross asked about cathedral windows. Planner Astorga replied that cathedral windows would be allowed as long as they comply with the Historic District Design Guidelines. It would be challenging but good designers could make it work. The driveway in this first scenario was the 14% maximum.

Commissioner Thomas pointed out that if the driveway is 14% off the edge of the road and there is no transition, you would hit your bumper before you started driving up the hill. He suggested that practical and logical may be less than 14%.

Planner Astorga noted that Scenario A did not include the 10-foot stepback on the front because the basement is completely buried and stepback is not required. Commissioner Strachan asked if the stepback would be required if the basement was not completely

buried and was within four feet of existing grade. Planner Astorga answered yes because a portion of the basement would be exposed.

Planner Astorga presented Scenario B at 15% grade with two interior parking spaces. The driveway is 14%. The house is slightly larger than Scenario A. Commissioner Savage asked why the front distance in Scenario B was shorter than in Scenario A. Commissioner Gross assumed it was because Scenario B had two interior parking spaces and Scenario A parks one car outside. Planner Astorga replied that this was correct.

The Commissioners discussed house size and footprint. Craig Kitterman, a member of the public, remarked that there is a maximum footprint which determines the size of the house. Planner Astorga agreed. He noted that all the scenarios were governed by the maximum building footprint.

Commissioner Strachan had questions regarding the stepback. Chair Worel asked if a stepback would be required if any part of the bottom level was exposed. Planner Astorga answered yes, except for a window well. He read from Page 3 of the Staff report, second bullet point, "Final grade must be within four vertical feet of existing grade around the periphery of the structure except for the placement of approved window well, emergency egress, and garage entrances". He noted that the basement could still be buried and have a window well, but it would not require the stepback.

Commissioner Thomas noted that emergency egress can be any window or door out of a bedroom, and he found that to be problematic.

NOTE: Due to equipment problems, a portion of the meeting was not recorded. The problem was discovered and resolved.

During the non-recorded portion, Planner Astorga had continued his presentation and the Commissioners discussed the remaining scenarios.

Craig Elliott, as a member of the public, questioned why they were having this discussion. He passed around photos that were taken in 2003 and in 2013. From the standpoint of a big picture for the City, he was trying to figure out whether anything was really causing a problem. Mr. Elliott presented boards illustrating various built structures and noted that the majority of the buildings were over 27 feet tall. He stated that in the last ten years there has not been a significant change in Old Town that has created a negative impact to the visual. Mr. Elliott pointed out that with every application the Commissioners want to see a cross-canyon view, but in looking at the illustrations, there has been no changes over the years, other than the trees grew larger.

Commissioner Thomas remarked that the boards Mr. Elliott presented showed the

perspective from a distance, and it did not take into consideration the streetscape and the visual impact walking down the street. He believed the purpose of the Steep Slope CUP is to bring down the scale.

Mr. Elliott understood that the neighbors complain whenever the Planning Commission reviews a Steep Slope project, but that just happens. Neighbors always fight new development because they want to keep the land next door vacant. However, people have the right to build. Mr. Elliott stated that the difference is minimal between what was there and what changed in ten years through the largest building boom. He realized that the LMC changes in 2009 were in response to specific projects, and in hindsight he should have attended the public hearings to argue about the 3-story limitation. It was a mistake on his part and he was attending now to have this discussion. Mr. Elliott noted that there were nine statements of purpose in the LMC. They might be accurately discussing one, but the rest were going the wrong way. Applicants are always asked whether they read the purpose statement. He was now asking the Planning Commission if the discussion they were having meets the purpose statement. He could not understand the purpose of their discussion and he did not believe anything in their discussions would improve things through the Land Management Code. Mr. Elliott stated that restricting height on a 75' lot to 35' to 37-1/2' might make sense; but he could not understand it for a lot over 75'. The nature of Park City is that it keeps stepping up the mountain.

Commissioner Strachan asked if there would be a difference if Mr. Elliott had taken the picture 25 years ago. Mr. Elliott believed that most of the structures shown were built before the 1980's. Commissioner Strachan believed that most of the larger houses Mr. Elliot was showing were not built 25 years ago. Mr. Elliot pointed out that the larger houses would never go away. If they were to burn down they would be replaced with the same size structure in the same place. He felt that the Planning Commission has spent the last few months talking about heights and squares and angles, when they should be talking about the big picture and why they were having these discussions. If the discussion is that they want to limit the ability to develop, they were moving in the wrong direction.

Commissioner Savage stated that Mr. Elliott is a professional who presented visuals to support his position. He believed Mr. Elliott had a valid point. They can look at the various scenarios presented, but the reality of importance is the sense from the perspective of where these developments will take place and whether something is or is not consistent with that particular location and a particular set of visuals. Commissioner Savage thought that should be their guiding parameters more than trying to create a formula for calculating volume as a function of lot size.

Mr. Elliott stated that he works in Old Town every day. He experiences the streets every day and he walks to most of his projects. He was confident that the things that have happened over the past ten years have not negatively impacted the quality of the town.

Changes are made and it does not make any difference in the overall impact. These discussions have kept people from building houses for the last six months and will cause them to miss two seasons of construction. Mr. Elliott believed the major question was why they were having these discussions and what it would accomplish.

Commissioner Thomas stated that prior to creating the 2009 LMC, they were seeing buildings stepping up the mountainside to maximize the volumetric. That had a dramatic visual impact on the neighbors, the street and the scale of the community. The reason for these discussions is to have a sense of scale to the historic fabric of the community at the street level. He did not think some of the images Mr. Elliott presented was a fair comparison of what this town is about or the character of the town. Mr. Elliott disagreed. Commissioner Thomas stated that the image does not represent what the neighbors experience when someone builds an enormous house next to an historic house. The purpose of the 2009 changes was to respect the neighbors and what was left of the historic fabric that was being whittled away by these monstrous structures.

Mr. Elliott reiterated that the Planning Commission should address the real question of "why" and if whether the "why" fits within the Land Management Code purpose statement. In his opinion it did not.

Commissioner Strachan asked if Mr. Elliott had any recommendations on how they could bring more families and primary homeowners back into Old Town. Mr. Elliott felt that would be driven by a number of different things. He suggested that current projects would bring people into town. He thought they would be fighting the issue of value for a long time because of its proximity to Main Street.

Ruth Meintsma stated that she lives on a street that is primarily second homes and nightly rentals. She does not mind nightly rentals in her neighborhood because it works. However, the houses in-between where people live are very important and adds cohesion to the neighborhood. Ms. Meintsma understood the reasons for limitations. A house across the street from hers is nightly rental. People come in and out and you never talk to them. The number of cars is astounding and the amount of trash in one weekend is more than she creates in two months. Ms. Meintsma believes there needs to be a balance. In talking about limitations, she understood the three stories limit and size reduction for second homes and nightly rentals because extra space is not needed for that type of living. However, when someone has a family they need to think about a new way of living. They need to think about space for storage, tools, food storage, etc. She believes that if there could be a second criteria of house building where a home or a residence is signed in perpetuity to no nightly rental, it would add to affordable housing because people could come in a rent for a minimum of one year. With larger structures people would create a home and it would allow for families. Sometimes the fourth story is necessary for a family. If someone wants to build a home for their family and wants extra space, the City should

hold them to the family home use by having them sign in perpetuity to no nightly rental.

Planner Cattan stated that limiting nightly rental was not necessarily limiting second homes. Ms. Meintsma agreed, but it would still be someone's home. Commissioner Savage commented on the economic impact. If someone did not have the ability for nightly rental they possibly could not afford the home. In other cases, some people buy second homes on the fact that they can enjoy it themselves and offset some of their expenses by renting when they are not there. Ms. Meintsma understood the concern, but if someone was willing to sign their home into perpetuity from nightly rentals, they should be given some incentive such as extra space in their home.

Mary Wintzer stated that when side yard setbacks were reduced years ago, they saw huge impacts with snow shedding and people began to maximize their houses. The lifestyle of those living in Old Town has been drastically affected. Her neighbors raised four kids in a three-story house. When she was growing up people shared bedrooms. Ms. Wintzer was not totally opposed to the incentive of a fourth story, but if they return to what used to be they would not need monstrous homes.

Ms. Meintsma pointed out that lifestyles are completely different than how they used to live. She clarified that she was not talking about greater height or greater mass. She was only talking about an additional story. She understood that excavation was a major concern, but she believed that could be mitigated.

Ms. Wintzer remarked that several years ago four owners on Rossi Hill imposed a house size restriction on themselves. They realized that it would limit their profit when they decide to sell because the lots could not be maximized, but they did it because they value their neighborhood. Ms. Wintzer stated that they love Old Town, they love the mountain and they love what the community has given them. It is the neighborhood, the people and the land, and they are building up every square inch of the earth in Town. She believed they would pay a price some day. The old timers talk about the years when they had bad spring runoff and mud slides on this side of the Canyon. They have not seen that yet, but it is possible. If it occurs, there is no earth left to absorb it because it is all developed.

Commissioner Hontz felt good about this exercise because it was based on the purpose statements and it came out of the realization and the factual evidence of how many undeveloped lots are left and how tightly constrained they are. In her mind this was an exercise of education, but it also explored whether what they have meets what they want to do, how they need to tweak it, if at all, and if the scenarios were representative of what they thought they were trying to achieve. The discrepancy on the definition of story was another reason that prompted the exercise. Without those reasons they would have never done this and nothing would change. Instead, they went through this very thorough discussion to possibly visit some potential changes. Commissioner Hontz thought this was a useful

experience. She was unsure what the result would be based on all their opinions, but this was instrumental in educating the Planning Commission to be able to move forward.

Planner Astorga noted that page 2 of the Staff report contained language from the current Code. He asked if the Planning Commission had issues with any of the regulations and whether it needed to be strengthened or rewritten. He believed there was some consensus for spending more time and resources on adding internal maximum height. He asked if any of the other height parameters needed to be fine tuned. Commissioner Strachan felt it was sufficient to have the internal height limitation.

Commissioner Savage had issues with the third bullet point and the definition of three stories, and whether three stories was measured from a vertical point or by some other metric. Commissioner Strachan thought the three story restriction could be eliminated if they use the internal height restriction. Commissioner Thomas agreed. The internal height gives the designers more flexibility with the floor plan.

Director Eddington understood that the Planning Commission would not have as much consternation with regard to split levels and partial stories inside the building. He was told that this was correct. Commissioner Strachan clarified that applicant could do whatever he wanted within his own box as long as it meets the internal height limit.

Commissioner Thomas suggested a site visit to several sites that reflect the conditions discussed on uphill and downhill lots so they could see them in the field.

General Plan – Discussion and Overview of neighborhoods – the neighborhoods to be discussed include: Thaynes Canyon, Park Meadows, and Bonanza Park/Prospector

Nightly Rentals

Planner Cattan reported that the Staff had prepared a discussion on nightly rental because it was one of the more controversial topics to be discussed neighborhood by neighborhood as they decide to rezone and talk about residential neighborhood versus resort neighborhood. She preferred to start with nightly rentals before moving into the neighborhoods discussion.

Planner Astorga read that the current Land Management Code definition of a nightly rental. “The rental of a dwelling unit for less than 30 days.” Another clause states, “Nightly rentals do not include the use of dwelling units for commercial uses.” Commissioner Savage asked for clarification on the language regarding the use of dwelling units for commercial uses. Assistant City Attorney McLean explained that as an example, gifting parties cannot be held in a home that is a nightly rental.

Exhibit H

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Said landscape plan shall incorporate the reintroduction of native landscape materials within this area, and reduce the amount of sod-grass, especially near the creek.

9. No pesticides, herbicides, or other non-organic fertilizers shall be applied to this landscape area.

2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3, and Chapter 2.16 regarding Building Height (Application PL-13-01889)

Planner Francisco Astorga noted that this item addressed LMC amendments to change some of the parameters of the building height in the HRL, HR1, HR2 and RC Districts. The Planning Commission has had significant work session discussions as reflected in the Minutes from those meetings and included in the Staff report. The Staff was before the Planning Commission this evening with recommended proposed changes for review and a possible recommendation to the City Council.

Planner Astorga reviewed the current height provisions: 1) The height must be within 27 feet of existing grade. This provision was unchanged. 2) Final grade must be within four (4) vertical feet of existing grade around the peripheral of the structure except for approved window wells and access to the structure. Planner Astorga reviewed highlighted changes to this provision. The current language addressing a maximum of three stories would be replaced with an internal height parameter. The 10-foot minimum horizontal step on the downhill façade would remain. The mandated roof pitch would also remain based on direction from the Planning Commission during the February work session. The height exception would also remain.

Planner Astorga noted that the 3-story language would be replaced with language regarding internal height that would vary on a specific roof pitch on the roof form, as indicated in the table on page 230 of the Staff report. The language was revised to read, "The internal height of a structure measured from the lowest point of the finished floor level to the highest exterior ridge point shall not exceed the number based on the following table". Planner Astorga explained that they would still achieve the mass and scale of three stories, without saying that the maximum is 3-stories. The Staff thought it was better to use a scale because otherwise people would try to capitalize on their wall height for their stories and then give the lowest roof pitch each time. Therefore, the Staff created an incentive of 1' foot of step per higher roof.

Planner Astorga explained that the logic for the internal height was wall height plus the roof height. The wall height was derived from 3-stories. A ten-foot story including a floor joist may not be doable, and that number was increased to 11 feet for a wall height of 33 feet. The Staff calculated what each roof height might be depending on the pitch of the roof to determine the varying height.

Commissioner Wintzer was unclear why the Staff thought a 9-foot or 10-foot story was not doable. Planner Astorga stated that the scenarios the Staff presented in January and February were based on 10-foot stories, which included a floor joist. The intent was to be more consistent with what the market might drive. He pointed out that the proposed change does not dictate how tall the story might be. It could be less or more and the applicant has the ability to work with the design. Planner

Astorga understood from previous comments that the Planning Commission thought the 10-foot story maximum was too small.

Commissioner Hontz thought believed that 10-feet was adequate and that 11-feet was a gift. However, she recognized that it did allow more flexibility. Commissioner Thomas was not concerned with whether it is 9, 10 or 11 feet on the interior. Commissioner Hontz was concerned that if someone takes the maximum internal height of 43', they would need to grub out again. She pointed out that the 27' would only keep it with the slope. However, internally, the house could continue to go further down. Planner Astorga noted that the internal measurement creates a split level. Commissioner Hontz was comfortable with split levels, but the question is how many splits. They were keeping down the height, but they also wanted to keep the structure from growing bigger side to side. She preferred the ten-foot story because it keeps the building from creeping down the slope too far.

Planner Astorga stated that based on the methodology selected for the scale, if they use the 10-foot measurement it would drop 3-feet from each internal height. Therefore, the internal height would range from 35' to 40'. Commissioner Hontz was more comfortable with those numbers. Commissioner Hontz stated that because the current Code does not allow stepping within the house, the current three-story solution works because it limits how far people are willing to go out and down the hill. Commissioner Hontz wanted to make sure that by allowing more flexibility in terms of steps within the interior, that they were not allowing creep up or down the hill.

Director Eddington asked if the Commissioners wanted to go to 10-foot floor plates and reduce the internal height by 3-feet each. Commissioners Hontz and Wintzer answered yes.

Commissioner Thomas was more concerned with the impact on footprint. They would still have the 27' maximum height from existing grade, but he was interested in knowing the relative difference in footprint between a 10-foot floor plate and an 11-foot floor plate.

Director Eddington did not believe the footprint would change either way because most people max out their footprint. He noted that the City has a formula for footprint for all of the historic zones. Commissioner Thomas stated that he was very comfortable with the 11-foot for interpretation as long as people are held to the 27' maximum height and the footprint could not creep up or down the hillside. Director Eddington clarified that it was a formula of lot size.

Commissioner Savage thought they should stay with the 11-foot floor plate as proposed. Chair Worel was comfortable with 11-feet as long as the footprint could be limited. Commissioner Wintzer was not opposed to 11-feet because people do build to the maximum. Commissioner Wintzer suggested that Planner Astorga include an illustration for clarification to show how it should be interpreted.

Commissioner Hontz asked for the definition of finished floor level? Commissioner Savage suggested that it could be defined as, the lowest point of the lowest finished floor level to the maximum vertical height of the structure. The Commissioners supported that definition. Commissioner Savage wanted to know how the number relates to not counting a basement if it is totally subterranean. Planner Astorga clarified that subterranean basements are counted. Commissioner

Savage clarified that regardless of whether or not the basement is buried, the lowest level of the lowest floor is Point A, and Point B is the highest point of the exterior.

Director Eddington clarified that the language indicates the lowest point of the finished floor level and/or any structural element is the lowest point. Commissioner Thomas gave a scenario to show how talking about structure complicates the issue. Commissioner Savage thought the confusing word was internal.

Planner Astorga remarked that the next proposed change was to add two provisions to the Existing Historic Structures. This portion of the Code states that historic structures are valid complying structures in terms of parking and other issues. Planner Astorga noted that the LMC defines a Historic Structure, but it does not include any additions to the structure. The Staff wanted to keep the regulation for valid complying and added Footprint and Height to the existing Code language for the three Historic Residential Districts and the RC District.

Director Eddington clarified that it was already understood that if a structure exists with an existing footprint or building height, it is existing non-complying. Planner Astorga believed that most of the historic structures comply with the building footprint.

Commissioner Hontz noted that someone could take away some of the property associated historically with the historic structure that makes it complying currently. Director Eddington clarified that a building could not violate the Code and be taken into non-compliance. However, he understood Commissioner Hontz's concern. If someone had more than a single Old Town lot they could split a portion of the land and put it on another property. He pointed out that the footprint would be limited to the 844 square feet or whatever it exists as and the building would never get bigger. Commissioner Hontz agreed that the structure could not be bigger, but splitting a portion of the property would allow a larger structure next door.

Planner Astorga stated that the Staff also tried to clean up the section regarding Building Height. A number of historic structures do not comply with the existing heights. One of the parameters is a 7:12 to 12:12 roof pitch. The Staff did not think it was appropriate to do a complete analysis on how a structure is legal non-conforming, when a similar clause in the Code addresses setbacks.

Commissioner Savage asked if complying and conforming were synonyms for purposes of the Code. Director Eddington explained that conforming is for a use and complying is for a structure. Commissioner Savage understood that a valid complying structure could be legal non-conforming.

Planner Astorga noted that the final proposed change was a roof pitch exception. He explained that periodically the Staff encounters a historic structure that may have a 5:12 or 4:12 roof pitch. The Staff felt it would be more appropriate if the addition that comes in for that structure would be held to the same type of roof pitch or possibly lower. Planner Astorga noted that currently the Code would not allow that because it specifies 7:12 to 12:12 roof pitch.

Planner Astorga stated that the Staff was proposing to add language for additions to historic structures, stating that through an HDDR review and compliance with the Historic District

Guidelines, the Planning Director has the ability to approve a roof pitch lesser than the one required in the Code.

Planner Astorga stated that the next question was how that would apply in the case of a split level and the maximum height. He noted that a secondary table was added for these types of exceptions.

Planner Astorga asked if the Planning Commission was comfortable adding the roof exception for additions to historic structures; and whether it would be appropriate to add the same type of scale for the maximum building height. Commissioner Thomas liked the idea because it would allow for a more appropriate design and more flexibility. The Commissioners concurred.

Commissioner Wintzer referred to the table on page 231 of the Staff report and corrected the 5:15 roof pitch to be a 5:12 roof pitch. Commissioner Thomas noted that 5:15 appears several times in the Staff report and it should be corrected throughout.

Commissioner Hontz referred to page 244 of the Staff report and asked what they would do about the 10-foot horizontal step that is referenced in conjunction with a third story, because people would now be able to have three stories. Planner Astorga replied that the provision is based on a 3-story building and it is mathematically impossible to have more than three stories. Commissioner Hontz did not believe it referenced what they were trying to accomplish now. She thought the language should be re-written relevant to where they want the 10-foot horizontal step to occur. Commissioner Thomas agreed that it was no longer clearly defined as the third story. Director Eddington suggested that it may need to be a numeric value.

The Commissioners were not comfortable forwarding a recommendation to the City Council without seeing the drafted verbiage regarding the roof pitch exception and associated illustrations.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 505 Woodside, commented on the 3-story versus internal height issue and did not believe they were accomplishing what they intend to accomplish. Ms. Meintsma understood that they were first trying to accomplish visual height and mass from the exterior, and secondly to control the height and mass from stepping up the side of the hill with a 3-story limit. She thought the height limitation seemed complicated and she believed they would cause other issues. Ms. Meintsma presented a visual to support her concerns. Regarding the discussion about the lowest point of the lowest floor to the highest exterior to limit crawling up the hill, Ms. Meintsma pointed out that many houses in town have an exposed foundation way below the first floor. If they do not consider the exposed foundation and start from the bottom first floor and limit the interior, people will lift their house out of the ground and have an exposed foundation, which will significantly increase the visual mass. Ms. Meintsma stated that the interior measurement from the lowest floor was not accomplishing what they wanted. She believed that starting from grade would accomplish their goal and keep the structure from creeping up the hillside.

Ms. Meintsma commented on the different roof pitch options with different heights. She pointed out that a green roof is 33 feet and a 12:12 is 43 feet. No one will choose a green roof unless they are very environmentally conscientious, because people prefer an open ceiling roof. She believed the

proposed formula would discourage green roofs. Ms. Meintsma also thought it discourages a steeper pitch because with a 27' height limitation a steeper pitch would move the structure further underground. She noted that most people want to be above ground as much as possible for light and windows.

Ms. Meintsma suggested that there were different ways of controlling visual height and mass. She thought it would be better to control the height and visual and put a limitation on cubic dirt moved under the house. That would address both issues separately and in a more appropriate way than the interior number of floors. Ms. Meintsma was pleased that Commissioner Hontz mentioned the third floor, because in her opinion the 3-story step back did not work. She provided different scenarios to explain her point.

Ms. Meintsma thought there needed to be some way to encourage green roofs through some type of height limitation. She asked if a conditional use for a higher height could be used as a negotiating tool for green roofs. Ms. Meintsma pointed out that the advantages of a green roof. She believed everything needed to be thought through to be productive and to have the control the Commissioners wanted.

Commissioner Wintzer asked the Staff to consider Ms. Meintsma's comments and work it through a number of drawings.

MOTION: Commissioner Wintzer moved to CONTINUE the LMC Amendments regarding Building Height to May 22, 2013. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously. Commissioners Gross and Thomas were not present for the vote.

3. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, and Chapter 2.3 and Chapter 2.16 regarding underground parking structures. Amendments to Chapter 2.18 regarding Prospector Overlay. Amendments to Chapter 6 regarding Master Planned Developments. (Application PL-1301888)

Planner Whetstone stated that these were the remaining amendments of the 2012 annual update of the Land Management Code. This agenda item addressed three amendments. The first was to clarify the purpose and the applicability of the Master Planned Development review process throughout Park City. It was not specific to any one area, but it clarifies the language. The second was to clarify and add additional review criteria to the Master Planned Development Review process. This would apply to any Master Planned Development. The review criteria were clarified and updated to make references that are specific to the Code. The third amendment was to clarify the lots within the Prospector Square overlay in the General Commercial (GC zone) that are subject to zero lot line development. Planner Whetstone noted that added language clarifies the lots subject to exceptions in the overlay. One of those exceptions is to have a zero lot line development. Planner Whetstone stated that when the Prospector Square subdivision was amended, the Code was not also amended to identify that those lots are also allowed zero lot line development.

Planner Whetstone referred to the General Commercial Zones, Section 15-2.18-3 of the LMC, Lot and Site Requirements. This section addresses lot and site requirements and several changes were

Planning Commission Staff Report



Subject: McHenry Subdivision Replat
Author: Francisco Astorga, Planner
Application #: PL-12-01717
Date: July 10, 2013
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the McHenry Subdivision Replat and review the requested Plat Amendment as well as the drafted findings of fact, conclusions of law, and conditions of approval as found in the staff report.

Description

Applicant: Sean Kelleher, JGC Beach Properties
Location: 496 McHenry Avenue (Echo Spur)
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council action

Proposal

The property owner requests to combine lots 21-25, 29-32, a portion of lot 26-28, of block 58 and portion of lot 17 & 19 of Block 59 of the Park City Survey into one (1) lot of record. The request is for a Plat Amendment to combine these lots and a street vacation of the Right-of-Way (ROW) of the eastern half of 4th Street between Ontario and platted McHenry (Echo Spur) Avenue so that the entire property is contiguous. The owner plans to re-plat that lot of record consisting of the entire combined property as a Condominium Record of Survey containing seven (7) separate residential units which are to be designed to appear above ground as single-family dwellings. The applicant is proposing that one (1) of the units, which would be the smaller unit closest to Rossie Hill Drive, would be a “Kimball Art Center living quarters” for a proposed “artist-in-residence.”

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,

- D. encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On December 11, 2012 the City received a completed Plat Amendment application for the McHenry Subdivision. The purpose of this Plat Amendment is to combine all of the parcels and lots shown on the proposed plat. The applicant is also requesting that a portion of 4th Street Right-of-Way to be vacated and incorporated into this Plat Amendment.

The proposed Plat Amendment has a note which indicates that the purpose of the Plat Amendment is to combine all parcels and lots as shown into one lot which is intended to be re-subdivided (re-configured) at a later date. This future subdivision would be a Condominium Record of Survey (ROS) plat which would identify private, limited common and common areas within the project. Recordation of a ROS plat enables the owner to sell individual condominium units. The future Condominium ROS plat would identify the seven (7) residential units. The applicant has submitted various exhibits that describe the existing property conditions, property lines, topographic survey, and aerial photography.

The Planning Commission reviewed this request during a work session on January 3, 2013 (See Exhibit H and I, Planning Commission staff report and minutes). During this meeting the Planning Commission expressed concerns regarding the requested use, road/improvements dedication, 2007 property dispute settlement agreement, ridgeline development/vantage point analysis, traffic, parking, and phasing, etc.

The Planning Commission held a public hearing and reviewed the requested plat amendment again on February 27, 2013 (See Exhibit J and K, Planning Commission staff report and minutes). During this meeting staff and the applicant received feedback from the Planning Commission related to proposed use, footprint, CUP for the underground parking, and the ridgeline analysis. The Planning Commission indicated that cross sections need to be submitted for review and that the project would only work if the parking structure is constructed completely below ground (buried). The Commission expressed concerns with 4th Street vacation including loss of vegetation, entrance off Rossie Hill Drive, needed Conditional Use Permit (CUP) for the underground garage, road/improvements dedication, prohibiting access from Fifth (3rd) Street ROW, and traffic analysis. A site visit also took place during the May 22, 2013 work session.

2007 Plat Amendment

In April 2007, the City received an application for a plat amendment to lots 17-32, Block 58 of the Park City Survey. The applicant proposed to combine the sixteen (16) lots into seven (7) lots; four (4) of the lots were of sufficient size to have a duplex built on each

although one lot was proposed to be deed restricted to a single unit. Ten (10) units were possible.

In July 2007, the Planning Commission discussed the original submittal at both a work session meeting and public hearing. The primary issue at that time was the proposed street vacation of platted, but un-built McHenry Avenue adjacent to the lots in question. At the hearing the Planning Commission requested a joint hearing with the City Council to get direction on the street vacation request. The joint meeting was held in August 2007. Based on the outcome of the joint meeting, the applicant revised their plans and no longer requested the vacation of McHenry but decided to construct an access road within the right of way.

In May 2008, the Planning Commission reviewed the applicant's request of the street vacation of platted Fourth Street (approximately 1,831 square feet) in exchange for a dedicated access and paved drive for neighboring Ontario Avenue lots (approximately 1,875 square feet). A second driveway between Lots 5 and 6 would be platted as an easement to provide necessary fire truck turnaround.

The revised application also reflected a dedication of land to Ella Sorenson, owner of property fronting Ontario Avenue but with historical access and use of land on the eastern border of her property. Also shown was possible widening of Rossi Hill Drive for street parking between platted McHenry and Lot 13, block 59. As the City does not have right of way across Lot 14, block 59, except by prescriptive use, this pullout was likely to be shorter than proposed. The Planning Commission voted unanimously to direct staff to prepare findings for a negative recommendation to the City Council. In July 2008, the applicant withdrew the application.

2010 Plat Amendment

In March 2010, the City received another application for a plat amendment to lots 17-29, Block 58 of the Park City Survey. This proposed plat reconfigured the thirteen (13) lots into nine (9) lots. The developer was in the final stages of improving McHenry Avenue on the east side of the property. In March 2010 the Planning Commission reviewed the application for compliance with the Land Management Code in regards to lot combination, access and lot layout during a work session and provided feedback to the applicant.

In 2011 the applicant amended their application to only include the reconfiguration of Lots 17, 18, and 19 of Block 58 of the Park City Survey. The applicant requested approval to re-plat the three (3) lots of record into two (2) lots equally divided, on a north and south alignment parallel to Echo Spur Drive, creating two (2) lots with 37.5'x75' dimensions each. This application was later withdrawn by the applicant.

Analysis

On June 20, 2013 the applicant submitted revised preliminary concept plans proposing a seven (7) unit development on the subject property containing 0.614 acres (26,745.84 square feet). The site is equal to approximately twelve (12) Old Town lots. The revised

preliminary concept plans also shows a shared vehicular access to the site off Echo Spur Drive, which is different to what was previously proposed in January/February 2013. This access provides underground parking for the six (6) proposed structures. Applicants are also requesting that 2,250 square feet (approx.) of the 4th Street ROW to be vacated.

The applicant proposes to combine their entire area plus the eastern portion of 4th Street ROW into a single lot of record with the following note:

It is the purpose of this Plat to combine all Parcels as shown hereon to be re-subdivided at a later date. That portion of 4th South Street adjacent to Parcels to be abandoned and incorporated into this Plat.

The applicant is also required to submit a Conditional Use Permit application for the shared underground garage, Historic District Design Review application for compliance with Design Guidelines for New Construction within in the Historic Districts, and Condominium Record of Survey application to separate the privates units from the common, and limited common areas.

Use

The applicant proposes to build six (6) private units connected by a shared underground garage accessed off Echo Spur Drive. Each unit has three (3) stories including the underground parking garage, which will be constructed completely underground (buried), except for its access which will daylight close to, and eventually connect to the street, Echo Spur Drive. The main and second floor of each unit will be completely detached with one another as they will be separated with area platted as common space. The applicant also requests to build a small unit towards the south of the project on Rossie Hill Drive to be the proposed stand-alone residential art studio above the ramp to the underground garage.

Staff identifies the requested use to be single family dwellings with a shared underground garage. The six (6) units would also be marketed as single family dwellings. The proposed concept reduces and mitigates garage doors at the street edge, removes vehicles from on street parking and reduces paved areas. It creates a superior product in terms of design due to the elimination of vehicles on the main façade of each structure. The end result is not a typical multi-unit dwelling. Staff classifies the proposal as single-family dwelling detached development with a common underground garage.

Footprint

LMC § 15-3-8 relates specifically to Parking in the Historic District. It indicates the following:

- A. *To encourage the location of parking in the Rear Yard and/or below Grade, the City allows common driveways along shared Side Yards to provide Access to*

parking if the Owner restricts the deeds to both Properties to preserve the shared drive in perpetuity.

B. Common Parking Structures are allowed as a Conditional Use where it facilitates:

- 1. The Development of individual Buildings that more closely conform to the scale of Historic Structures in the district; and*
- 2. The reduction, mitigation or elimination of garage doors at the Street edge.*

C. Parking Structure may occupy below Grade Yards between participating Developments if the Structure maintains all Setbacks above Grade and the Area above Grade is properly landscaped, subject to Conditional Use permit [CUP] or Master Planned Development (MPD).

D. Driveways between Structures are allowed in order to eliminate garage doors facing the street, to remove cars from on-Street parking, and to reduce paved Areas, provided the driveway leads to an approved garage or Parking Area.

E. Turning radii are subject to a review by the City Engineer as to function and design.

The HR-1 District establishes a maximum building footprint based on the size of the lot as applied to a mathematical equation found in LMC § 15.2.2-3(D). This section further clarifies that the maximum building footprint for any structure located on a lot or combination of lots exceeding 18,750 square feet in lot area shall be 4,500 square feet. However, there is a provision under the MPD regulation found in LMC § 15-6-5(B)(1)(a) which indicates that the area of below grade parking in the HR-1 does not count against the maximum building footprint.

Staff has determined that the current proposal does not trigger an MPD based on LMC § 15-6-2 Applicability, which indicates that an MPD is required in all zones except in the **HR-1**, HR-2, HR-L, and HRM if specific criteria is met. It also indicates that an MPD is allowed but is not required HCB, HRC, **HR-1**, and HR-2 zones, provided the subject property includes two (2) or more zoning designations. Because the subject site does not include two (2) zones, it does not trigger an MPD.

Unlike the MPD regulation, the CUP language in the LMC fails to mention the exception to the below grade parking footprint. However, LMC § 15-3-8 encourages the location of parking below grade through a CUP. Also the **HR-1**, HR-2 and HR-L LMC parking regulations further reiterate that a parking structure may be placed underground if the structure maintains all setbacks above grade through a CUP. Staff finds that if a CUP for an underground common parking structure is obtained, the footprint of such underground structure would not be counted towards the maximum building footprint. The benefits of a shared underground parking garage include:

- Reduction or elimination of garage doors at the street edge,
- removing cars from on-street parking,
- reduction of paved areas, and
- individual buildings that more closely conform to the scale of historic structures, etc.

At this stage the applicant submitted preliminary concepts showing a footprint, furthermore, the applicant shows which portion of the underground level would be habitable versus limited common garage, and common driveway. The building footprint is defined as

The total Area of the foundation of the Structure, or the furthest exterior wall of the Structure projected to Natural Grade, not including exterior stairs, patios, decks and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building.

Staff has not received the proposed footprints for each requested unit as the plans were revised and submitted on Jun 20. Staff identifies that the footprint of each unit would be limited to the maximum footprint per the Building Footprint formula based on the perceived lot area outlined in Exhibit L.

Staff also finds that the underground parking area which would become common space such as the underground driveway and limited common parking area should not count as building footprint similar the provision outlined in the MPD regulations for development underground in the HR-1 District.

Road Dedication

The existing improvements to McHenry Avenue comply with the required warranty period. In May 2013 the City Engineer recommended to the City Council to accept the improvements as a public street. The City Council continued this item to September 2013. The City Engineer has indicated that if the City Council does not accept the improvements as a public street, it would then become a private drive. The City Engineer also recommended officially changing the name to Echo Spur Drive, which was also continued by City Council.

The Land Management Code (LMC) indicates that no building permit shall be issued for a Lot unless such Lot has frontage on a street shown as a private or public street. Staff recommends adding a condition of approval which would indicate that before a building permit can be issued, the street shall be identified as a private drive or a public street.

2007 Settlement Agreement

In November 2007 the former property owners of these lots (Connie Bilbrey and Sean Kelleher) signed a Settlement Agreement with the property owner to the west (Ella Sorenson). Both parties disputed the ownership of a certain portion of property. The disputed property lied within the wire fence and shed, specifically over lot 26, 27, and 28, of Block 58, of the Park City Survey.

This settlement has been fulfilled. The City did not approve the original 2007 plat amendment concept presented by the previous property owners. This 2007 plat amendment design included a private access driveway on the west side of the subject lots. As indicated on the agreement, under the *No Approval of Plat* term, if the City did not approve the [2007] Plat, then Rossi Hill (previous property owners, Bilbrey and Kelleher) shall proceed forward with the Alternative Development and shall transfer the disputed property to the adjacent property owner (Sorenson) by way of quit-claim deed. This property has been deeded over.

The current owner, Sean Kelleher, currently owns nine (9) standard Old Town lots of record (25'x75') that could be built on without a plat amendment. The applicant also owns three (3) Old Town lots that do not meet the minimum lot size because the portion of each lot given to Ella Sorenson as part of settlement agreement. However, these three lots could be combined into two (2) lots that would meet the minimum lot size.

Ridgeline Development/Vantage Point Analysis

LMC § 15-7.3-1(D), under general subdivision requirements, indicates that the Planning Commission may place restrictions due to the character of the land:

“Land which the Planning Commission finds to be unsuitable for Subdivision or Development due to flooding, improper drainage, Steep Slopes, rock formations, Physical Mine Hazards, potentially toxic wastes, adverse earth formations or topography, wetlands, geologic hazards, utility easements, or other features, including ridge lines, which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the Subdivision and/or its surrounding Areas, shall not be subdivided or developed unless adequate methods are formulated by the Developer and approved by the Planning Commission, upon recommendation of a qualified engineer, to solve the problems created by the unsuitable land conditions. The burden of the proof shall lie with the Developer. Such land shall be set aside or reserved for Uses as shall not involve such a danger.”

The LMC indicates that Ridges shall be protected from Development, which Development would be visible on the skyline from the designated Vantage Points in Park City (LMC § 15-7.3-2[D]).

The LMC definition of Vantage Points outlines ten (10) specific sites including across valley view. The LMC indicates that their function is to assist in analyzing the visual impact of development on hillsides and steep slopes.

The LMC defines a Ridge Line Area as the top, ridge or Crest of Hill, or Slope plus the land located within one hundred fifty feet (150') on both sides of the top, crest or ridge. Staff does not consider this area to be on a Ridge due to adopted definition of ridge line area. Furthermore, the City has approved development on all three (3) sides of this site.

Staff does not find that this area is on ridgeline. When the development is viewed across valley view (same elevation) the proposed development does not break the skyline as the both cross valley view hills are higher than the subject site.

Sensitive Lands Overlay (SLO) Analysis

Although there are steep slopes and ridge lines associated with this property, the property is not within the SLO and therefore a SLO analysis is not applicable. The purpose of the SLO is to: require dedicated open space in aesthetically and environmentally sensitive areas; encourage preservation of large expanses of open space and wildlife habitat; cluster development while allowing a reasonable use of property; prohibit development of ridge line areas, steep slopes, and wetlands, and protect and preserve environmentally sensitive land.

Traffic

Staff finds that traffic will be minimized as the applicant proposed to decrease the density of this site from potentially nine (9) units with the possibility of re-platting two (2) more down to seven (7) units including the art studio residential unit. The applicant also submitted a traffic study, see exhibit P showing the low traffic in the area.

Height/Topography

The applicant submitted an existing conditions & topographic survey of the area, certified by a surveyor, which indicates the topography of the site. The LMC currently indicates that no structure shall be erected to a height greater than twenty seven feet (27') from existing grade. There appear to be areas on the proposed lot that contain slopes thirty percent (30%) or greater, specifically where the applicant currently proposes to place the access for the future structure due to the location of the lot to the road.

When the road and utilities were built in 2009, the topography was slightly altered. By comparing a topographic survey on file dated October 2006, the lowest elevation located on this site was 7,132 feet and the highest elevation was 7,156 feet. The current survey submitted with this plat amendment application dated May/July 2012 indicates that the lowest elevation is the same at 7,132 feet while the highest is 7,162 feet. Given this information of the highest point on the site being higher by six feet (6') from the older survey and the older survey being reflective of the original grade, Staff recommends, as a condition of plat approval, that the height be measured from the topographic survey dated October 2006, due to the change in height that took place when the road was built. A note stating this condition shall be put on the plat prior to recordation.

Right-of-Way Vacation

The applicant also requests that City Council vacate/abandon a portion of the 4th Street ROW. Resolution No. 8-98 adopted a policy statement regarding the vacation of public ROW. The City Council may generally find "good cause" when a proposal evaluated demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as

a whole. The City Council will evaluate a particular proposal against specific criteria to determine whether a "net tangible benefit" has been demonstrated by the petitioner. The City Engineer has advised that the applicant needs to file a petition, which has specific noticing requirements, through the office of the City Engineer.

Proposals must compensate the City for the loss of the ROW. Consideration favored by the City Council will generally be financial, open space dedication above and beyond normal subdivision or development approval requirements; trail or public access dedication above and beyond normal subdivision or development approval requirements; replacement of ROW dedication; and/or any other public amenity deemed in the best interests of Park City's residents (See Exhibit N Ordinance 8-98).

Vacation of a ROW needs to be its own action and has special requirements per State Code LUDMA § 10-9a-609.5. The City Council has to determine that good cause exists and neither the public interest nor any person will be materially injured by the proposed vacation.

The applicant may also have the option of working with the City Engineer to instead of requesting the street vacation they can request to have an encroachment agreement with the City.

Good Cause

The proposed concept reduces and mitigates garage doors at the street edge, removes vehicles from on street parking and reduces paved areas. It creates a superior product in terms of design due to the elimination of vehicles on the main façade of each structure. The perceived lot sizes are compatible in this neighborhood as they provide a transition between the larger lots and/or structures to the north and east towards the smaller lots towards the west.

Process

The requested application at this time is a plat amendment combining their property into one lot of record. The applicant will also have a separate petition to vacate a portion of Fourth Street. The applicant is also required to submit a Conditional Use Permit application for the shared underground garage, Historic District Design Review application for compliance with Design Guidelines for New Construction within in the Historic Districts, and Condominium Record of Survey application to separate the privates units from the common, and limited common areas. These applications can be reviewed concurrently.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record according to requirements of the Land Management Code.

Public Input

Public input has been received and has been attached as "Exhibit O."

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The lots would remain as is and no construction could take place across the existing lot lines. The owner currently owns nine (9) standard Old Town lots of record (25'x75') that could be built on without a plat amendment. The applicant also owns three (3) Old Town lots that do not meet the minimum lot size because a portion of each lot given to Ella Sorenson as part of settlement agreement. However, these three lots could be combined into two (2) lots that would meet the minimum lot size.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the McHenry Subdivision Replat and review the requested Plat Amendment as well as the drafted findings of fact, conclusions of law, and conditions of approval as found below:

Findings of Fact:

1. The property owner requests to combine lots 21-25, 29-32, a portion of lot 26-28, of block 58 and portion of lot 17 & 19 of Block 59 of the Park City Survey into one (1) lot of record.
2. The request is for a Plat Amendment to combine these lots and a street vacation of the Right-of-Way of the eastern half of 4th Street between Ontario and platted McHenry (Echo Spur) so that the entire property is contiguous.
3. The entire combined property would then be re-platted as a Condominium Record of Survey containing seven (7) separate residential units which are to be designed to reflect single-family dwellings.
4. This portion of platted McHenry Avenue located north of the intersection of Rossi Hill Drive is to be known as Echo Spur Drive.
5. The applicant submitted a preliminary concept plan proposing a seven (7) unit development on the subject property containing 0.614 acres (26,745.84 square feet).
6. The site is equal to approximately twelve (12) Old Town lots.
7. The preliminary concept plan also shows a shared vehicular access to the site off Echo Spur Drive, which is different to what was previously proposed.
8. This access provides underground parking for the six (6) proposed structures.
9. The applicant is also required to submit a Conditional Use Permit application for the shared underground garage, Historic District Design Review application for compliance with Design Guidelines for New Construction within in the Historic Districts, and Condominium Record of Survey application to separate the private units from the common, and limited common areas.

10. Staff identifies the requested use to be single family detached dwellings with a shared underground garage. The six (6) units would also be marketed at single family detached dwellings.
11. The proposed concept reduces and mitigates garage doors at the street edge, removes vehicles from on street parking and reduces paved areas.
12. The proposed concept creates a superior product in terms of design due to the elimination of vehicles on the main façade of each structure.
13. The underground parking area which would become common space such as the underground driveway and limited common parking area should not count as building footprint similar the provision outlined in the MPD regulations for development underground in the HR-1 District.
14. Staff recommends adding a condition of approval which would indicate that before a building permit can be issued, that the street shall be identified as a “private drive” or a public street.
15. Staff finds that the subject property is not located on a ridgeline. When the development is viewed across valley view (same elevation) the proposed development does not break the skyline as the both cross valley view hills are higher than the subject site.

Conclusions of Law:

1. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
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.
4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year’s time, this approval for the plat 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. Before a building permit can be issued, the street shall be identified as either private drive or a public street.
4. Access to the site shall not take place over platted Fifth Street (formerly Third Street).
5. A 10’ (ten foot) snow storage easement shall be dedicated to Park City across the lot’s frontage.

6. Due to the change in height that took place when the road was built in 2008, the height shall be measured from the topographic survey dated October 2006. A note shall be placed on the plat indicating such survey to be utilized for determining grade for the maximum height.
7. Staff finds that drainage of the site shall be addressed and approved by City Engineer before a building permit can be obtained.
8. Modified 13-d sprinklers will be required for all new construction.

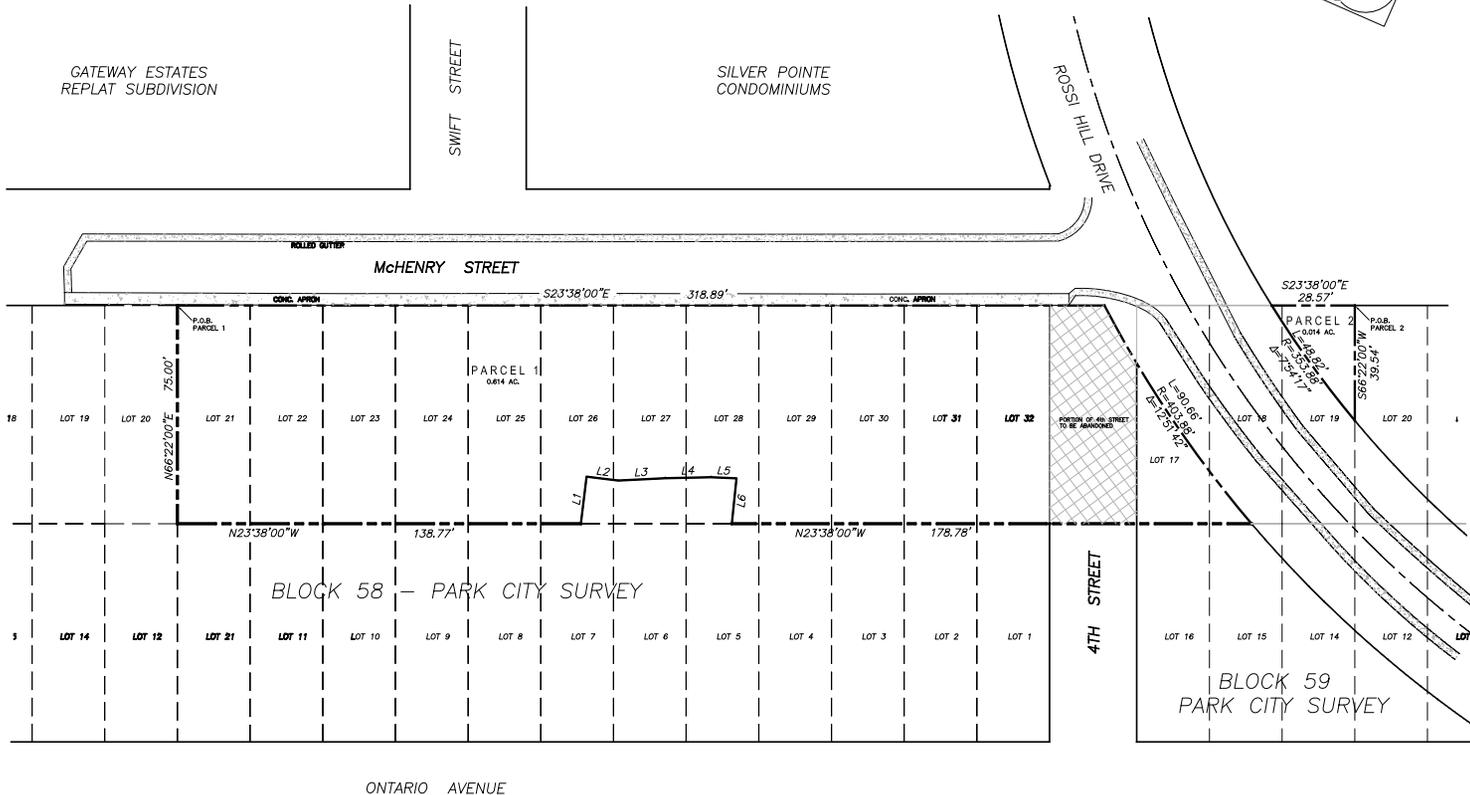
Exhibits

- Exhibit A –Proposed Plat Amendment
- Exhibit B – Project Description 11.13.2013
- Exhibit C – Applicant’s Planning Commission Deliverables updated 6.20.2013
- Exhibit D –Topographic Survey
- Exhibit E – ALTA/ACSM Survey dated October 2006
- Exhibit F – County Tax Map
- Exhibit G – Vicinity Map
- Exhibit H – Planning Commission Staff Report 01.09.2013
- Exhibit I – Planning Commission Meeting Minutes 01.09.2013
- Exhibit J – Planning Commission Staff Report 02.27.2013
- Exhibit K – Planning Commission Meeting Minutes 02.27.2013
- Exhibit L – Preliminary Plans
- Exhibit M – Model
- Exhibit N – Resolution 8-98
- Exhibit O – Public Comment
- Exhibit P – Traffic Study

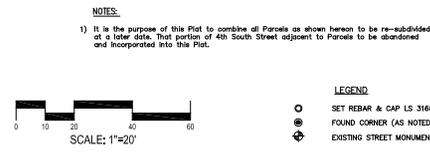
Attachment A - Proposed Plat

McHENRY SUBDIVISION

LOCATED IN
BLOCKS 58 & 59, PARK CITY SURVEY
SUMMIT COUNTY, UTAH



LINE TABLE		
LINE	LENGTH	BEARING
L1	16.30'	S73°17'30"W
L2	11.00'	N16°42'10"W
L3	16.16'	N26°29'04"W
L4	15.71'	N24°50'20"W
L5	9.91'	N21°14'47"W
L6	15.70'	N72°11'03"E



- LEGEND**
- SET REBAR & CAP LS 316833
 - ⊙ FOUND CORNER (AS NOTED)
 - ⊕ EXISTING STREET MONUMENT

LEGAL DESCRIPTION

Beginning at a point on the westerly right of way line of McHenry Street and the line common to Lots 18 & 19, Block 58, Park City Survey, according to the Amended Plat thereof, and running thence South 23°38'00" East 318.89 feet along said westerly right of way to the northerly right of way of Ross Hill Drive and the northerly tangent point of a 403.88 foot radius curve to the left, the center of which bears South 51°12'28" East; thence southerly along said right of way of Ross Hill Drive and the northerly tangent point of a 403.88 foot radius curve to the left, the center of which bears South 51°12'28" East; thence North 72°10'3" East 15.70 feet; thence North 21°14'47" West 9.91 feet; thence North 24°50'20" West 15.71 feet; thence North 26°29'04" West 16.16 feet; thence North 16°42'10" West 11.00 feet; thence South 73°17'50" West 16.30 feet; thence North 23°38'00" West 138.77 feet; thence North 66°22'00" East 75.00 feet to the point of beginning.

Together with:

Beginning at a point on the westerly right of way line of McHenry Street and the line common to Lots 19 & 20, Block 59, Park City Survey, according to the Amended Plat thereof, and running thence South 66°22'00" West 39.54 feet to the southerly right of way of Ross Hill Drive and a non-tangent to a point of curvature of a 333.88 foot radius curve to the right, the center of which bears South 53°27'45" East; thence northerly along the arc of said curve 48.82 feet through a central angle of 07°54'17"; thence South 23°38'00" East 38.57 feet to the point of beginning.

Containing 27,321 square feet or 0.6268 acres NET.

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents: That the owners of the hereon described tracts of land, hereby causes the same to be divided into lots and private streets, as set forth in this plat, hereafter to be known as "McHENRY SUBDIVISION"

Also, the owners hereby dedicate to Summit County, Snyderville Basin Water Reclamation District, Mountain Regional Water Service District, and Park City Fire District, a non-establisment easement over the roadway and utility easements shown on this plat for the purpose of providing access for utility installation, maintenance, replacement and repair and to provide access for emergency services. These areas that are intended for public use are hereby dedicated to Summit County.

Executed this ____ day of _____, 2012.

REPRESENTATIVE OF JGC PROPERTIES, L.L.C., OWNER

ACKNOWLEDGMENT

State of Utah
County of Summit

The foregoing was acknowledged before me this ____ day of _____, 2012, by _____ Representative of JGC Properties L.L.C., the Owners of the above described property

Notary Public
Residing at: _____
My commission expires: _____

CONSENT TO RECORD

State of Utah
County of Summit

The undersigned lien holder hereby consents to the recordation of the plat.
By: _____ Authorized Official
The foregoing consent to record was acknowledged before me this ____ day of _____, 2012.

Notary Public
Residing at: _____ My commission expires: _____

SURVEYOR'S CERTIFICATE

I, Russell E. Campbell, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 316833 as provided by the laws of the State of Utah. I further certify that a boundary survey has been made of the land shown on this plat and described hereon and that this plat is a correct representation of the land surveyed and has been prepared in conformity with the minimum standards and requirements of the law as of the date of survey, October, 2012.

Russell E. Campbell
Date

McHENRY SUBDIVISION

LOCATED IN
BLOCKS 58 & 59, PARK CITY SURVEY
SUMMIT COUNTY, UTAH

BASELINE SURVEYING, Inc

1058 East 2100 SOUTH
Salt Lake City, UT 84106 (801) 209-2152

CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ____ DAY OF _____, 2012. _____ PARK CITY RECORDER	CITY PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ____ DAY OF _____, 2012. _____ PLANNING COMMISSION CHAIRMAN	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ____ DAY OF _____, 2012. _____ MAYOR	CITY ENGINEER I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE, THIS ____ DAY OF _____, 2012. _____ PARK CITY ENGINEER	SEWER DISTRICT REVIEWED FOR CONFORMANCE TO JORDANELLE SPECIAL SERVICE DISTRICT STANDARDS THIS ____ DAY OF _____, 2012. _____ J.S.S.D.	APPROVAL AS TO FORM APPROVED AS TO FORM ON THIS ____ DAY OF _____, 2012. _____ PARK CITY ATTORNEY	RECORDED ENTRY NO. ____ BOOK ____ PAGE ____ STATE OF ____ UTAH ____ COUNTY OF ____ SUMMIT DATE ____ TIME ____ RECORDED AND FILED AT THE REQUEST OF: _____ _____ COUNTY RECORDER
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Exhibit B

Statement

The intent of this request is a replat of the described property as well as a vacation of the eastern half of the 4th Street right-of-way (the "ROW") between Ontario Avenue and the new Echo Spur so that the entire property associated with this application will be contiguous. The entire combined property will then be placed into a homeowner's association ("HOA") for the purpose of creating a condominium plat with seven separate units. While the condominium units will have common walls below final grade, above grade they will have separate walls, providing the appearance of single family residences. More details on each of these topics are discussed below.

Vacation of ROW

JGC requesting the vacation of the eastern half of the 4th Street ROW. In exchange, the HOA is proposing that the following compensation be offered to Park City and the citizens of Park City:

1. JGC and the proposed HOA will extend Shorty's Stairs along the western half of the ROW between Ontario Avenue and Echo Spur, providing a continuous pedestrian path from Rossi Hill Drive to Old Town
2. JGC and the proposed HOA will provide three car parking spots to be designated for the owners of several Ontario Avenue homes. These parking spots will be located on the southern side of Rossi Drive just west of the Echo Spur intersection. The HOA will landscape this parking area to minimize the visual impact to neighbors.
3. In addition, the JGC and the proposed HOA will provide walkway access from these parking spots to the Shorty's Stairs extension and the rear entry of each of the Ontario residences on each homeowner's property.
4. JGC and the proposed HOA are negotiating a proposal (see Exhibit A) for the Kimball Arts Center ("KAC") that would provide living quarters and an off-street parking spot for an artist-in-residence program which KAC seeks to commence in 2014. The proposal provides KAC with a below-market, long term lease which terminates in fifteen years; at that time, the HOA will deed to KAC the living quarters with no further payments due (besides KAC's share of HOA dues and property taxes).
5. JGC has agreed to donate to the Park City Foundation a payment of 1.5% of the lot sales proceeds upon the sale of each replatted lot to homebuyers.
6. The HOA will deed to Park City the stub lot on Block 59, lot 19, which lies east of Rossi Hill Drive.

Condominium Strategy

The HOA believes that most, if not all, of the proposed residences will be built with first floors that will be substantially below final grade. These lower floors will house garages, mechanicals, storage, laundry, and other similar home needs. Because the lower floor will be below final grade, this allows the homes to have large, underground parking, thereby keeping the homeowners autos off Echo Spur. The HOA has determined that the most efficient way to achieve this is to provide each residence with underground parking, which will be accessed from a proposed driveway off of Rossi Hill Drive. This driveway will be heated from the point at which it meets Rossi Hill Drive until it reaches a garage door which will be lower section of the unit housing the KAC artist-in-residence living quarters. It is anticipated that the driveway will not exceed a slope of 16 degrees, and will continue to submerge under the existing grade of the lots and ROW until it reaches a depth of at least twelve feet below current grade. This underground alleyway will:

- Allow for 100% of the parking for the non-KAC residences to be off-street;

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.



- Connect each residence as the underground alleyway will run the length of the property. Since the alleyway provides a natural connection between each residence and a condominium plat allows for below final grade first floors to excavate to the property's lot lines, the HOA will utilize the ability to create larger below final grade first floors by excavating nearly to the replatted lot lines. Lot line excavation is also beneficial for our energy strategy as described below.

Home Energy Strategy

The HOA believes that building highly energy efficient homes is the appropriate strategy given current energy prices, mortgage rates, and costs for solar photovoltaic and thermal equipment. Our goal is to develop homes which "Raise the bar" in advanced strategies to reduce the carbon footprint and external energy needs of residential structures. While the homes will use standard strategies such as Energy Star appliances, we also anticipate using the following energy saving strategies:

- "Passive House" building strategies
 - Superinsulation: superinsulation strategies are emerging as the most economically efficient strategy for reducing carbon-based energy usage. Superinsulation reduces energy gain/loss because of the house's air tightness and eliminates thermal bridging. Superinsulation results in extremely thick walls, making it difficult to build efficiently on standard Old Town lots (i.e., the internal square footage of a home built on a 25 x 75 lot is compromised due to the thicker walls).
 - Advanced ventilation strategies:
 - Passive heating: proper building siting, overhang shading, glazing are just three examples of the use of passive strategies to manage and store heat.
- External Systems strategies: we anticipate using solar photovoltaic and thermal and geothermal systems to source electricity and hot water, which will also reduce external, carbon-based energy needs.
- The use of a condominium strategy may allow the separate residences to share solar PV. While Rocky Mountain Power policy does not allow the sharing of electricity between single family homes, condominium units can distribute energy across units. Since we anticipate that 50% of the homes will be second homes, the sharing of solar PV generation lowers the initial capital cost of solar PV installation.
- Finally, changes in Utah law in 2010 allow for the storage of rainwater, and the HOA anticipates building each home with rainwater storage capabilities.

Our Passive and External Systems strategies will reduce the need for external energy sources by 70-90% and will do so in a manner that is economically efficient. We believe that one outcome of this project will be to raise awareness that building with highly energy efficient strategies not only is good for the environment but is also good for the homeowner's finances.

Architecture & Building Strategy

With the downturn in the economy and excess of residential homes on the market, the developers are pursuing an architectural strategy that has a more contemporary element but still remains true to the Park City/Old Town vernacular. The use of concrete and metal exteriors will be emphasized; flatter roof lines, which are more typical of contemporary homes, will also be emphasized. Importantly, flatter roof lines will also be critical to our energy strategy; because of the downward slope of the property to the north, steep roof lines would tend to block solar access. The use of flatter roof lines allow for greater flexibility in siting solar PV panels, a critical element to our energy plans. In addition, flatter roof lines will allow for greater snow storage and will link into our rainwater retention plans.

If you have questions regarding the requirements on this application or process please contact a member of the Park City Planning Staff at (435) 615-5060 or visit us online at www.parkcity.org.



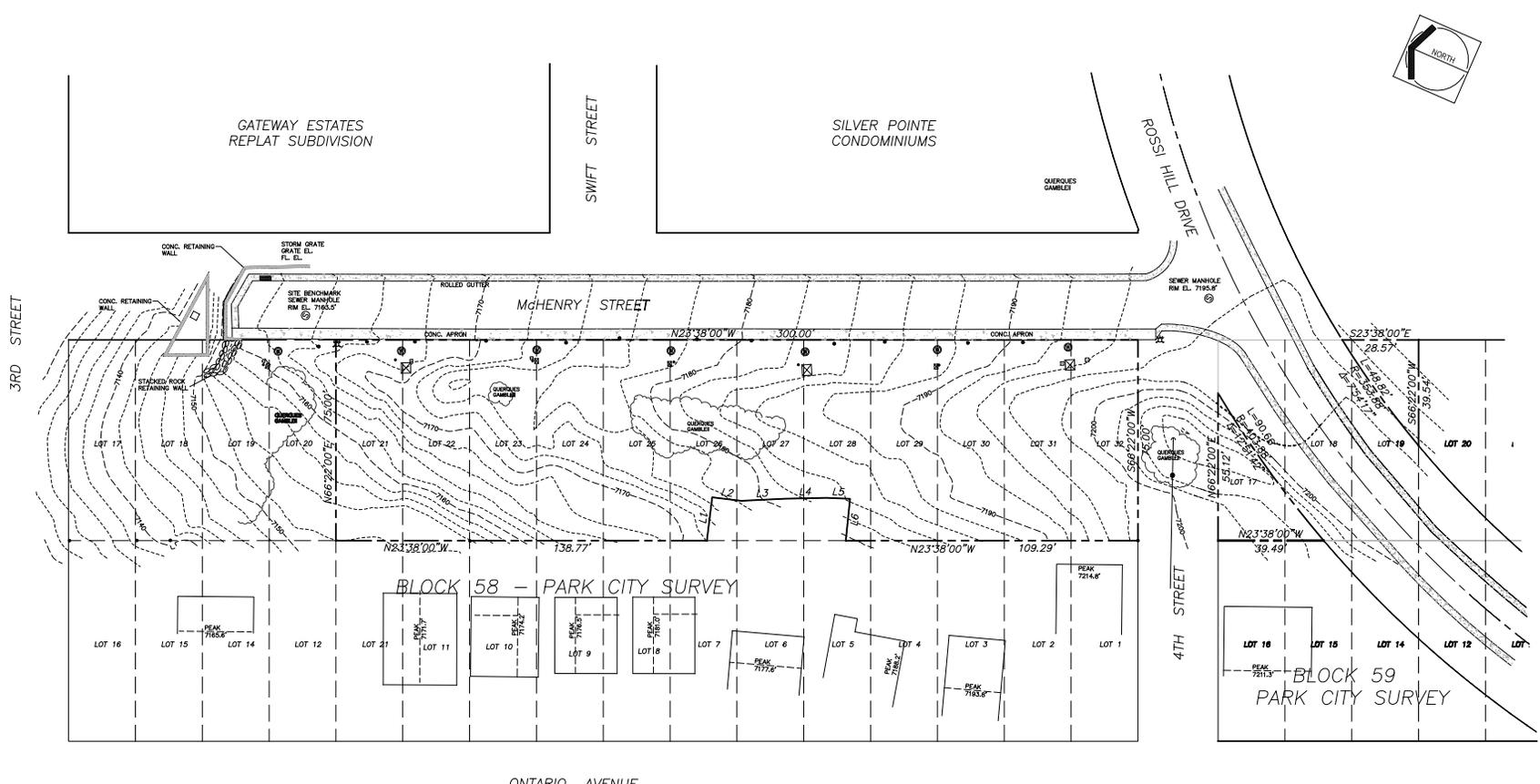
Exhibit C



Planning Commission Deliverables – Updated 06/09/13 – Update 06/20/13

1. Per the request of the PC, we have agreed to complete 100% of the planned excavation and foundation structure in one phase. Our current plans call for six homes with footprints of between 1000-1500 sf. Several of the homes will not have basement levels that are fully under grade and therefore will be required to have smaller third floors than estimated foot prints will allow.
2. Location of ramp entry: We have reviewed multiple options for the location of the garage/KAC studio entrance to the underground ramp. We have re-engineered the entry point to be on Echo Spur Drive, using lot 32 as the entry point. However, the ramp will still go underneath the eastern half of the 4th St. ROW.
3. Therefore, the ramp structure is requires that the development lose an entire buildable lot (Block 58, lot 32) to achieve the underground parking. This will create an open area at the southern end of the property that is approximately the same size as three Old Town Lots and will be entirely open space with the exception of the proposed Kimball Arts Center studio.
4. 4th St Right-of-way vacation: On April 12th we met on Rossi Hill with several neighbors (Craig Preston, Susie Graves, Brooks Jacobson) along the Ontario Ave side of the property. We discussed several items of interest:
 - a. Anticipated location of houses: we discussed excavation, underground parking, and development strategies
 - b. Extension of Shorty's Stairs/access to Preston & Graves homes: both Preston & Graves support the extension of Shorty's Stairs to the eastern half of the 4th St. ROW
 - c. Easements over our property to provide permanent driveway access to Preston, Wohlfarth, and Jacobson homes: we are providing driveway easements through our property so that all three of these homes have permanent, paved, year-round access to the rear of their properties. This will serve the dual benefit of reducing traffic flows on Ontario Ave.

5. Visitor parking: provisions have been made for visitor parking at several different points:
 - a. Underneath the KAC studio (can either be on Block 59/lot 17-18 or in PCMC's ROW along Rossi Hill Drive)
 - b. Each Unit will have at garage areas that will support a minimum of three cars.
6. Traffic Study: initial study was completed in April and is attached for Planning Commission review. Study indicates that traffic volumes are substantially below maximum capacity.
7. Kimball Arts Center Studio: we contacted KAC several weeks ago to discuss our progress; they indicated that they would like to move forward with a Letter of Intent, which we have delivered to them, for the studio lease/purchase.



LEGAL DESCRIPTION
 All of Lots 19 through 32, Block 58, Park City Survey, according to the Amended Plat thereof, on file and of record in the Office of the Summit County Recorder.

Beginning at a point South 23°38'00" East 13.77 feet from the corner common to Lots 7, 8, 25 & 26, Block 58, Park City Survey, according to the Amended Plat thereof, and running thence North 73°17'50" East 16.30 feet; thence South 16°42'10" East 11.00 feet; thence North 29°25'04" East 16.18 feet; thence South 24°50'20" East 15.71 feet; thence South 21°44'47" East 8.81 feet; thence South 72°11'53" West 15.70 feet; thence North 23°38'00" West 51.34 feet to the point of beginning.

Together with:
 All of Lots 17, 18 & 19, Block 59, Park City Survey, according to the Amended Plat thereof, on file and of record in the Office of the Summit County Recorder.
 Excepting therefrom any portion located within the Railroad Right of Way as described in those certain documents as Entry No. 8176 in Book C at Page 401, Entry No. 13316 in Book H at Page 328 and Entry No. 13610 in Book H at Page 373 records of Summit County, Utah.

SURVEYOR'S CERTIFICATE:
 I, Russell E. Campbell, do hereby certify that I am a Professional Land Surveyor and that I hold Certificate No. 316833 as prescribed under the laws of the State of Utah. I further certify that a topographic survey has been made of the land shown on this plat and described herein, and that this plat is a correct representation of the land surveyed and has been prepared in conformity with the minimum standards and requirements of the law as of the date of survey, May 5, 2012.

Russell E. Campbell
 Date

NARRATIVE:
 The survey was prepared for Go West Construction
 The purpose of the survey is to locate the topography, utilities, and roadway on the Lots shown.
 The site benchmark is the sewer manhole opposite Lot 20 as shown, El. 7163.5 NAVD 88 Datum.
 This survey does not show building setbacks, easements, or underground utilities. The locations of which should be verified prior to any construction.
 The Owner of the property should be aware of any items affecting the property that may appear in a Title Insurance Report. The Surveyor has found no obvious evidence of easements, encroachments, or encumbrances on the property surveyed except as shown herein.

LINE TABLE		
LINE	LENGTH	BEARING
L1	16.30'	S73°17'50"W
L2	11.00'	N16°42'10"W
L3	16.18'	N26°25'04"W
L4	15.71'	N24°50'20"W
L5	8.81'	N21°44'47"W
L6	15.70'	N72°11'53"E

- LEGEND:**
- SET REBAR & CAP LS 316833
 - FOUND CORNER (AS NOTED)
 - ⊕ EXISTING STREET MONUMENT
 - ⊙ POWER POLE
 - ⊗ WATER METER
 - ⊕ HYDRANT
 - U.S. WEST BOX
 - SEWER CLEANOUT
 - ⊕ CABLE BOX
 - ⊗ POWER BOX



LOCATED IN
 BLOCKS 58 & 59,
 PARK CITY SURVEY
 SUMMIT COUNTY, UTAH

BASELINE SURVEYING, Inc
 1508 East 2100 South
 Salt Lake City, UT 84108
 (801) 209-2152

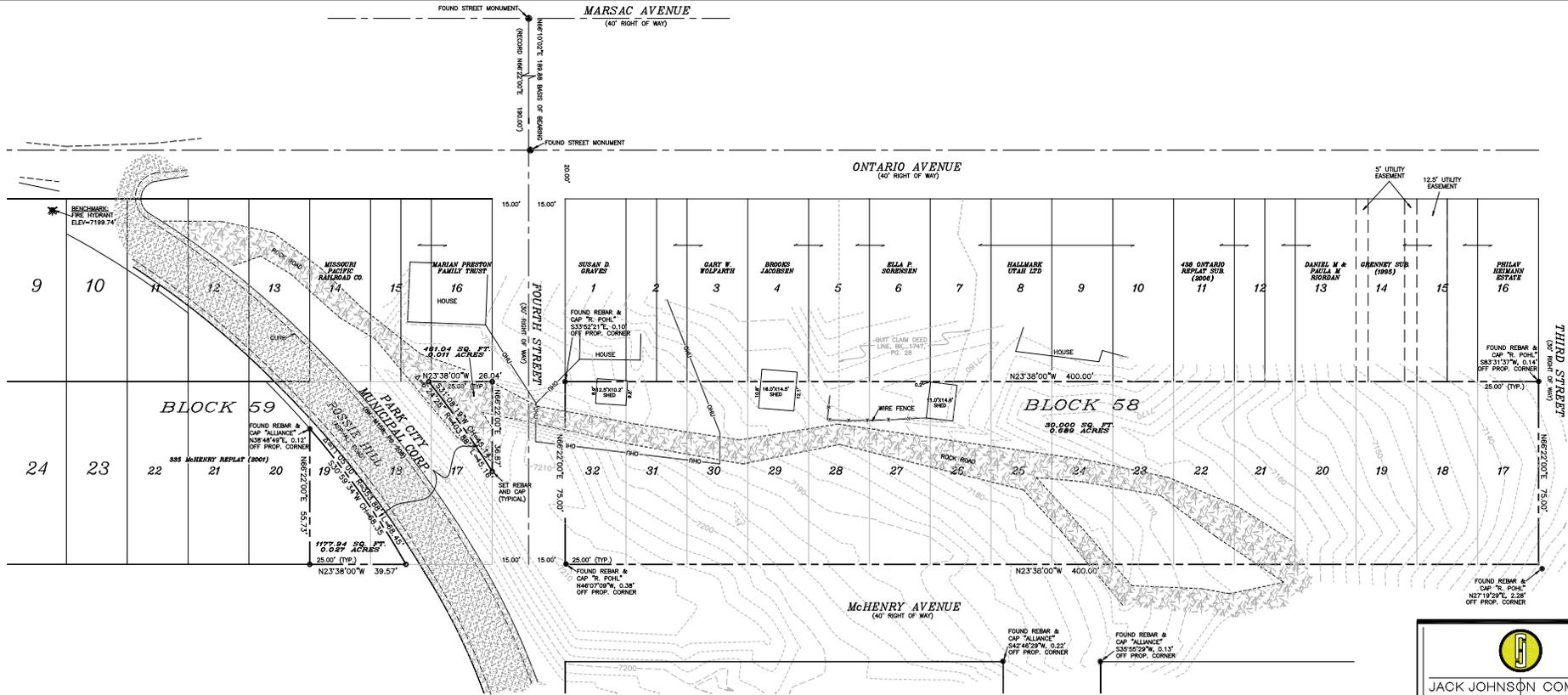
DATE	BY	REVISIONS	COMMENTS

JOB No.
 884
 SURVEY BY:
 RC
 DRAWN BY:
 RC

**TOPOGRAPHIC SURVEY
 PARTS OF BLOCK 58 & 59,
 PARK CITY SURVEY
 PARK CITY, UTAH**

SHEET
 1 of 1

Exhibit E – ALTA/ACSM Survey dated October 2006



ALTA/ACSM LAND TITLE SURVEY FOR LOTS 17-32, BLOCK 58 & LOTS 17-19, BLOCK 59 OF THE AMENDED PLAT OF PARK CITY LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, SUMMIT COUNTY, UTAH

NARRATIVE:

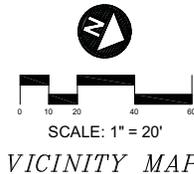
1. THE SURVEY WAS PREPARED FOR PARK CITY REAL ESTATE AND DEVELOPMENT.
2. THE BASIS OF BEARING WAS ESTABLISHED FROM FOUND STREET MONUMENTS AS SHOWN.
3. THE BENCH MARK FOR THIS PROJECT IS A FIRE HYDRANT AT THE INTERSECTION OF ROSSIE HILL AND ONTARIO AVENUE. THE BENCHMARK ELEVATION = 7199.74'
4. THE SURVEY WAS BASED ON THE COMMITMENT FOR TITLE INSURANCE PROVIDED BY FIRST AMERICAN TITLE INSURANCE AGENCY, LLC, ORDER NO. 041-4758480 FIRST AMENDED, ISSUE DATE SEPTEMBER 22, 2006. ITEMS DEPICTED AS PR # REFER TO SCHEDULE B, SECTION 2, "EXCEPTIONS", TO SAID TITLE COMMITMENT.
5. SPECIFIC TITLE COMMITMENT EXCEPTION ITEMS ARE AS FOLLOWS:
 - A. PR. ITEMS #1-14 ARE NOT PLOTTABLE MATTERS.
 - B. PR. ITEMS #15-16 ARE THE SAME QUOT CLAIM DEED EXECUTED BY BROOKS JACOBSON, IN FAVOR OF ELLA P. SORENSON TRUST. (TWO ADJOINING LAND OWNERS TO THE WEST) IT CALLED ALONG AN EXISTING FENCE THAT ENCROACHES ONTO THE PROPERTY ON THE WESTERLY BOUNDARY AS SHOWN, BUT THERE IS NO FOUND RECORD OF THIS EVER BEING DEEDED BY THE LAND OWNER TO THE ELLA P. SORENSON TRUST.
7. THERE IS NO OBSERVABLE EVIDENCE OF SITE USED AS A SOLID WASTE DUMP, SLUMP, OR SANITARY LANDFILL.
8. DUE TO THE LACK OF ORIGINAL MONUMENTS, PREVIOUS SURVEYS IN THE AREA AS WELL AS EXISTING IMPROVEMENTS WERE USED IN DETERMINING THE BOUNDARY OF THE ABOVE PARCEL. ALL EVIDENCE USED IS CLEARLY SHOWN ON SURVEY.
9. THERE ARE MANY ENCROACHMENTS ALONG THE WESTERLY LINE OF THE PROPERTY AS SHOWN ON THE SURVEY. THIS SURVEY DOES NOT ADDRESS THESE ENCROACHMENT, IT ONLY SHOWS THAT THEY EXIST.

BOUNDARY DESCRIPTION:

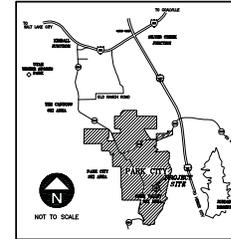
- PARCEL 1:
ALL OF LOTS 17,18,19,20,21,22,23,24,25,26,27,28,29,30,31 AND 32, BLOCK 58, PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDERS OFFICE.
- TOGETHER WITH AN EASEMENT FOR UTILITIES, INCLUDING SEWER AND WATER LINES OVER THE SOUTHERLY FIVE FEET AND THE NORTHERLY FIVE FEET OF LOT 14 AND THE SOUTH HALF OF LOT 15, BLOCK 58, PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDERS OFFICE.
- PARCEL 2:
ALL LOTS 17,18 AND 19, BLOCK 59, PARK CITY SURVEY, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDERS OFFICE, EXCEPTING THEREFROM ANY PORTION LOCATED WITHIN THE RAILROAD RIGHTS OF WAY AS DESCRIBED IN THOSE CERTAIN DOCUMENTS RECORDED AS ENTRY NO. 8176 IN BOOK C AT PAGE 401, ENTRY NO. 13316 IN BOOK H AT PAGE 326, AND ENTRY NO. 13610 IN BOOK H AT PAGE 373, RECORDS OF SUMMIT COUNTY, UTAH.

SURVEYOR'S CERTIFICATE:

TO PARK CITY REAL ESTATE AND DEVELOPMENT & FIRST AMERICAN TITLE INSURANCE AGENCY, LLC:
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005, AND INCLUDES ITEMS 1, 2, 4, 5, 7a, 8, 9, 10, 13 & 18 OF A THEREOF. PURSUANT TO THE ACCURACY FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION AS A LAND SURVEYOR REGISTERED IN THE STATE OF UTAH, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.



VICINITY MAP



JACK JOHNSON COMPANY
Designing World Destinations
1st Floor - 3777 South Park Drive - Park City, Utah 84305
Telephone - 435.845.9000 - Facsimile - 435.849.1929
www.jackjohnson.com

DATE:	OCTOBER 2006
RECORDED IN:	OKAY
RECORDED BY:	EDM
PROJECT:	020-0196-00
SCALE:	ALTA

RECORDS:	

ALTA/ACSM SURVEY
LOTS 17-32, BLOCK 58
& LOTS 17-19, BLOCK 59
PARK CITY, UT

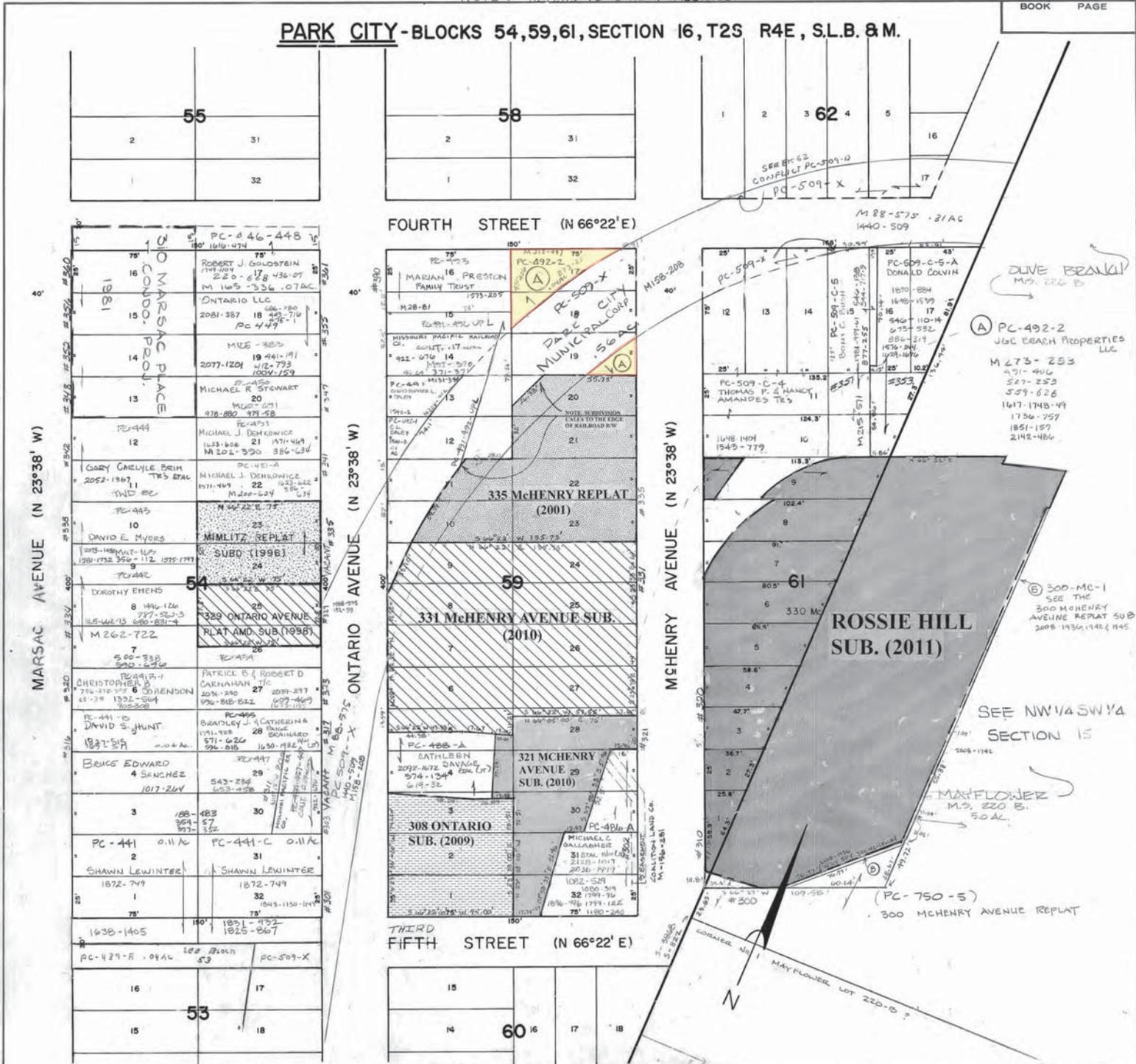
1 OF 1

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NOTE: # REFERS TO STREET ADDRESS

PARK CITY - BLOCKS 54, 59, 61, SECTION 16, T2S R4E, S.L.B. & M.

BOOK PAGE



Approved	REVISIONS - DATE AND INITIAL	(In Pencil)
Utah State Tax Comm	Sept 20 2011	
Date	By	

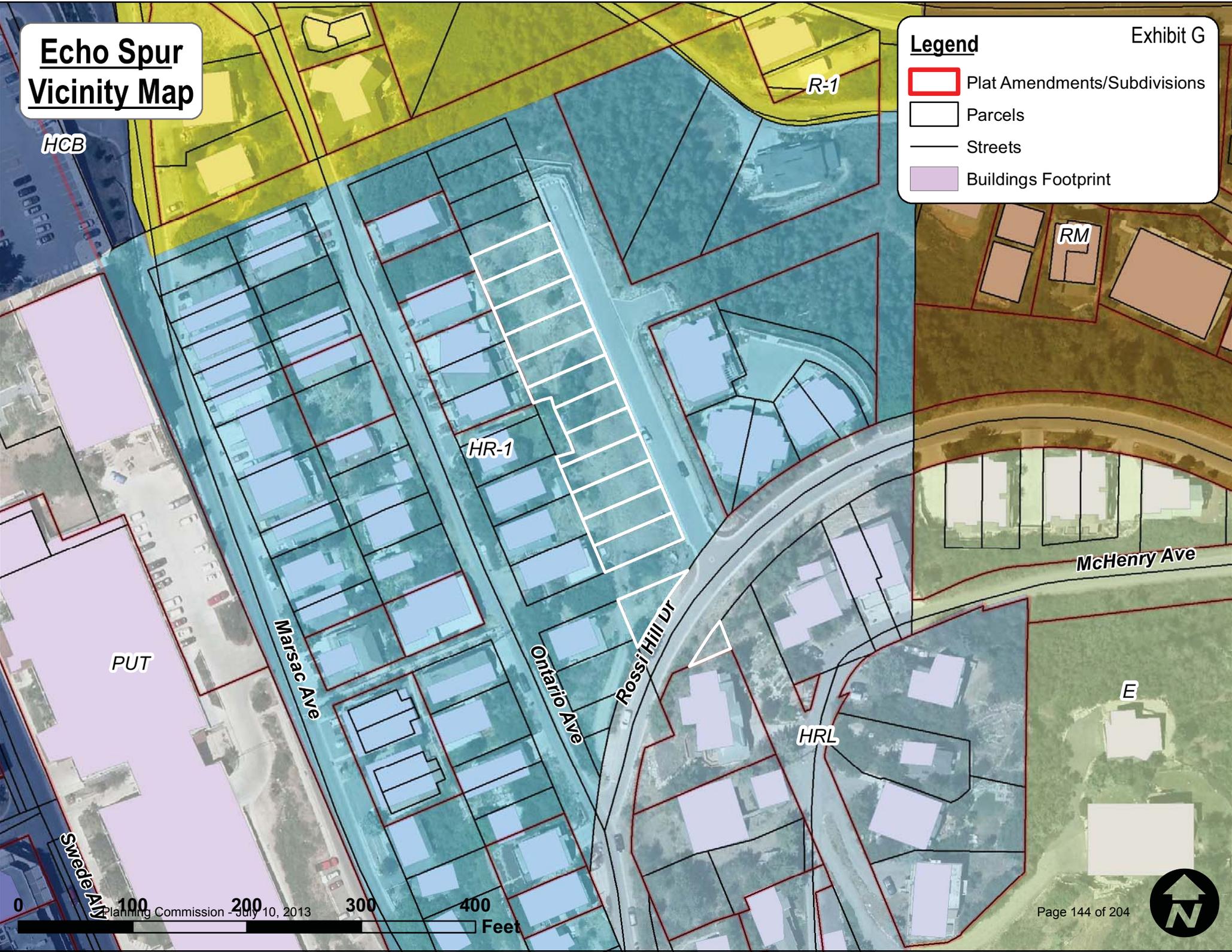
SUMMIT COUNTY, UTAH

SCALE
ONE INCH 40 FEET
BOOK PAGE

Echo Spur Vicinity Map

Legend

-  Plat Amendments/Subdivisions
-  Parcels
-  Streets
-  Buildings Footprint



0 100 200 300 400 Feet



Planning Commission Staff Report



Application #: PL-12-01717
Subject: McHenry Subdivision Re-plat
Author: Francisco Astorga, Planner
Date: January 9, 2012
Type of Item: Administrative – Plat Amendment Work Session Discussion

Summary Recommendations

Staff recommends the Planning Commission review the application for a plat amendment located at 496 McHenry Avenue, McHenry Subdivision Re-plat, for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed plat amendment.

Description

Applicant: Sean Kelleher, Managing member, for JGC Beach Properties LLC represented by Preston Campbell
Location: Lots 21-32, Block 58, Park City Survey
496 McHenry Avenue (Echo Spur)
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council action

Proposal

The property owner requests to combine lots 21-25, 29-32, a portion of lot 26-28, of block 58 and portion of lot 17 & 19 of Block 59. The request is for a plat amendment to combine these lots and vacation of the Right-of-Way of the eastern half of 4th Street between Ontario and platted McHenry (Echo Spur) so that the entire property is contiguous. The entire combined property will then re-platted as a condominium plat with seven (7) separate units which are to be designed to reflect single family dwellings. See detailed statement submitted by the owner in Exhibits A & H.

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,

- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On December 11, 2012 the City received a completed application for the McHenry Subdivision [Plat Amendment]. The purpose of this plat amendment is to combine all of the contiguous property under common ownership in this location, (see Exhibit G) and re-subdivide it as individual condominium units through a Condominium Record of Survey, at a later date. The applicant requests that a portion of 4th Street Right-of-Way to be vacated and incorporated into this plat amendment.

The applicant has submitted various exhibits that describe the existing property conditions, property lines, topographic survey, and aerial photography. See exhibits E - H.

The Planning Commission held a site visit and work session discussion on a request in this same neighborhood on December 12, 2012. The draft minutes have been attached in the packet with this staff report as the Commission will review the minutes and possibly adopt them during this meeting. The December 2012 discussion mainly focusses on ridgeline development/vantage point analysis. However, many other items relative to this area were also discussed.

Analysis

The applicant submitted a preliminary concept plan showing seven (7) structures to be built on the subject property. The preliminary concept plan also shows a shared vehicular access to the site off built Rossi Hill Drive. This access provides underground parking for the seven (7) proposed structures.

Use

The Land Management Code (LMC) indicates that a single family dwelling is an allowed use in the HR-1 District. Furthermore, the LMC contains the following definitions:

1.87 DWELLING.

- A. *Dwelling, Duplex. A Building containing two (2) Dwelling Units.*
- B. *Dwelling, Triplex. A Building containing three (3) Dwelling Units.*
- C. *Dwelling, Multi-Unit. A Building containing four (4) or more Dwelling Units.*
- D. *Dwelling, Single Family. A Building containing not more than one (1) Dwelling Unit.*

1.88 DWELLING UNIT. *A Building or portion thereof designed for Use as the residence or sleeping place of one (1) or more Persons or families and includes a Kitchen, but does not include a Hotel, Motel, Lodge, Nursing Home, or Lockout Unit.*

1.33 BUILDING. *Any Structure, or any part thereof, built or used for the support,*

shelter, or enclosure of any Use or occupancy by Persons, animals, or chattel.

(A) *Building, Attached.* A Building connected on one (1) or more sides to an adjacent Building by a common Party Wall with a separate exterior entrance for each Building.

(B) *Building, Detached.* Any Building separated from another Building on the same Lot or Parcel.

(C) *Building, Main.* The principal Building, or one of the principal Buildings on a Lot, that is used primarily for the principal Use.

[...]

Discussion: How would the Planning Commission define their requested concept? The seven (7) privately owned single family dwelling units would share the common ownership underground parking garage through the subsequent Condominium Conversion. A condominium is not a use, but rather a type of ownership. The HR-1 District indicates that a single family dwelling is an allowed use; a duplex is a conditional use; and triplex/multi-unit dwelling is not allowed.

Footprint as Related to the Underground Parking Garage

The LMC indicates that the maximum building footprint of any structure located on a lot or combination of lots shall be calculated according to the footprint formula:

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP= maximum Building Footprint and A= Lot Area.

Example: 3,750 sq. ft. lot: $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = 1,519$ sq. ft.

The LMC further clarifies that the maximum building footprint for any structure located on a lot or combination of lots exceeding 18,750 square feet (equivalent to 10 standard Old Town lots) in lot area shall be 4,500 square feet. A Condition Use Permit is required for all structures with a proposed footprint of greater than 3,500 square feet.

Building footprint is defined as *the total Area of the foundation of the Structure, or the furthest exterior wall of the Structure projected to Natural Grade, not including exterior stairs, patios, decks and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building.*

The LMC indicates the following under Parking in the Historic District found in the Off-Street Parking Chapter:

LMC 15-3-8. PARKING IN THE HISTORIC DISTRICT.

- A. *To encourage the location of parking in the Rear Yard and/or below Grade, the City allows common driveways along shared Side Yards to provide Access to*

parking if the Owner restricts the deeds to both Properties to preserve the shared drive in perpetuity.

B. Common Parking Structures are allowed as a Conditional Use where it facilitates:

- 1. The Development of individual Buildings that more closely conform to the scale of Historic Structures in the district; and*
- 2. The reduction, mitigation or elimination of garage doors at the Street edge.*

C. Parking Structure may occupy below Grade Yards between participating Developments if the Structure maintains all Setbacks above Grade and the Area above Grade is properly landscaped, subject to Conditional Use permit or Master Planned Development (MPD).

D. Driveways between Structures are allowed in order to eliminate garage doors facing the street, to remove cars from on-Street parking, and to reduce paved Areas, provided the driveway leads to an approved garage or Parking Area.

E. Turning radii are subject to a review by the City Engineer as to function and design.

The HR-1 District indicates that a Residential Parking Area or Structure with five (5) or more spaces for residential, non-commercial, uses is a conditional use to be reviewed and approved by the Planning Commission subject to LMC 15-1-10.

Discussion: How would the Planning Commission interpret the requested use of the future Condominium Conversion in terms of building footprint within the HR-1 District, specifically related to the allowance for below grade parking area? How would the Planning Commission interpret how to count the footprint of the underground garage, if applicable?

Previous plat amendment request within the neighborhood

Staff has forwarded the draft Planning Commission minutes from December 12, 2012 to make the applicant aware of the items of concerns dealing with the ridgeline development/vantage point analysis, road acceptance by the city, and various applicable concerns. At this time the applicant has not submitted additional information related to building footprint and square footages related to each structure.

Right-of-Way Vacation

The applicant also requests that the City vacate/abandon a portion of the 4th Street Right-of-way. Resolution No. 8-98 adopted a policy statement regarding the vacation of public right-of-way. The City may generally find "good cause" when a proposal evaluated demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as a whole. The City will evaluate a particular proposal against specific criteria

to determine whether a "net tangible benefit" has been demonstrated by the petitioner. See Exhibit I.

Recommendation

Staff recommends the Planning Commission review the application for a plat amendment located at 496 McHenry Avenue, McHenry Subdivision Re-plat, for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed plat amendment.

Exhibits

- Exhibit A – Applicant’s Statement & Presentation
- Exhibit B – Vicinity Map
- Exhibit C – County Tax Map (Block 58, Park City Survey)
- Exhibit D – County Tax Map (Block 59, Park City Survey)
- Exhibit E – Topography with Aerial Photograph
- Exhibit F – Topographic Survey
- Exhibit G – McHenry Subdivision (Proposed Plat Amendment)
- Exhibit H – Conceptual Site Plan
- Exhibit I – Resolution No. 8-98

Exhibit I

Work Session Minutes
January 9, 2013
Page 8

Planner Astorga reviewed Scenarios I and J together. Both were on 60% grade. Scenario I has one exterior parking space, and Scenario J has two interior parking spaces. Planner Astorga noted that there were major issues with variances in both scenarios. If such a lot existed with 60% grade, it would again make sense to try and do a split level concept.

Commissioner Hontz pointed out that in addition to not meeting the height due to the garage, it also would not meet Code because the driveway could not be returned to within 4-feet of natural grade. The bottom two floors would also have to be on stilts. Scenarios I and J could not be built based on all three reasons.

Planner Astorga had prepared another packet of scenarios on uphill lots that he would present at a work session on February 13th.

496 McHenry Avenue, McHenry Subdivision Replat – Plat Amendment. (Application #PL-12-01717)

Due to a conflict, Commissioner Thomas recused himself from this discussion and left the room.

Planner Astorga reviewed the application for the proposed McHenry subdivision replat. Sean Kelleher was the property owner. Planner Astorga reported that Mr. Kelleher owns approximately 12 lots of record. Three do not meet the minimum lot size; therefore, the lot lines would need to be shifted for development.

Planner Astorga reported that the current plan is to construct seven single-family houses that would be accessed from an underground, shared parking garage. The Staff report outlined specific points for discussion, and Planner Astorga requested that the Planning Commission provide direction to the Staff and the applicant on how to proceed. As part of the discussion, the Staff report also included the minutes from the December 12th meeting, at which time the Planning Commission held a site visit and a work session discussion on the three lots down the street from Mr. Kelleher's property.

Mr. Kelleher provided a power point presentation reviewing the history and background of the property. He has been in the periphery of Rossi Hill for a long time, but he has never come before the Planning Commission. Mr. Kelleher stated that when he first became involved with the property in 2006, he was a tenant in common with Mr. Bilbrey, a former owner. Mr. Bilbrey retained all the development rights for the property and Mr. Kelleher was the traditional silent partner. Mr. Kelleher remarked that his only involvement regarding plat applications that came forth since 2007 was to sign the plat as a co-owner of the property. All discussions and decisions made on the property were out of his control.

Mr. Kelleher outlined what has been done on the property since 2007 and how he and Mr. Bilbrey eventually became independent owners of different elements of the lots in 2011. Mr. Kelleher noted that the infrastructure has been completed at this point. He commented on problems with the wall in 2009 and that it was basically rebuilt. In 2011 he stepped in after he and Mr. Bilbrey terminated their arrangement. He worked closely with Matt Cassel, the City Engineer, in terms of ensuring that the wall was as much of a fortress as possible. That was completed in the Fall of 2011 and it went

through the one-year warranty period. Mr. Kelleher believed it was scheduled before the City Council within the next few weeks.

Mr. Kelleher stated that he has been working with a number of builders, developers, architects, and energy engineers around the Park City area a plan for development. Mr. Kelleher clarified that he is not a developer and he was never involved as a developer. He manages a firm that works with community banks and credit union. His background in development is limited, which is why tried to build a team of local representatives that know Park City and understand the issues. He has been working with this team over the past year and they have an idea of what makes sense in that area. However, they held off throughout 2012 because of changes being proposed in the LMC, such as flat roofs, which was something he would like to do.

Mr. Kelleher and the team spent a lot of time reviewing specific elements important to the community, and he tried to develop a plan that looked at sustainability and other forward thinking issues critical to Park City. They looked at the Bonanza Park plan and tried to build in some of the incentives and additional “gives” to the town that they thought were important based on that plan.

Mr. Kelleher outlined some of the benefits of his plan. In terms of affordable housing and open space, six years ago they pledged to make a contribution to the Park City Foundation of 1.5% of any of the lot sales, and that money would be focused on either affordable housing or open space. Stated that when he took possession of the property and the development rights over a year ago, he realized that the world of housing was rapidly changing and there was no reason not to build homes that use 80% less energy than the common home built to Code. He commented on things that could be done to accomplish a more energy efficient home with this development.

Mr. Kelleher stated that one reason for proposing a condo-type structure that would look like single family homes, was the ability to share energy between units. Mr. Kelleher presented a schematic and highlighted some of the features. The average home size would be approximately 3,000-3500 square feet. Underground parking and access clears the road and allows energy sharing. He noted that the proposal requests a vacation of the eastern half of the Fourth Street right-of-way. It was not a critical part of the plan, but the intent is to turn that into open space. Without the vacation, they would only have the right to go underneath it. Mr. Kelleher explained that if they extend the Shorty stairs over to the east side of Ontario and have public space above, they could also add parking along Rossi Hill to remedy currently impaired parking options and access for the existing homes. He believed that would be a “give” for the neighborhood.

Mr. Kelleher stated that the Kimball Arts Center was interested in developing an artist-in-residence program in Park City. However, the problem is lack of consistent housing and a place that would incentivize an artist. Mr. Kelleher proposed to offer the Kimball Arts Center the right to use the second floor of one unit as a 500 square foot studio/one-bedroom facility. It would be a below-market use and after ten or fifteen years, the studio would be turned over to the Kimball and they would become a member of the HOA.

Mr. Kelleher requested input from the Planning Commission on the proposed plan and he was open to feasible suggestions or alternatives.

Chair Worel referred to page 6, Exhibit A, which indicated that the lower floors of the proposed

housing would house garages, mechanical storage, etc. She asked if those garages were in addition to the large common garage. Mr. Kelleher noted that the dotted lines shown in the proposed public space area was the underground ramp. It would circle around and drop to 11 or 12 feet below grade. That would run parallel to the road that was put in a few years ago. The plan is to excavate a fairly large portion of each of the lots and have underground parking, as well as mechanical, etc., in that space. A single family home is excavated based on the footprint; however, because it is considered a condo underground, they would extend the excavation to create a larger underground space to accommodate parking for two or three cars.

Commissioner Wintzer asked if the parking would go underneath the houses all the way down Echo Spur Drive. Mr. Kelleher contemplated that it would go even further to the west. Commissioner Wintzer clarified that excavation would occur under all of the houses. Mr. Kelleher replied that this was correct. He was unsure if they could keep excavation to 100% under final grade, which was something for the Planning Commission to consider.

Planner Astorga noted that Mr. Kelleher had also submitted an existing conditions survey as well as the proposed plat. At this point Mr. Kelleher was moving forward with the plat amendment to combine everything into one lot of record in order to move forward with a condominium in the future.

Planner Astorga had included Resolution 898 in the Staff report as a quick review of the City Council findings that the applicant would have to meet for the street vacation.

Planner Astorga stated that a condominium was a type of ownership and not a use. Based on the footprint in the HR-1 District, the Staff struggled with how to move forward with an interpretation due to the underground garage that would be shared by future owners. LMC language included in the Staff report indicates that the Planning Commission may approve an underground shared parking facility through a conditional use permit. He noted that seven unit condominium projects with shared underground parking are rarely proposed in Park City. The Staff was aware of the approval for 801 Park Avenue; however, this was a different zoning district with different zoning parameters. 801 Park Avenue was part of an MPD and crossed two zone lines. If requested by the Planning Commission, he could research the specific parameters of that approval versus what was proposed for 496 McHenry.

Planner Astorga requested that the Planning Commission discuss whether they would consider the units as single-family dwellings, or whether the underground garage and being connected by the foundation would be an issue. Commissioner Wintzer asked if a condominium project was a permitted use. Planner Astorga reiterated that a condominium is a type of ownership. It is not a use. Commissioner Wintzer asked if it was permitted ownership in the zone. Planner Astorga answered yes. Commissioner Wintzer asked if the entire project could be built as a condominium if the applicant wanted to do so. Planner Astorga explained that with a condominium project, the property lines no longer exist and the private ownership is the house itself. Everything around the house would be common ownership and there would be no setback issues. Because of the foundation, it was difficult to interpret whether or not the structures would be identified as single-family dwelling. The Staff was looking for feedback from the Planning Commission to help with that interpretation. Planner Astorga had included the definitions for a single-family dwelling and a multi-unit building in the Staff report.

Commissioner Wintzer could not understand why the applicant could not build a condominium

project with houses. Planner Astorga replied that the proposal was a condominium project. Director Eddington explained that it would have the appearance of single family dwellings, but it would be a condominium project.

Commissioner Savage thought it was important to distinguish how the property is marketed versus the form of ownership. He understood that for marketing purposes it would be a single family stand-alone unit in terms of what exists above ground; but the ownership would be a condominium form of ownership. Commissioner Savage clarified that there were no constraints in the LMC as it relates to having a condominium form of ownership on a lot or a subsequent combination of lots.

Mr. Kelleher remarked that the intent was to use the existing setbacks for the zone. They were also considering flat roofs, which could lower the height below 27'. The flat roofs would accommodate solar PV and thermal. The property slopes away from the light and steep roofs would block each other.

Commissioner Wintzer pointed out that a compatibility study would need to be done and he was unsure whether five roofs would meet the Historic District Guidelines. Mr. Kelleher understood that there was a proposal to amend the LMC to allow flat roofs if used for solar, etc. He also understood that the project would have to meet compatibility. Mr. Kelleher reiterated that a primary reason for the condominium was so Rocky Mountain Power would allow shared energy between homes.

Planner Astorga stated that based on additional analysis, adding up the overall area, including the requested street vacation, equates to approximately 14.25 Old Town lots of record. Without the underground concept and just having seven single-family dwellings over 14 lots, each lot would be approximately 3800 square feet. The footprint would be approximately 1541 square feet. He was unsure if the end product would have two or three stories, but assuming three stories, each house would be approximately 4600 square feet.

Commissioner Gross asked if there would be two or three stories above the garage. Planner Astorga replied that another point for discussion was whether or not the garage counts as the first story. The Staff was only asking the question because the garage would be platted as common space, while everything else would be platted privately.

Mr. Kelleher clarified that he was only proposing two floors above grade. He was fairly certain they would not need the full 27' height. Commissioner Wintzer believed that could be addressed in a condition of approval. Commissioner Gross thought the garage should be counted as the first level to be consistent with other projects where the basement level counted as the first story.

Commissioner Hontz stated that if the underground garage connects to the above ground units, by definition she believed that would constitute an attached building, which makes the structure a multi-unit building instead of single family dwelling. Planner Astorga thought the definition of a multi-unit building was weak because it only says, "A building containing four or more dwelling units". It does not address the connection piece. The Staff was looking for direction from the Planning Commission on that issue.

Commissioner Savage stated that if the redlined area shown was common space, then each unit

sits on top of common space and; therefore, all the units are connected by common space. On the other hand, if a driveway provided access to private garage space underneath each home, the homes could be independent of each other as it relates to footprint. In his opinion, whether or not the building is multi-tenant would be contingent on the underground design.

Commissioner Strachan remarked that a driveway would also be a potential connection and considered common space because each unit would not have its own access point. Mr. Kelleher clarified that there would be a garage door for each unit.

Commissioner Wintzer understood that an MPD was not permitted in the HR-1 zone. Director Eddington replied that this was correct. Planner Astorga remarked that in some circumstances, the reduction of driveway accesses for each unit is a good urban design feature and allows for more aesthetic control on the street.

Commissioner Gross asked if parking was allowed on that street. City Engineer, Matt Cassel, stated that street parking was not allowed. Commissioner Gross wanted to know where guests would park. Planner Astorga asked if Mr. Kelleher would consider adding guest parking in the underground garage. Mr. Kelleher asked if parking on the street was prohibited in any circumstance. He was told this was correct. Planner Astorga remarked that the Code requires two parking spaces per dwelling unit. Therefore, fourteen spaces would be required for seven units proposed.

Mr. Cassel explained that the street was built to 20 feet, which included sidewalk, curb and gutter and the road surface. It was only meant to provide access to homes on that street and for fire access, which requires 20' minimum. Cars are not allowed to park along the road unless they are fully off the street, sidewalk and curb and gutter. Commissioner Gross asked about snow removal. Mr. Cassel stated that snow gets pushed to the end of the road. Commissioner Hontz assumed the road had still not been accepted by the City. Mr. Cassel replied that it has not been accepted at this point. However, it would go to the City Council for final acceptance or dedication. If for some reason the City decided not to take it over, it would become a private drive and nothing would change. He noted that the road was built to City standards.

Commissioner Savage asked if the Staff could present the Planning Commission with a hierarchy of decisions that need to be made regarding this proposal, and the dependency of one decision upon another. He thought a major question was whether or not a multi-unit dwelling was acceptable for this development in conjunction with it being designated as a condominium form of ownership. Another important question related to ridgeline. Planner Astorga noted that the Staff had received additional information from Commissioner Wintzer regarding the ridgeline. To address Commissioner Savage's question regarding the use related to condos and single family dwelling, Planner Astorga believed a related question would be how to interpret the footprint.

Commissioner Wintzer referred to page 25 of the Staff report and indicated ten or twelve platted lots that have attached development rights and access to the street. Those lots could be developed with one house on each lot without Planning Commission approval. Commissioner Savage asked if there were slope issues on those lots. Commissioner Wintzer replied that a lot of record with access would trump any slope issue. Commissioner Wintzer indicated lots further down the road and noted that the second to the last lot was a lot of record with access. The two lots below that lot were lots of record, but without access. He pointed out that combining those two lots would

increase the amount of development rights further down the road, and that was his issue. Commissioner Wintzer thought they should focus on the issue above and not the issue below.

Commissioner Hontz appreciated the comments from both Commissioners Wintzer and Savage because she struggled with the same issue. If they combine the lots it is evident where the ridgeline would run through the lots, and the Planning Commission would need to have that discussion. Commissioner Hontz noticed that the survey in the packet was a topo survey and she thought they had asked to see a boundary or alta survey. Director Eddington replied that they would want to see an alta survey with the subdivision.

Commissioner Hontz stated that if the lots are combined, the Planning Commission would have to make findings for good cause and one concern would be public health, safety and welfare. She noted that Echo Spur is a substandard street and any road utilized to get to that street is also substandard. Ontario, McHenry, and Rossi Hill are all narrow streets and she would like to understand the impacts of adding seven or nine units. Commissioner Hontz thought a traffic analysis would be necessary and the City should dictate the terms of what is analyzed. The analysis needs to take into account the conditions of the streets, particularly in winter, and the existing conditions that would not be improved.

Commissioner Hontz had issues with the additional square footage through the addition of the right-of-way from the City vacation. She thought some of the ideas listed on page 6 of the Staff report could be great benefits to the neighborhood, but she wanted to hear from the neighborhood and visit the site herself to make her own determination about the additional parking spots. Commissioner Hontz was not convinced that adding the stairs to that location would be a benefit to anyone except that particular development. She was concerned that it could potentially reduce the value of the open space in that area. At this point she would not consider those a good enough "get" on the part of the City. Commissioner Hontz was also concerned about taking access off of McHenry instead of Echo Spur into the underground parking. Although they usually try to reduce the amount of excavation, if it done correctly, the potential benefits of an underground combined parking garage in this area could offset the excavation impacts to the community.

Mr. Kelleher wanted to know what defines a substandard street. City Attorney Matt Cassel stated that Echo Spur and Rossi Hill meet all the criteria of City standards for a street. The only street considered substandard is Ontario, due to the slope. Commissioner Hontz recalled Mr. Cassel's earlier comment that street parking was prohibited on Echo Spur. Mr. Cassel explained that based on a request by the neighbors and to satisfy their needs and issues, Echo Spur was made as narrow as possible but still meeting the Fire Code. Commissioner Hontz asked if there were any parking requirements on Rossi Hill based on its width. Mr. Cassel stated that Rossi Hill is scheduled to be redone and the City will try to address current parking issues and the width in terms of snow removal. Currently, Rossi Hill is not considered a substandard street. It is unsafe in the winter but it is not substandard.

Mr. Kelleher understood that there was an additional 10' on each side of Rossi Hill for a railroad right-of-way. He had contemplated that space for parking spots. Mr. Cassel replied that there was a railroad spur. He believed there was minimal space on the south side and five to ten feet on the north side of Rossi Hill Drive. Chair Wintzer asked if Mr. Kelleher anticipated using that space for

guest parking. Mr. Kelleher thought they may have to put visitor parking in China Bridge and make them walk up the stairs. He was primarily thinking of using the road side spaces to address parking issues discussed with the Ontario neighbors. It would be a nice "give" to the neighbors to pave parking spots in the railroad right-of-way along the road. Commissioner Savage assumed the proposed design would have to allow for public access into the garage area. In his opinion, not having the ability to access that area would be problematic unless the garage is publicly accessible to visitors. He was unsure of the solution, but he suggested that it would be a contentious issue for Mr. Kelleher to consider. Commissioner Wintzer agreed that an owner could never have house guests without on-site parking.

Commissioner Strachan was concerned that the proposal creates the effect of a gated community since no one except the owners could access the development. Visitors would not want to use Echo Spur because parking is prohibited and the road goes nowhere. Mr. Kelleher stated that he was not aware that one of the "gives" with the road going in was that parking was not allowed on the road in any circumstance. He felt it was unfair to say it was a gated community since it was the neighbors and not the developer who requested that parking not be allowed. Commissioner Strachan stated that Rossi Hill could be utilized for parking, but it becomes more isolated moving north. If the intent was to intermingle communities and make homes and families live, work, and play around each other, this proposal was not conducive to that intent, particularly the northernmost homes.

Commissioner Savage suggested that a possible design solution would be to create guest parking in the space west of Echo Spur. Director Eddington agreed that it was a potential and similar to what was done on Rossi Hill.

Commissioner Wintzer concurred with most of the points made by Commissioner Hontz. As someone who lives 300 yards up the road, the only open space left in Old Town are the streets that have not been built on. He noted that a park was created in the middle of the street on the upper part of Rossi Hill. Commissioner Wintzer was opposed to the City vacating any land that is the last of the open space in Old Town. He did not favor Rossi Hill Drive as the project entrance and recommended that the applicant find a way to use Echo Spur as the entrance. Commissioner Wintzer pointed out that the "gives" proposed were not "gives" the City. That was not necessarily a bad thing, but the City is typically the beneficiary. He did not believe it would benefit anyone to have a structure in the corner against Rossi Hill. Commissioner Wintzer recalled that the stairs going down the other half of Fourth Street were mentioned as a "give" the last time the Planning Commission saw this with Mr. Bilbrey. In looking at the topo, it was evident that a hill with significant vegetation would be destroyed and the stairs would only be a benefit to the residents in the project. Others may use it, but not enough people to make it a real public benefit. In his opinion, the parking structure is problematic due to the grade, and he would need someone to show him that it could work before moving forward. Commissioner Wintzer commented on the phasing plan and potential problems with building the parking structure first. He believed it should be an all or nothing process because phasing would not work in this situation. Commissioner Wintzer preferred to see a better floor area ratio study in relation to parking versus above grade square footage. Commissioner Wintzer stated that aside from his concerns, this was a creative solution and he was willing to give it consideration if his issues could be addressed. He liked the idea of a neighborhood without garage doors.

Commissioner Wintzer stated that he has lived there nearly 40 years and he walks that street every

day. His issues and concerns are based on experience and what he sees. He believed if the City and the development community had worked together in the past and had started with this proposal, they would have had a far better project without the existing problems at the end of the road.

Commissioner Savage echoed Commissioner Wintzer on the all or nothing approach. If this is to be a condominium-style project with the road access as proposed, it could not be piecemealed. He felt strongly that it should be a condition of the design concept. Commissioner Strachan recommended bonding to address the issue. Commissioner Savage thought it was important to have some understanding that the garage must be completed in conjunction with the first house.

Mr. Kelleher asked if the Planning Commission was suggesting that the foundation should go in all the way down. Commissioner Wintzer thought the foundation should go in. He was concerned about being left with a large hole in the ground at the end of the foundation if the project was stopped for any reason. He suggested the possibility of phasing the project over a two-year period by building one half first and then the other, but he would not favor the concept of building a piece of garage with every house.

Mr. Kelleher noted that the first house built would be owned by his family. He asked if having contracts for each purchase would make a difference on the phasing. Mr. Kelleher thought it would be riskier for everyone to build the entire project at one time. Commissioner Wintzer explained why he believed it would be economically better to build the garage structure at one time and then go back and construct the houses. Commissioner Savage remarked that the last house should be built first with the garage leading all the way down to the first house.

Planner Astorga believed the Staff had enough direction to move forward. Mr. Kelleher needed to redraft the concept plan and the next step would be to involve the neighborhood. Planner Astorga suggested that the next meeting should also be a work session, but with noticing to get the neighbors involved in the process. Mr. Kelleher stated that there were conversations with the neighbors in the past regarding parking and walkways for better access. He understood that the extension of the Shorty stairs appeared to be minimal, but it complements other parts of the Shorty stairs further west that also have walkways to the homes.

Planner Astorga thought it would also be beneficial to review 801 Park Avenue more in-depth to better understand that project.

The Work Session was adjourned.

Planning Commission Staff Report



Application #: PL-12-01717
Subject: McHenry Subdivision Replat
Author: Francisco Astorga, Planner
Date: February 27, 2013
Type of Item: Administrative – Plat Amendment Discussion & Public Hearing

Summary Recommendations

Staff recommends the Planning Commission review the Plat Amendment located at 496 McHenry Avenue, McHenry Subdivision Replat, for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed Plat Amendment; and hold a public hearing.

Description

Applicant: Sean Kelleher, JGC Beach Properties
Location: 496 McHenry Avenue (Echo Spur)
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council action

Proposal

The property owner requests to combine lots 21-25, 29-32, a portion of lot 26-28, of block 58 and portion of lot 17 & 19 of Block 59 of the Park City Survey into one (1) lot of record. The request is for a Plat Amendment to combine these lots and a street vacation of the Right-of-Way of the eastern half of 4th Street between Ontario and platted McHenry (Echo Spur) so that the entire property is contiguous. The entire combined property would then be re-platted as a Condominium Record of Survey containing eight (8) separate residential units which are to be designed to reflect single-family dwellings. One (1) of the units, the smaller one closest to Rossie Hill Drive, would be a Kimball Art Center living quarters for an artist-in-residence. See detailed statement submitted by the owner in Exhibits A & H.

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,

- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On December 11, 2012 the City received a completed Plat Amendment application for the McHenry Subdivision. The purpose of this Plat Amendment is to combine all of the parcels shown on the proposed plat (Exhibit G). The applicant is also requesting that a portion of 4th Street Right-of-Way to be vacated and incorporated into this Plat Amendment.

The proposed Plat Amendment has a note which indicates that the purpose of the purpose of this Plat is to combine all parcels as shown hereon to be re-subdivided at a later date. This future re-subdivision would be a Condominium Record of Survey (ROS) plat which would identify private, limited common and common areas within the project. Recordation of a ROS plat enables the owner to sell individual condominium units. The future ROS plat would identify the eight (8) residential units. The applicant has submitted various exhibits that describe the existing property conditions, property lines, topographic survey, and aerial photography. See Exhibits E - H.

The Planning Commission held a site visit and work session discussion on a recent Plat Amendment request by a different property owner for adjacent property in the neighborhood in December 2012. The December 2012 discussion mainly focused on ridgeline development/vantage point analysis. However, many other items relative to this area were also discussed, see Attachment 3.

On January 9, 2013 the Planning Commission reviewed the requested Plat Amendment application during a work session discussion. The Planning Commission provided direction as indicated in the draft minutes as part of this packet. The Commission requested that Staff come back with more specific questions related to the proposed development; see draft minutes incorporated within this Planning Commission packet.

Analysis

The applicant submitted a preliminary concept plan proposing an eight (8) unit development on the subject property containing 0.614 acres (26,745.84 square feet). The site equates to approximately twelve (12) Old Town lots. The preliminary concept plan also shows a shared vehicular access to the site off built Rossi Hill Drive. This access provides underground parking for the eight (8) proposed structures. See Attachment 2 – Underground Driveway Exhibit.

Use

In 2005/2006 the City approved a similar project located at 801 - 817 Park Avenue, known as Parkwood Place Condos. The City approved a common underground parking area for all of the eight (8) structures on site and structural connections between the HR-1 single family homes to the commercial structures in the adjacent HRC zone, with

one (1) access point off Park Avenue. See Attachment 4 – City Council Staff Report (Parkwood Place Condos Plat).

Attachment 2 further explains their concept plan. This exhibit shows their proposed underground garage accessed off Rossie Hill Drive, the proposed building envelope for each structure, and section cut. In order to minimize impacts of the site, the driveway makes a complete circular turn as it drops one (1) level from the access point on Rossie Hill Drive. The driveway provides a longer driveway all the way to the last unit. The underground driveway drops in increments of four feet (4') or less as it approaches the seven (7) underground garage entrances. On top of each lower level entry area there are two (2) additional floors making each residential unit three (3) stories, including their garage level. The underground garage is completely below existing grade which would make the perceived height from the existing grade at the curb no more than two (2) stories.

Attachment 2 provides a proposed unit building envelope with a six foot (6') separation between above ground adjacent structures. Under the LMC, the side yard setback on these *perceived lots* would be either three feet (3') or five feet (5') depending on the *perceived lot width* which ranges from 36 feet to 43 feet, respectively. This would create a separation of either six feet (6') or ten feet (10') between homes.

Discussion: The eight (8) privately owned single-family dwelling units would share the common ownership underground parking garage through the subsequent Condominium Conversion. The two (2) upper floors of each residential unit would be completely separate from each unit. The end result is not a typical multi-unit dwelling. Staff classifies the proposal as single-family dwellings with a common underground garage, which is consistent with the approved Parkwood Place project. Does the Planning Commission concur with this determination?

Footprint

LMC § 15-3-8 relates specifically to Parking in the Historic District. It indicates the following:

- A. *To encourage the location of parking in the Rear Yard and/or below Grade, the City allows common driveways along shared Side Yards to provide Access to parking if the Owner restricts the deeds to both Properties to preserve the shared drive in perpetuity.*
- B. *Common Parking Structures are allowed as a Conditional Use where it facilitates:*
 1. *The Development of individual Buildings that more closely conform to the scale of Historic Structures in the district; and*
 2. *The reduction, mitigation or elimination of garage doors at the Street edge.*

- C. Parking Structure may occupy below Grade Yards between participating Developments if the Structure maintains all Setbacks above Grade and the Area above Grade is properly landscaped, subject to Conditional Use permit [CUP] or Master Planned Development (MPD).
- D. *Driveways between Structures are allowed in order to eliminate garage doors facing the street, to remove cars from on-Street parking, and to reduce paved Areas, provided the driveway leads to an approved garage or Parking Area.*
- E. *Turning radii are subject to a review by the City Engineer as to function and design.*

The HR-1 District establishes a maximum building footprint based on the size of the lot as applied to a mathematical equation found in LMC § 15.2.2-3(D). This section further clarifies that the maximum building footprint for any structure located on a lot or combination of lots exceeding 18,750 square feet in lot area shall be 4,500 square feet. However, there is a provision under the MPD regulation in LMC § 15-6-5(B)(1)(a) which indicates that the area of below grade parking in the HR-1 does not count against the maximum building footprint.

Staff identified interprets that the current proposal does not trigger an MPD. LMC § 15-6-2 Applicability, indicates that an MPD is required in all zones except in the **HR-1**, HR-2, HR-L, and HRM if specific criteria is met. It also indicates that an MPD is allowed but is not required HCB, HRC, **HR-1**, and HR-2 zones, provided the subject property includes two (2) or more zoning designations. Because the subject site does not include two (2) zones, it does not trigger an MPD.

Unlike the MPD regulation, the CUP language in the LMC fails to mention an exception to the below grade parking footprint. However, LMC § 15-3-8 encourages the location of parking below grade through a CUP. Also the HR-1, HR-2 and HR-L LMC parking regulations further reiterate that a parking structure may be placed underground if the structure maintains all setbacks above grade through a CUP. Staff finds that if a CUP for an underground common parking structure is obtained, the footprint of such underground structure would not be counted towards the maximum building footprint. The benefits of a shared underground parking garage include: the reduction or elimination of garage doors at the street edge, removing cars from on-street parking, reduction of paved areas, individual buildings that more closely conform to the scale of historic structures, etc.

At this stage no additional information has been presented to staff related to either the above ground footprint of the eight (8) structures or the underground parking garage other than Attachment 2 which indicates the proposed building envelopes for each **above grade** structure. The applicant has not submitted a CUP application for the proposed underground parking garage at this time.

The HR-1 District indicates that a Residential Parking Area or Structure with five (5) or more spaces for residential, non-commercial, uses is a conditional use to be reviewed and approved by the Planning Commission subject to current CUP criteria found in LMC 15-1-10.

Discussion: Does the Planning Commission concur with this finding related to not counting the footprint of the underground common parking structure through an approved Conditional Use Permit?

Ridgeline Development

Regarding development on ridgelines, the LMC provides the following references:

- LMC 15-15-1.217 RIDGE LINE AREA. The top, ridge or Crest of Hill, or Slope plus the land located within one hundred fifty feet (150') on both sides of the top, crest or ridge.
- LMC 15-7.3-1. CONFORMANCE TO APPLICABLE RULES AND REGULATIONS.

[...]

(D)RESTRICTIONS DUE TO CHARACTER OF THE LAND. **Land which the Planning Commission finds to be unsuitable for Subdivision or Development due to** flooding, improper drainage, Steep Slopes, rock formations, Physical Mine Hazards, potentially toxic wastes, adverse earth formations or topography, wetlands, geologic hazards, utility easements, or **other features, including ridge lines**, which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the Subdivision and/or its surrounding Areas, **shall not be subdivided or developed unless adequate methods are formulated by the Developer and approved by the Planning Commission, upon recommendation of a qualified engineer, to solve the problems created by the unsuitable land conditions.** The burden of the proof shall lie with the Developer. Such land shall be set aside or reserved for Uses as shall not involve such a danger.

- LMC 15-7.3-2. GENERAL SUBDIVISION REQUIREMENTS.

[...]

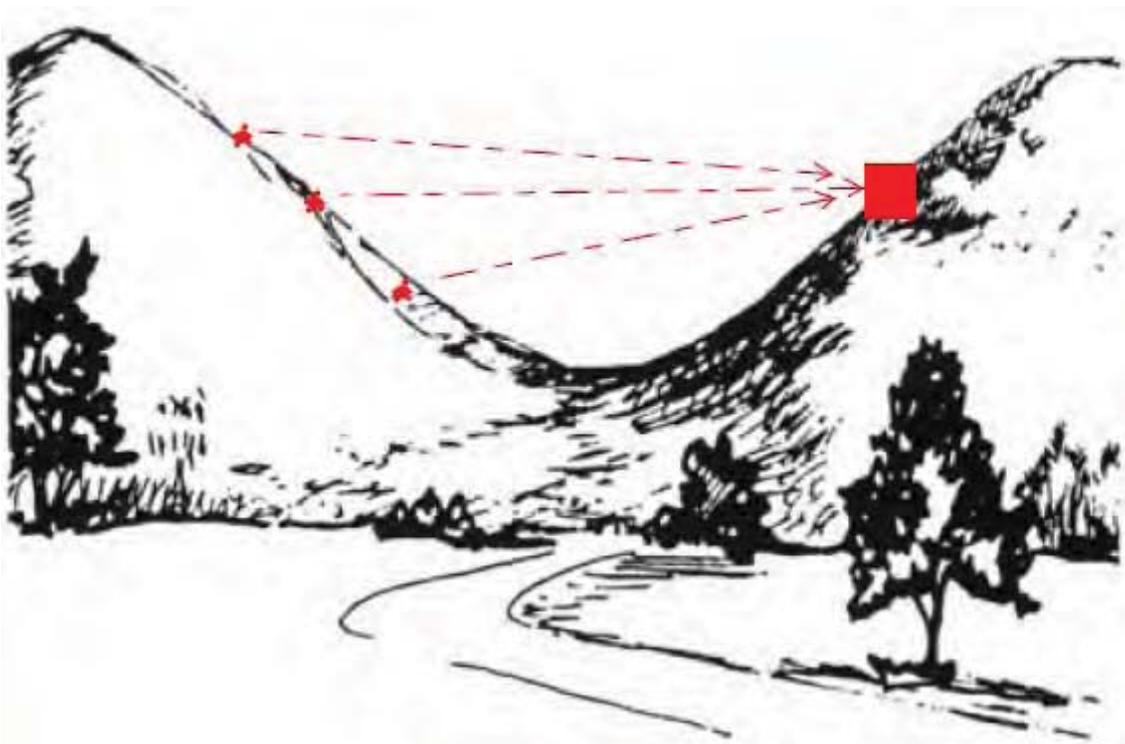
(D)RIDGE LINE DEVELOPMENT. Ridges shall be protected from Development, which Development would be visible on the skyline from the designated Vantage Points in Park City.

- LMC 15-15-1.283 **VANTAGE POINTS**. A height of five feet (5') above a set reference marker in the following designated Vantage Points within Park City that function to assist in analyzing the visual impact of Development on hillsides and Steep Slopes:

- (A) Osguthorpe Barn;
- (B) Treasure Mountain Middle School;
- (C) Intersection of Main Street and Heber Avenue;
- (D) Park City Ski Area Base;
- (E) Snow Park Lodge;
- (F) Park City Golf Course Clubhouse;
- (G) Park Meadows Golf Course Clubhouse;
- (H) State Rd. 248 at the turn-out one quarter mile west from US Highway 40;
- (I) State Rd. 224, one-half mile south of the intersection with Kilby Rd;
- (J) Intersection of Thaynes Canyon Drive and State Rd. 224; and
- (K) Across valley view.

The site cannot be seen by Vantage points A-J. Across valley view is not currently defined by the LMC. The applicant's design does not seem to maximize the building height as they would only request to build no more than two (2) stories above the existing grade at the curb. At this time the applicant has not submitted additional information related to building footprint and square footages related to each structure. However, Attachment 2 further clarifies their proposal.

Staff interprets *across valley view* as the representation of the development from across the valley at approximately the same elevation. The following exhibit further clarifies staff's interpretation.



Discussion: Should the applicant submit additional exhibits showing their concept plan to review if the site would be visible on the skyline from across

valley view? This is to include views across Deer Valley Drive and across Main Street.

Sensitive Lands Overlay (SLO) Analysis

Although there are steep slopes and ridge lines associated with this property, the property is not within the SLO and therefore a SLO analysis is not applicable. The purpose of the SLO is to: require dedicated open space in aesthetically and environmentally sensitive areas; encourage preservation of large expanses of open space and wildlife habitat; cluster development while allowing a reasonable use of property; prohibit development of ridge line areas, steep slopes, and wetlands, and protect and preserve environmentally sensitive land.

Right-of-Way Vacation

The applicant also requests that the City vacate/abandon a portion of the 4th Street Right-of-way. Resolution No. 8-98 adopted a policy statement regarding the vacation of public right-of-way. The City may generally find "good cause" when a proposal evaluated demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as a whole. The City will evaluate a particular proposal against specific criteria to determine whether a "net tangible benefit" has been demonstrated by the petitioner.

On Exhibit A the applicant outlined six (6) items listed in exchange of the eastern half of the 4th Street Right-of-Way (ROW):

1. Shorty's Stair extension along the western half of the ROW between Ontario Avenue and Echo Spur.
2. Three (3) car parking spots to be located on the southern side of Rossie Hill Drive west of the Echo Spur intersection.
3. Walkway access from the aforementioned parking spots to the Shorty's Stairs extension.
4. Living quarters and an off-street parking spot for an artist-in-residence with a below-market, long term lease to terminate in fifteen (15) years which will then be deeded to the Kimball Art Center.
5. Donation to the Park City Foundation of 1.5% if the lot sales proceeds upon the sale of each re-platted lot to homebuyers.
6. Ownership of the stub lot on Block 59, lot 19 to Park City Municipal Corporation.

Proposals must compensate the City for the loss of the ROW. Consideration favored by the City will generally be financial, open space dedication above and beyond normal subdivision or development approval requirements; trail or public access dedication above and beyond normal subdivision or development approval requirements; replacement of ROW dedication; and/or any other public amenity deemed in the best interests of Park City's residents.

According to the applicant the proposal includes an advanced home energy strategy to reduce the carbon footprint and external energy needs of the residential structures. This strategy includes the following:

- Energy Star appliances
- Superinsulation
- Advance ventilation
- Passive heating
- Solar photovoltaic
- Thermal & geothermal
- Rainwater storage

The applicant anticipates that their passive and external strategies will reduce the need for external energy sources by 70-90%

Process

At this stage staff requests that the applicant officially submit the CUP for the underground parking garage. This would allow Staff and the Planning Commission to review specific regulations such as building footprint, elevations, setbacks, height, etc. This site will also need approval of a Steep Slope CUP, Historic District Design Review, and eventually Condominium Record of Survey. All of these applications can be reviewed concurrently. The requested CUP would allow further review of the standard CUP criteria outlined in LMC 15-1-10.

Discussion: Does the Planning Commission concur with this finding of reviewing the CUP for the underground parking garage concurrently with this Plat Amendment request?

Recommendation

Staff recommends the Planning Commission review the Plat Amendment located at 496 McHenry Avenue, McHenry Subdivision Replat, for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed Plat Amendment; and hold a public hearing.

Staff is requesting discussion and input/direction on the following items:

- Use. Staff classifies the proposal as single-family dwellings with a common underground garage, which is consistent with the approved Parkwood Place project. Does the Planning Commission concur with this determination?
- Footprint. Does the Planning Commission concur with the finding related to not counting the footprint of the underground common parking structure through an approved Conditional Use Permit?
- Ridgeline Development. Should the applicant submit additional exhibits showing their concept plan to review if the site would be visible on the skyline from across valley view? This is to include views across Deer Valley Drive and across Main Street.

- Process. Does the Planning Commission concur with the finding of reviewing the CUP for the underground parking garage concurrently with this Plat Amendment request?

Attachments

Attachment 1 – January 9, 2013 Planning Commission Staff Report

Exhibit A – Applicant’s Statement & Presentation

Exhibit B – Vicinity Map

Exhibit C – County Tax Map (Block 58, Park City Survey)

Exhibit D – County Tax Map (Block 59, Park City Survey)

Exhibit E – Topography with Aerial Photograph

Exhibit F – Topographic Survey

Exhibit G – McHenry Subdivision (Proposed Plat Amendment)

Exhibit H – Conceptual Site Plan

Exhibit I – Resolution No. 8-98

Attachment 2 – Underground Driveway Exhibit

Attachment 3 – December 12, 2012 Planning Commission Minutes

Attachment 4 – May 4, 2006 City Council Staff Report (Parkwood Place Condos Plat)

Exhibit K

Planning Commission Meeting
February 27, 2013
Page 8

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
 2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
 3. Modified 13-D sprinklers may be required for new construction as required by the Chief Building Official at the time of review of the building permit submittal.
 4. A 10 foot wide public snow storage easement is required along the frontage of the lot with Park Avenue and shall be shown on the plat.
3. **496 McHenry Avenue, Lot 21-32 Echo Spur Subdivision – Plat Amendment (Application PL-12-01717)**

Planner Astorga reported that the Planning Commission previously reviewed this application on January 9, 2013. He noted that since the January meeting the site was posted and noticing letters were sent to property owners within 300 feet in an effort to get the public involved in the process. Planner Astorga had received phone calls and public comments from owners in the neighborhood. Those comments came in after the Staff report was prepared, and they were emailed to the Commissioners today. Hard copies were also provided to the Planning Commission. Planner Astorga also provided copies of an additional exhibit that was submitted by the applicant the day before.

Planner Astorga remarked on the challenge of addressing public comment after the Staff report is drafted. He clarified that the Staff report is available to the Planning Commission the Friday before the Wednesday Planning Commission meeting. Due to limited timing, the Staff also has difficulty reviewing exhibits submitted by the applicant just prior to the meeting.

Planner Astorga stated that during the January 9th discussion the Staff and applicant were asked to address specific items. He noted that this item was scheduled as a public hearing; however, he preferred to treat it as a work session discussion since the Staff was not recommending that the Planning Commission take action this evening. The Staff recommended that the Planning Commission take public input and provide additional direction to the applicant and Staff.

Planner Astorga stated that the first issue addressed in January was the discussion related to use. Since that meeting, the Staff researched a similar project, Parkwood Place, which was approved in 2005-2006. The only difference between the two projects was that Parkwood Place was approved through an MPD; however, the use is not governed by the MPD. The Staff had made a determination that was approved by the Planning Commission and the City Council, to consider an underground garage that would be platted as common with a single family dwelling unit on top of

each of the platted garages. Planner Astorga noted that the Staff had reviewed the information and attached an exhibit to the Staff report showing the approved Parkwood Place condominium plat. The Staff determined that the end result was a single family dwelling.

The Staff had prepared four questions for discussion.

Staff classifies the proposal as single-family dwellings with a common underground garage, which is consistent with the approved Parkwood Place project. Does the Planning Commission concur with this determination.

Commissioner Wintzer stated that typically the ownership goes vertical through a building. With every condominium plat that has an underground parking structure, the parking structure is labeled common area, the building the house sits on is identified as private area, and the space between the buildings which are now called setbacks, are listed as public common area. All the condominium plats were consistent with that layout and he could not find a way to think of this project as anything different than a condominium project based on the layout. Planner Astorga clarified that the Staff agreed that the proposal was a condominium project. The issue was the challenge of the Land Management Code.

Commissioner Wintzer understood the comparison with a project that went through a master planned development, but in reading the minutes, he thought the project was approved in a vacuum because the Planning Commission at the time did not have this discussion. Commissioner Hontz pointed out that Parkwood Place also crossed two zones, which makes it more different than similar. Planner Astorga understood the MPD approval and that the overall project crossed two zones, but he was unsure how that was relative to the use, because one of the zones was the HR-1, where a single family dwelling is an allowed use, a duplex is a conditional use, and a multi-unit building is not allowed. Planner Astorga pointed out that the MPD cannot trump the specific use. The Staff was trying to make the same determination for consistency, while at the same time analyzing the proposed use.

Commissioner Hontz stated that based on the Code language reflected on page 132 of the Staff report, she thought the proposal meets the definition of Attached Building. However, the Code definition for multi-dwelling units on page 131 of the Staff report, "A building containing four or more dwelling units" left the interpretation to the Planning Commission of whether the structure is an Attached Building or Multi-dwelling units.

Planner Astorga stated that interpretation was the reason for this discussion. He noted that a duplex would also be considered an attached building but not a multi-unit structure. The other challenge is that the current definition tends to be antiquated because the City no longer uses party wall agreements that occurred in the 1980's. Instead, the applicant is required to go through a condominium plat amendment for that type of attachment.

Commissioner Wintzer asked how they could say that the project was not a condominium if it requires a condominium plat. Director Eddington replied that a condominium is a form of ownership. The Staff was looking for clarification on the use. He used Snow Creek as an example of a

condominium complex that is typically considered single-family dwelling units, and it was intentionally built that way.

Commissioner Savage wanted to know what difference the use makes. Commissioner Hontz replied that the Planning Commission could not approve a use if it was not allowed in the zone. If the Commissioners determine that it is a multi-unit dwelling, it would not be allowed and the applicant could not move forward with the application. Director Eddington gave examples of various scenarios to demonstrate differences in use. He noted that the Code is unclear on the issue, which makes interpretation difficult.

Commissioner Hontz stated that she could make either interpretation based on the Code definitions for Multi-unit dwelling and an Attached Building.

Commissioner Gross pointed out that the units would be detached with the exception of the underlying parking.

In response to Commissioner Savage, Commissioner Wintzer stated that the use might not make a difference on this particular project. However, it would make a difference if the next project uses this as a precedent and it makes a difference on that project. Commissioner Wintzer liked the application presented, but he was concerned about opening the door without understanding how it would affect future projects. His preference was to have the Planning Department and the Legal Staff find a logical way to do it and let the Planning Commission voice an opinion on their determination.

Planner Astorga noted that the HR-1 District encourages an underground shared parking facility through a conditional use. He asked how they could encourage someone if the Code did not allow it. Director Eddington remarked that the Staff had this discussion among themselves because they knew it would be a challenge. The idea of individual units with parking in front and garages that take up the whole unit is unfortunate in the Historic District on 25' x 75' lots. They like the historic aspect of the smaller lots, but the advent of the car and multiple cars for every single-family dwelling detracts from Old Town. He believed that was foreseen, which is why the Code favors underground parking. The applicant was complying with the Code regarding the parking, but the issue is ownership versus use. When the Staff had this discussion from a planning perspective, their initial determination was a single family use with condo-style ownership. He understood that the Planning Commission may disagree, but the Staff liked the idea of underground parking and how the design preserves the open space and the landscape in the front yard.

Commissioner Savage understood that the real question was whether the connected garages imbue a different style of property. Looking at this from the standpoint of marketing and how the properties would be perceived by the owners, he believed they would be perceived as single family homes. Director Eddington agreed. Commissioner Savage felt that a common parking structure was an attribute of the condominium form of ownership without changing the single family nature of the way the project is being developed.

Director Eddington stated that given the yards and the setbacks of the structures above, it would rightly be perceived as individual single family units. What occurs underground is different, but they could argue that underground parking could not be accomplished if the units were not attached to

the garage. Underground parking for each individual unit would not work without the connection. The Staff believed it was a good solution. Commissioner Savage stated that the garage attached by a tunnel should not be meaningfully different than if it was attached by a street.

Commissioner Gross referred to page 155 of the Staff report and thought the driveway exhibit showed a street next to a street where the units would access their own garages.

Chair Worel clarified that each garage was attached to its own single-family unit and the only way the garage could access the home is through a stairwell that connects the garage to the house above.

Sean Kelleher, representing the applicant, pointed out that there would be a staircase on the side to access the garage on the lower level, in addition to going through the garage through the alleyway. Commissioner Gross clarified that it would be pedestrian access and not vehicular. Mr. Kelleher replied that this was correct.

Commissioner Wintzer asked if it was possible for the Staff to draft a finding with specific reasons for why these are single family homes, and include it in a future Staff report. If the Planning Commission voted to approve, it would be supported by the finding and the reasons for determining the use as a single family home. He was not opposed to this proposal, but reiterated his concern for how it could affect future problems. If the Staff could draft a finding specific to this design, he felt that would help resolve the issue.

Director Eddington thought the Staff could draft findings that were use and design based to address Commissioner Wintzer's concern. Commissioner Savage also wanted the Staff to spend time thinking this through from the point of view of precedence to make sure they were not creating an argument for a future developer to be allowed the same determination. He understood that they could not avoid all possibilities, but it should be given reasonable consideration.

The Commissioners moved to the next discussion item.

Does the Planning Commission concur with this finding related to not counting the footprint of the underground common parking structure through an approved Conditional Use Permit

Planner Astorga noted that this type of development is encouraged in the parking section and in each individual residential district in the Historic District. The issue is that the Code does not specify whether or not the footprint of the underground garage should be counted. However, the Code indicates that if a project goes through an MPD, such as Parkwood Place, language in the MPD section for the HR-1 specifically says that the footprint of these underground common spaces are not counted.

Planner Astorga stated that if the intent is to encourage this type of development to limit pavement and reduce the number of garage doors, including the footprint would discourage applicants from doing this type of underground parking because it would take a significant amount of the footprint and greatly reduce the size of the structure. The Staff was of the opinion that when this section of the Code was written, they included the exception of not counting the footprint of the completely

underground portion of the garage, but they failed to place a provision in the conditional use permit criteria. Planner Astorga asked if the Planning Commission concurred with the Staff.

The Commissioners discussed various points and scenarios for underground parking regarding the footprint. Commissioner Wintzer thought they could achieve a 50% gain in underground square footage if the footprint is not counted. He thought they should give that to the applicant in order to do this project. Commissioner Wintzer also suggested that they vary some of the front yard setbacks to avoid having one common wall that goes down the entire street. He believed the trade off for giving the applicant extra square footage was the benefit of a facade without garage doors.

Commissioner Savage was not opposed to the idea as an incentive, but he was trying to consider the fairness as it relates to a single family dwelling. He thought this question should also be subject to the criteria of thinking it through to make sure they were not creating issues with future projects.

Director Eddington noted that the applicant was proposing to count the bottom level as the first of three stories. Eliminating the third story above also reduces the total square footage. Planner Astorga stated that the Staff was trying to be consistent with the MPD language that only counts the above grade footprint.

Commissioner Hontz concurred with the comments of Commissioners Wintzer and Savage in terms of understanding what they were creating. She stated that the Staff report indicates that the parking structure is completely underground or below grade, and that has to be the existing and the future. She would not want to see the grade suddenly go up and then the parking structure go in. Commissioner Hontz thought house size was a separate issue unrelated to the garage. Under no circumstance would she not consider the garage level a story. She was pleased to hear that it was proposed by the applicant so it would not be an issue.

Director Eddington clarified that there was general consensus among the Planning Commission that the parking structure should not be included in the footprint. Commissioner Strachan stated that he would strictly interpret the language to be the parking area only and not storage area, mechanical rooms, etc. None of that should be included in the definition of an underground parking structure. Commissioner Wintzer agreed and suggested that they be allowed to put storage, mechanical and other uses in the parking structure and use some of the square footage from the upstairs where it becomes a volume issue. Commissioner Strachan was uncomfortable with the precedent that it would set. He clarified that the exception was for a parking structure. It was not an exception for back of house, mechanical and storage. He remarked that every time the Planning Commission has seen an exception to a footprint calculation it has been exploited to the maximum.

Chair Worel asked where the storage and mechanical equipment would be located if not in the parking structure. Commissioner Strachan replied that it would have to be located inside the house.

Director Eddington explained that the house above on the lot line would still meet the footprint setbacks. He assumed that most people want ski and outdoor equipment storage in or near their garage. Director Eddington stated that the Staff could work with the applicant on language with regard to boilers and/or furnaces,; however, another challenge with the site is the issue of solar

panels and other energy equipment in the house. He recommended that they add language allowing for that space when certain sustainability standards are met.

Planner Astorga understood the concern about setting a precedent for the footprint. To address the issue, he skipped to the fourth question for discussion related to process.

Does the Planning Commission concur with this finding of reviewing the CUP for the underground parking garage concurrently with this Plat Amendment request.

Planner Astorga stated that at this stage, the Planning Commission was entertaining the plat amendment filed by the applicant. However, a conditional use permit is required for an underground parking structure. With that in mind, the Staff recommendation was to look at that application first to review floor plans, the site plan, landscaping and cross sections that would help them come up with a better determination of the specific use and how those areas are used in terms of footprint, etc. Planner Astorga stated that in the planning world one could interpret that the use comes first, and once that use is approved, they should entertain the plat amendment. Having more information related to the conditional use permit and how it relates from one structure to the other would help them come up with a better resolution on how to specifically handle the precedent issue.

Planner Astorga asked if the Planning Commission concurred with that finding. The Commissioners agreed.

Commissioner Hontz referred to the minutes from previous meetings provided in the Staff report and noted that the Planning Commission had two work sessions where different Commissioners had highlighted numerous issues and concerns. She felt that the Planning Commission would never reach the point of being comfortable enough with the plat amendment to move forward. Commissioner Hontz intended to review the minutes from previous meetings to recall her questions and concerns. She highly recommended that the applicant also review the minutes to identify the questions that were asked in previous meetings to make sure those were answered if this application did move forward. Commissioner Wintzer concurred. He assumed that no one had read the minutes from the last meeting because his questions had not been addressed in the Staff report. Commissioner Wintzer had restated his questions in writing and submitted it to the Staff this evening.

The next question for discussion was ridgeline development.

Planner Astorga noted that the Staff report cited the specific regulations in terms of the definition of ridgelines and compliance with restrictions due to the character of the land and specific vantage points. A general provision listed on page 125 of the Staff report under General Subdivision requirements states that, "Ridges shall be protected from development, which development will be visible on the skyline from the skyline from the designated vantage points in Park City." Planner Astorga reviewed the vantage points A through listed on page 126 of the Staff report. The only vantage point the Staff found would qualify was (K), across valley view.

Commissioner Savage asked about the criteria used to determine that (K) was the only vantage point. Planner Astorga replied that the development would not be visible from the other vantage points. He pointed out that the Land Management Code does not define across valley view. He presented an exhibit he found on line and explained how he had interpreted across valley view. Without the applicant submitting information to determine whether or not the structures break the skyline, he asked how the Commissioners felt about his interpretation.

Commissioner Wintzer understood that if an applicant has a single platted lot on a ridgeline that has access to a road, the City was obligated to allow the owner to develop the lot. Assistant City Attorney McLean replied that it would be difficult to defend otherwise. Commissioner Wintzer did not believe this particular part of the ridge application mattered because the applicant could build on 9 of the 14 lots without a plat amendment. It would be difficult not to allow the owner to combine the three smaller lots into two lots; therefore, they could end up with 11 houses on the site without a plat amendment. He did not believe they would be increasing the amount of ridgeline encroachment by combining some of the lots, and they would have a better chance of working with less of a ridgeline encroachment. Commissioner Wintzer has consistently felt that these lots were different from the lots further down the hill, where combining the lots could result in a larger structure that might increase the ridgeline encroachment.

Commissioner Strachan remarked that other than the nose of the ridge where the other application on the lots down the hill was pending, the rest of the ridge has already been decimated. It would be hard to make the appropriate findings to say there is a ridgeline when someone had already bulldozed the ridge. He concurred with Commissioner Wintzer.

Commissioner Hontz noted that Planner Astorga had highlighted the restrictions due to the character of the land, which are different when it deals with a ridgeline that comes into play later. It was an important discussion but she recognized that they were limited in their consideration of this site. Chair Wintzer stated that if they decide to move forward on the application, they could address the issue in a finding stating that the ridge was already disturbed before this applicant became involved.

Commissioner Hontz thought the across valley view vantage point still mattered because it was equal to the same elevation from two vantage points. Planner Astorga noted that the across valley view could be from multiple vantage points. Commissioner Strachan stated that if the proposed structures go higher above the retaining wall than the existing structures, there would be ridgeline and across valley view issues because all of the homes would break the skyline. Director Eddington stated that the visual was from across Deer Valley and across Main Street to get a view in that area.

Planner Astorga referred to the comments regarding the questions that were raised at previous meetings, and noted that he and the applicant were available to address those questions this evening.

Commissioner Wintzer stated that based on the conversation of counting the footprint for the parking structure, he wanted the applicant to understand that for lot combinations and subdivisions, the Planning Commission has the ability to reduce the height and setbacks of buildings. He assumed they would have that discussion in terms of the parking garage and other aspects of the

project. Commissioner Wintzer wanted to make sure there would be no height increase and that they would not end up with a wall of eight houses with the same line of sight. He would be looking for variation. Commissioner Wintzer emphasized the importance of making sure that the parking structure would be completely underground. He requested to see one section that runs north and south through the parking structure and at least three sections that go east and west to make sure the parking structure fits underground and is completely buried.

Mr. Kelleher referred to the layout on page 155 of the Staff report and asked what should be added to that basic layout. Commissioner Hontz pointed out that the layout was a plan view and not the cross sections Commissioner Wintzer was requesting. Commissioner Wintzer clarified that he wanted cross sections showing contour lines and dimensions. He noted that cross sections going north and south would show the existing grade of the road and the dirt so he could determine whether the garage fits underground. He also wanted to see three cross sections that run east and west for the same determination.

Commissioner Wintzer also requested a drawing showing the size of the lots because the setbacks are based on the width of the lots. The Planning Commission needed to see a drawing that would be a pre-application for a subdivision. Commissioner Wintzer understood that the applicant was looking for direction and additional information before spending money on plans that may not be approved, but the Commissioners needed to see more detailed drawings before they could make their decision.

Mr. Kelleher stated that if they were to put in the underground structure and start building homes on the way down, the unit size would be up to the individual homeowners. Commissioner Wintzer clarified that the Planning Commission would not approve the parking structure if the applicant could not prove that it would be completely buried. Mr. Kelleher noted that he was referring to the size of homes and not the parking structure. He wanted to make sure he and the Planning Commission had the same understanding in terms of the practical process of how the project would be completed. Mr. Kelleher remarked that the applicant would agree to limit the size of the homes to address the Commissioners' concerns about monstrous homes.

Commissioner Savage understood that the applicant had a design concept in mind for all the homes, and he agreed that individual owners should be able to customize their units, particular inside the home. However, the Planning Commission wanted to look at the project as an integrated whole, and the design concept for each home would be part of this application. When someone decides to purchase the lot, they should have a good idea of the design concept before signing the contract.

Mr. Kelleher understood that if an owner wanted to make his home 200 square feet larger, he would have to come back to the Planning Commission for approval. Commissioner Wintzer explained how the Planning Commission could change the setbacks for each lot, and it would be on the plat. Those would be the types of restrictions that would obligate the buyer.

Commissioner Gross if Commissioner Wintzer was also thinking about setbacks as it relates to the roofs, since they were only going two stories above the parking garage. Commissioner Wintzer thought that was something they could look at further into the process. His intent at this point was to

inform the applicant of what the Planning Commission is permitted to look at with a plat amendment.

Commissioner Wintzer was still opposed to vacating Fourth Street. He personally felt that the only open space left in Old Town were the streets that have not been built on. Everything else was built to the setbacks. Commissioner Wintzer was very concerned about giving up what little open space they have. Commissioner Wintzer did not believe it was in the best interest of the City or the neighborhood to dig up the hillside to extend the Shorty stairs. It would result in the loss of significant vegetation and the extension would only benefit this project. Commissioner Wintzer commented on the six exchanges proposed by the applicant. He believed the only benefit was parking in the City right-of-way; however, the City already has the right-of-way and the parking spaces. The only change would be the pavement. Regarding the benefit of giving away a percentage of the lot sale, Commissioner Wintzer thought the City needed to weigh the value. He pointed out that the City Council, not the Planning Commission, makes the decision to vacate streets. He assumed the street was 30' wide, which makes the value high. Commissioner Wintzer did not believe the affordable unit was a benefit to the City; however, that issue was also the decision of the City Council. Regarding the last item of exchange, in his opinion the triangular property across the street has no value to anyone. Mr. Kelleher clarified that it was only a cleanup issue. Commissioner Wintzer remarked that the six items proposed would not equal the value of one Old Town lot with a good view in a good location.

Commissioner Wintzer did not believe the entrance should be off existing Rossi Hill Drive. He suggested that the applicant find a way to enter the parking structure off of Echo Spur Drive. A driveway at 14% grade popping up onto a street right next to another street creates a safety issue and it is not good planning practice. Commissioner Wintzer thought the project should come through as a CUP, and before they move forward they need to see pre-CUP plans to show what they were looking at, as opposed to blocks on a drawing. Commissioner clarified that these were his personal comments and the other Commissioners may have different opinion.

Mr. Kelleher explained that the intention of the right-of-way vacation was that they would not be allowed to build on it and that the right-of-way would become open space. Mr. Kelleher pointed out that the proposed entrance to the parking appeared to be the most efficient, but he was willing to go back and review other options. Mr. Kelleher asked if it would be better to not vacate the right-of-way and keep the hill where it is and only use it to get underground. Commissioner Wintzer reiterated his previous comment that the project should not be entered from that location. He was open to consideration if the applicant came back with drawings showing that it was doable and how it would look. Commissioner Wintzer thought it would still be problematic to have two streets next to each other.

Planner Astorga was unsure whether the City Engineer would be inclined to approve an underground easement through the right-of-way. That would be an issue for future discussion.

Commissioner Hontz stated that since many of her questions reflected in the previous minutes were the same questions raised by Commissioner Wintzer, she concurred with his comments, particularly related to the right-of-way and access. Commissioner Hontz reiterated her previous questions, and

noted that she was not looking for answers this evening. She preferred to have the answers in writing and an analysis done by the applicant as part of the actual application.

Commissioner Hontz noted that the first two questions related to the actual status of the Echo Spur Road in terms of its relationship and dedication to the City. Her question was reflected in the December 12th minutes included on pages 158 and 159 of the Staff report. Commissioner Hontz wanted to see some discussion on what could be done about Third Street and making sure it never becomes an access point. She believed those were discussions for the City. Also on page 159, the minutes reflected her request for a traffic study. She had concerns that the assumed density shown in the configuration and the standard 12 vehicle trips per trips per day would results in over 108 vehicle trips on that street. The Commissioners had a discussion about substandard and unsafe streets, and as noted by the City Engineer as reflected on pages 159 and 183, Ontario is a substandard street and Rossi Hill can be unsafe in the winter. Commissioner Hontz hoped that the entire Planning Commission would support moving forward with a traffic analysis by a licensed traffic engineer that addresses the concerns of turning radius, amount of traffic, especially in winter, and whether this site could actually support that based on what it would take to get there.

Commissioner Hontz referred to the minutes of January 9th on page 183 of the Staff report where she talks about the stairs, vacating the right-of-way and taking access off of McHenry. She deferred to Commissioner Wintzer's comments and concurred with his points.

Commissioner Wintzer remarked that at one time the applicant had talked about phasing the parking structure, which the Planning Commission opposed because they did not want reliance on the next owner to build the next phase. He understood phasing the houses above the parking but he was still opposed to phasing the parking structure itself.

Chair Worel referred to the minutes of January 9th on page 185 of the Staff report and the comment that the next step would be to involve the neighborhood. She asked if that step had occurred to involve the neighbors. Mr. Kelleher stated that the only contacts he has are people on Ontario and some of the residents at Silver Point. He tried to call a meeting over the Christmas holidays. Another meeting was scheduled for tomorrow, following this meeting, in an effort to get all the neighbors together for informal dialogue. Mr. Kelleher stated that no one was able to attend either meeting. He has been talking with Ernie Campo, the president of the HOA above this project. He believed the email from Mr. Campo indicated that they have had good dialogue. Mr. Kelleher pointed out that the applicant was trying to work out some of the issues with the neighbors.

Planner Astorga stated that neighborhood involvement was the reason for scheduling a public hearing this evening. Planner Astorga reported that he has received phone calls from Ernie Campo, Bill Tew, and others who were unable to attend this evening. They were communicating with Mr. Kelleher as well the Staff.

Commissioner Gross commented on the inability to park on the street and a previous discussion regarding visitor parking. He believed that currently they did not have a good understanding of where visitors would park. Commissioner Gross asked about snow removal for the street and where the snow would be pushed to. Mr. Kelleher replied that the plan is to have flat roofs on the homes and capture the snow melt. The plan for street snow removal is to push the snow down to the end

by the retaining walls. Commissioner Gross suggested that some of the existing owners in that location would be opposed to that plan.

Director Eddington understood that the road was built with that plan in mind and it would accommodate snow storage. Commissioner Wintzer commented on the problems that have occurred and he thought the plan should be reconfigured.

Commissioner Savage echoed the comments about responding to the questions raised at two previous meetings. He also thought a site visit would be beneficial the next time this item is scheduled before the Planning Commission. It would be helpful and appropriate to talk through some of the issues on location.

Commissioner Strachan recalled from a previous discussion that one of the "gives" to the City was contribution of some portion of the sales proceeds to the Park City Foundation. He pointed out that it was a benefit to the Park City Foundation but not the City. It would also be tax deductible for the applicant. Commissioner Strachan was not sure that could be portrayed as a "give". It also puts the Planning Commission in the position of showing favoritism to the Park City Foundation over a number of other non-profits that could use the contribution just as much, if not more. Commissioner Strachan recommended that the applicant rethink that position. Mr. Kelleher clarified that the thought was do offer a benefit that was more community-wide instead of specifically for the government. He would think it. Mr. Kelleher pointed out that the Park City Foundation disperses money to various charities. Commissioner Strachan was familiar with the organization, but he still thought it showed favoritism over other non-profits. Commissioner Wintzer noted that the determination is made by the City Council. He agreed with Commissioner Strachan, but the decision is not made by the Planning Commission.

Mr. Kelleher thanked the Planning Commission for their feedback. They would use their comments to move this project in the right direction. Mr. Kelleher commented on the sustainability elements. He noted that they recently commissioned Heliocentric to construct a model incorporating solar elements that would generate electricity at or close to current Rocky Mountain Power rates, and would share the energy between the entire neighborhood. Mr. Kelleher provided a handout from Heliocentric and requested feedback from the Planning Commission at the next meeting. Commissioner Wintzer noted that a geo-thermal heating system does not work with single family house. However, with the common parking structure it might be possible to utilize geo-thermal heating. He believed this was an opportunity to tie the entire neighborhood together.

Chair Worel opened the public hearing.

Ruth Meintsma a resident at 305 Woodside, heard from their comments that the Planning Commission favors the underground parking but they are concerned about setting precedent. She showed how another developer could possibly do the same thing at the 315 subdivision that the Commissioners reviewed two weeks ago. In that situation there was a lot and a half on Park Avenue and two lots in conjunction on Woodside. She stated that if the developer decided to do underground parking in that situation where the access was on Park Avenue, the two lots on Woodside would have no garages on the street level. They would have living space and no driveways. It would take those driveways and the cars off the streets. Ms. Meintsma stated that a

driveway on the street, particularly on the downhill side of Woodside and other steep streets, cuts off humanity. There is no living space there. People do not have cocktails or barbeque in their driveway. It cuts off complete interaction with people on those downhill lots. Ms. Meintsma stated that if the two Woodside lots were developed without driveways because the access was on Park Avenue and underground, it would be a completely different neighborhood. There would be living space on the upper level where there is usually a garage, so it would be valuable to the structures themselves. It would also enhance the neighborhood to have decks or some type of outside living on the upper level. Ms. Meintsma remarked that if a developer wanted to replicate underground parking for this project, she believed it would be a positive benefit. However, one drawback would be traffic on Park Avenue and that would have to be addressed.

Ms. Meintsma commented on the discussion regarding across valley views. She has seen the across valley view taken so many times where an architect would present the view that was more advantageous to what he was creating instead of showing the greatest impact. Ms. Meintsma thought the across valley view should specifically say, "Where the view of the proposed structure has the greatest impact or where the proposed structure is most visible."

Brooks Jacobson, stated that he purchased his home on Ontario Avenue a long time ago and he has spent several years living there. Mr. Jacobson disagreed with the vacation of Fourth Street. Open space in Old Town is important and it keeps getting tighter and tighter. The remaining areas should be protected. He was generally in favor of the proposed development; recognizing it needed to be tweaked. Mr. Jacobson stated that Ontario Avenue was one of the most subpar streets in town. Putting additional traffic down Ontario should be avoided at all costs. In looking at the development and assuming that the underground parking is accessed off of McHenry, he asked if there was a way that the new McHenry could entice vehicles to go down Rossi Hill towards Deer Valley Drive. He felt that was better than allowing those 9 homes plus the other three at the end to head down the old rail cut and make the turn onto Ontario Avenue. Mr. Jacobson stated that he has no parking for his home at 416 Ontario Avenue. It is a beautiful, Old town look; but at some point he is going to need parking. He asked about the possibility for him and two neighbors to have three available parking in the underground structure for this development.

Jack Fenton a resident on Ontario, supports the project and he likes various aspects of the proposal. He concurred with the comments about keeping Fourth Street. Giving away any land for a small low income apartment only benefits one individual who might bring one additional car and two dogs. A small one-bedroom apartment would not benefit the City as a whole, and the open space is far more valuable. Mr. Fenton thought the idea of moving traffic down Rossi Hill drive instead of Ontario Avenue is a great idea. As he looks at the rendering of the development, if the access came out at the corner of Rossi Hill Drive and McHenry or Echo Spur, Rossi Hill would be the thing you would see through your windshield. The street is narrow and it would be difficult to make a hard right-hand turn and head towards Ontario Avenue. He believed the natural flow of traffic would be to place the access where cars would come out and head down Rossi Hill Drive. Mr. Fenton believed Mr. Kelleher was heading in the right direction with his development concept.

Mary Wintzer, a resident at 320 McHenry, concurred with the sentiments regarding the vacation of Fourth Street because open space is important in Old Town. If the Commissioners decide to encourage the traffic down Rossi Hill, she asked that they think ahead and consider the very

dangerous hairpin turn. She suggested that they talk to the City Engineer about widening that turn or doing something to make it safer, particularly if there would be additional traffic using that road. Ms. Wintzer emphasized the importance of making sure the development provides visitor parking. She could easily see that people would park where McHenry meets Rossi Hill drive and walk up to the development. Ms. Wintzer encouraged the Planning Commission to give careful consideration to the roads to avoid traffic jams and parking issues. They also need to consider issues related to plowing.

Chair Worel closed the public hearing.

Planner Astorga recommended that the Planning Commission continue this item to a date uncertain to allow the Staff and the applicant time to respond to the items outlined in the discussion this evening.

MOTION: Commissioner Strachan moved to CONTINUE the plat amendment application on 496 McHenry to a date uncertain. Commissioner Wintzer seconded the motion.

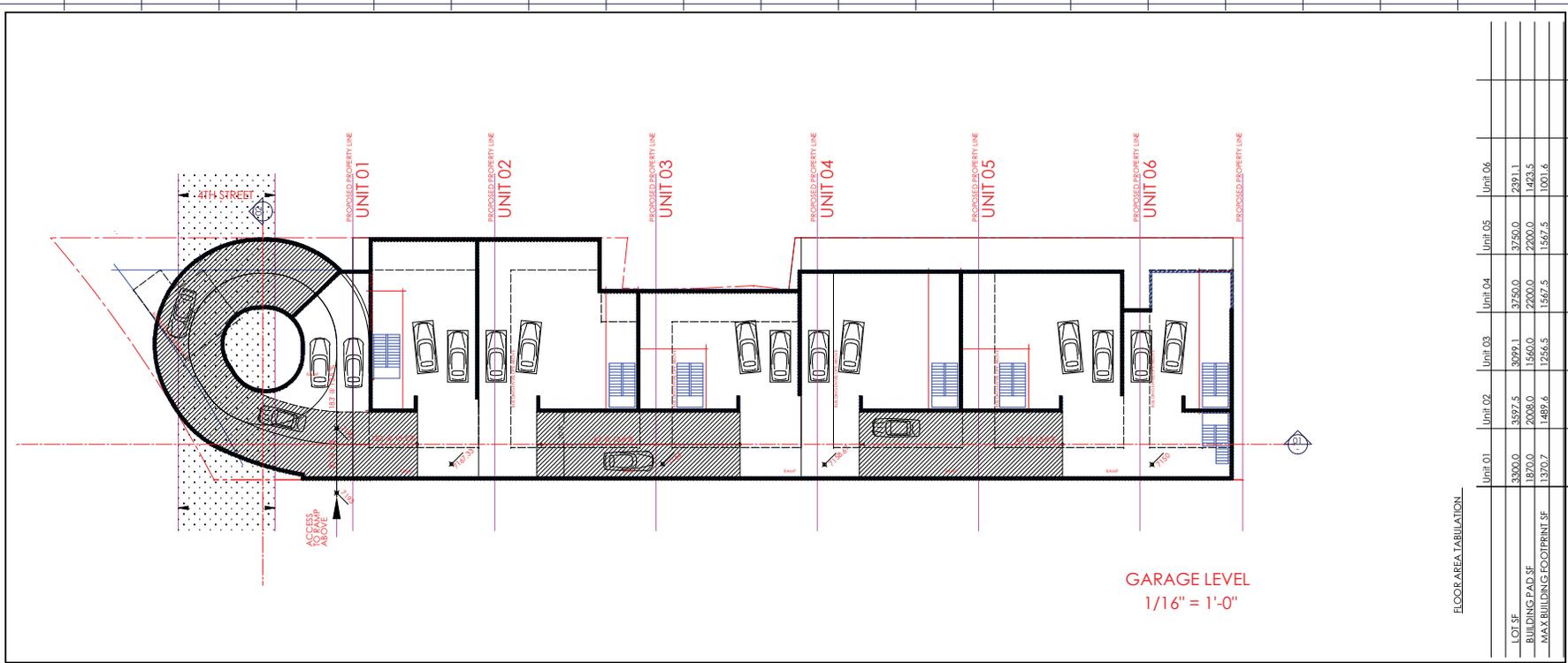
VOTE: The motion passed unanimously.

The Planning Commission adjourned the regular meeting and moved into Work Session. That discussion can be found in the Work Session Minutes dated February 27, 2013.

The Park City Planning Commission meeting adjourned at 9:40 p.m.

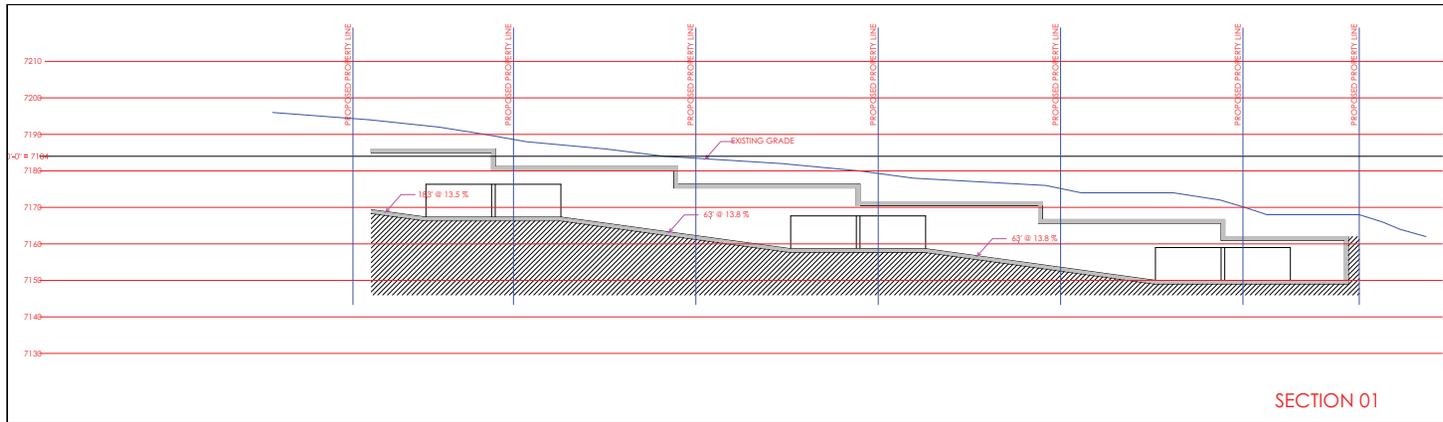
Approved by Planning Commission: _____

Exhibit L – Preliminary Plans



FLOOR AREA TABULATION

	Unit 01	Unit 02	Unit 03	Unit 04	Unit 05	Unit 06
LOT SF	3300.0	1527.5	3292.1	3250.0	3250.0	2391.1
BUILDING PAD SF	1820.0	2008.0	1560.0	2200.0	2000.0	1493.5
MAX BUILDING FOOTPRINT SF	1320.7	1487.4	1258.5	1567.5	1567.5	1001.6

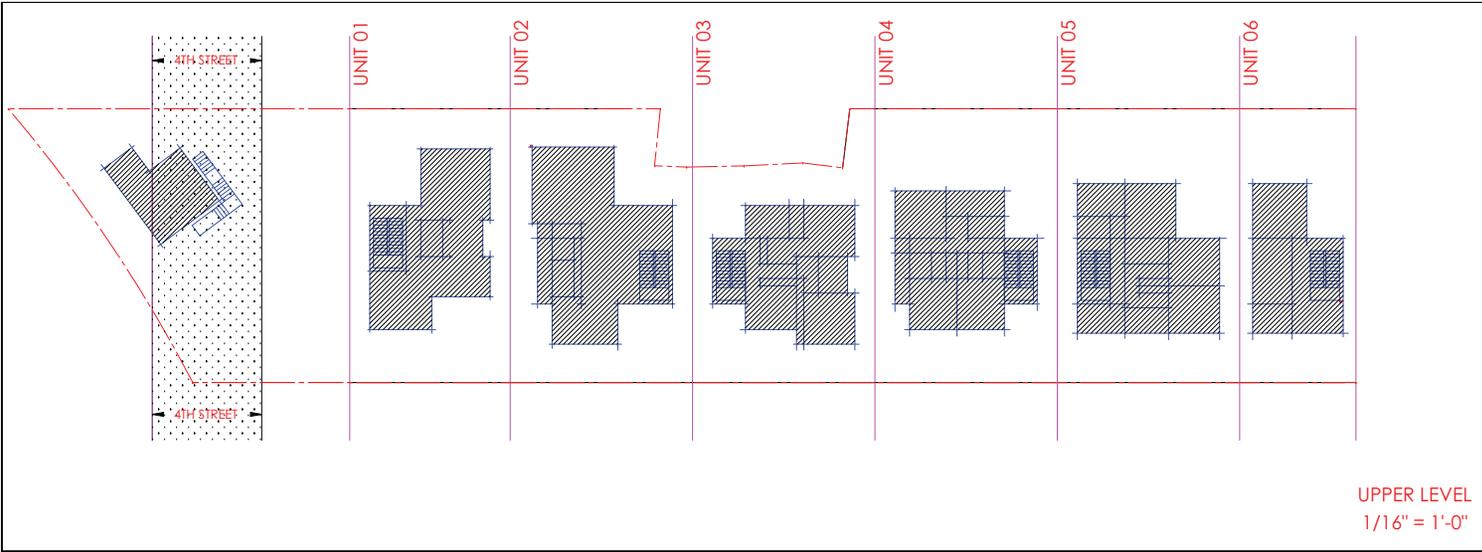
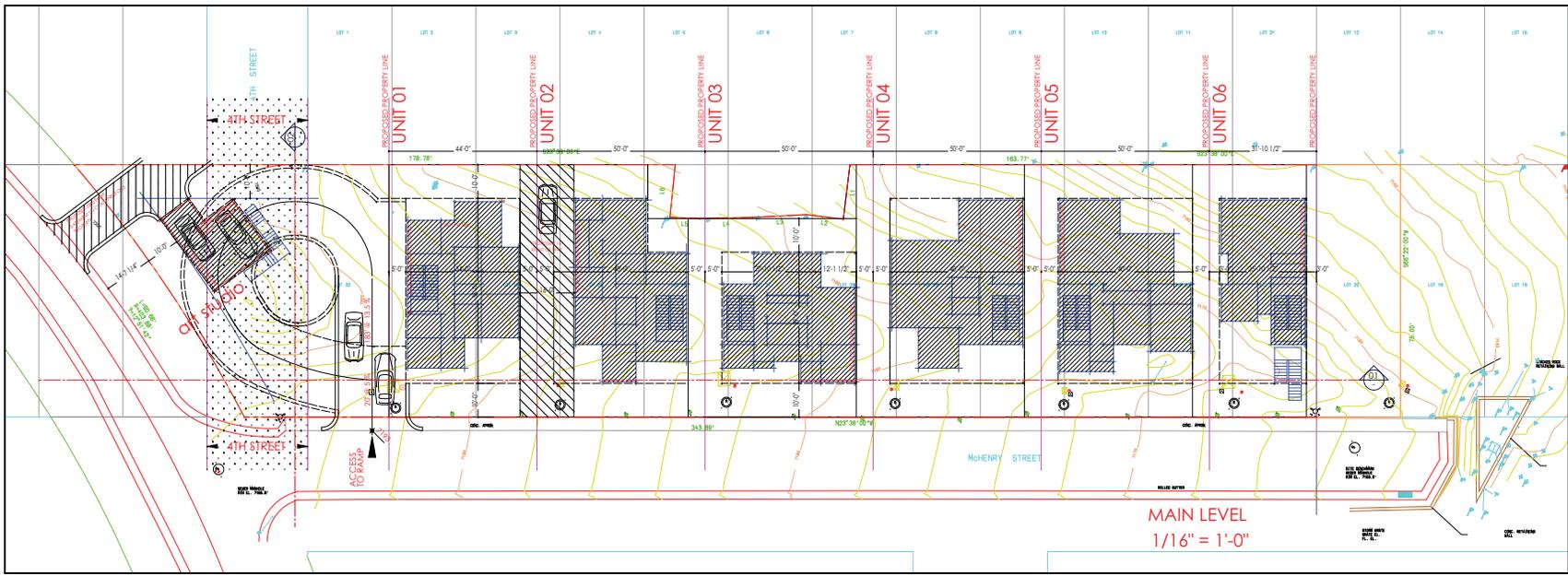


FLOOR PLAN, SECTION
Scale: 1/16" = 1'-0"

UNDER GROUND DRIVEWAY EXHIBIT
LOTS 2 THROUGH 5Z,
BLOCK 38,
PARK CITY, UTAH

Drawing file: _____
Date: 26/11/2013
Drawn: _____
Project No: _____
CAD file No: _____
Drawing No: _____

A-201



UNDER GROUND DRIVEWAY EXHIBIT
LOTS 21 THROUGH 32,
BLOCK 38,
PARK CITY, UTAH

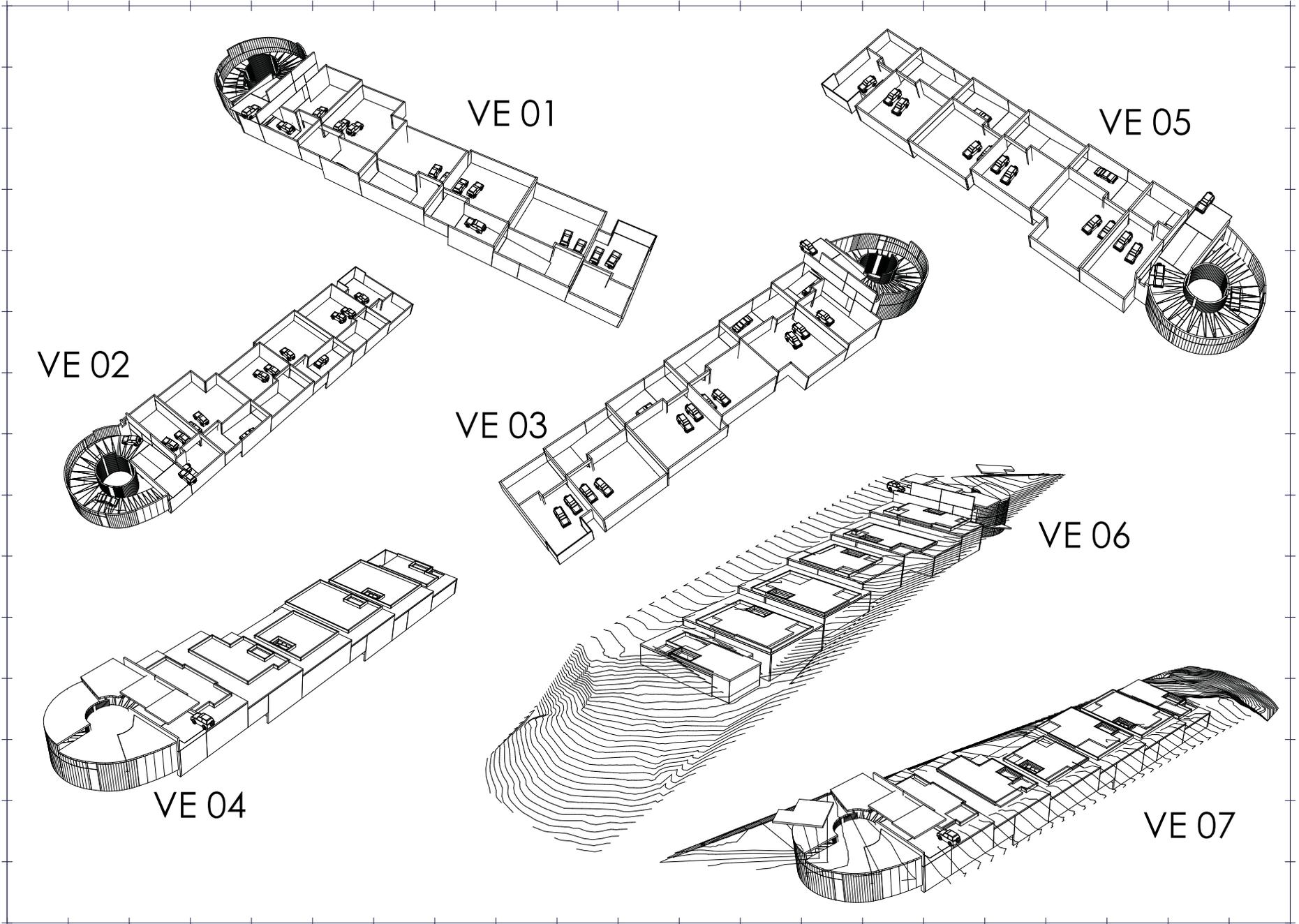
No.	Revision	Date

Drawing title
FLOOR PLAN, SECTION
Scale
1/16" = 1'-0"



Date	26/10/2013
Drawn	
Project No	
CAD file No	
Drawing No	

A-202



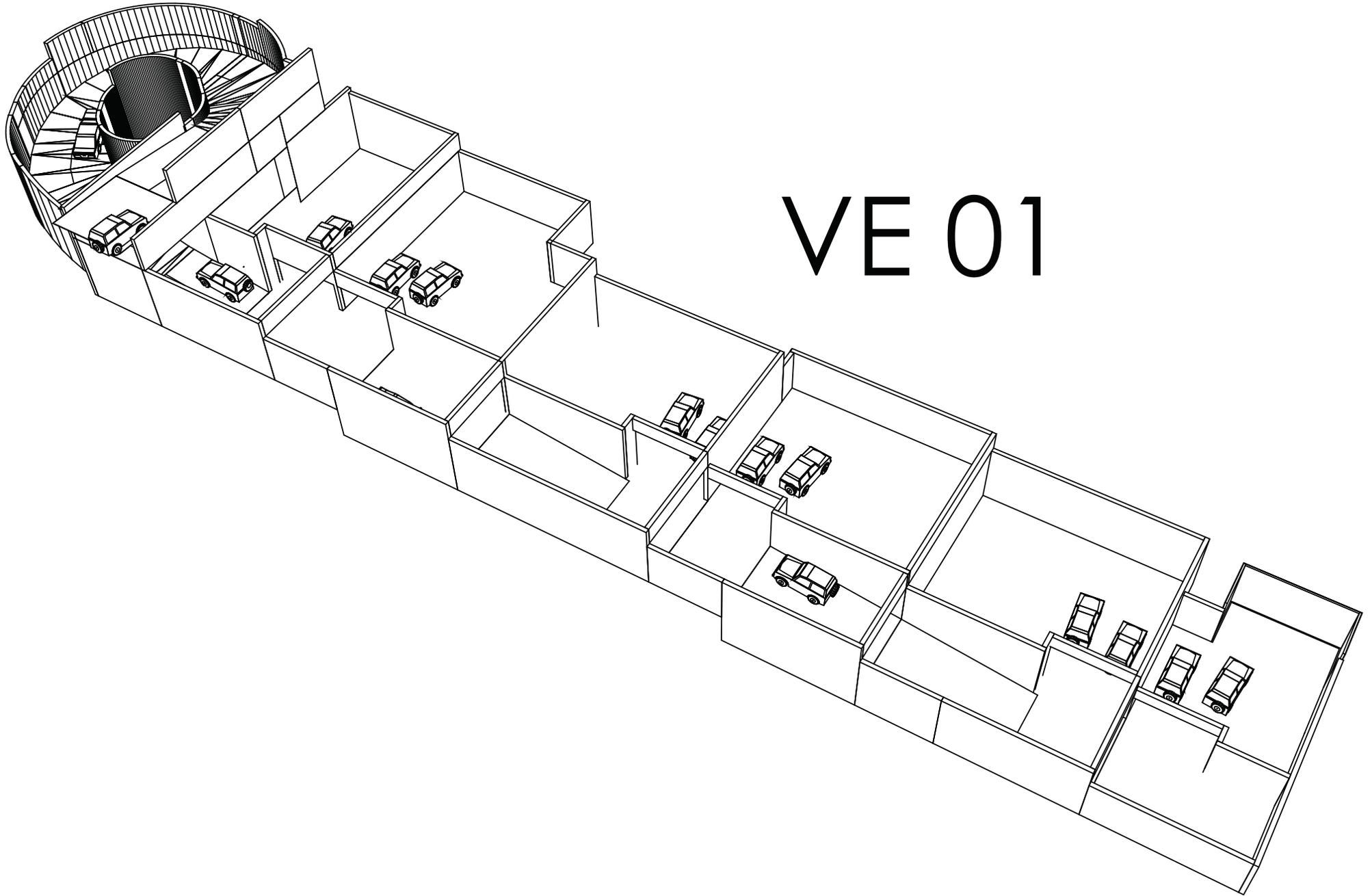
UNDER GROUND DRIVEWAY EXHIBIT
 LOTS 21 THROUGH 32,
 BLOCK 38,
 PARK CITY, UTAH

No.	Revision	Date

Drawing title
3D VIEWS
 Scale
 NTS

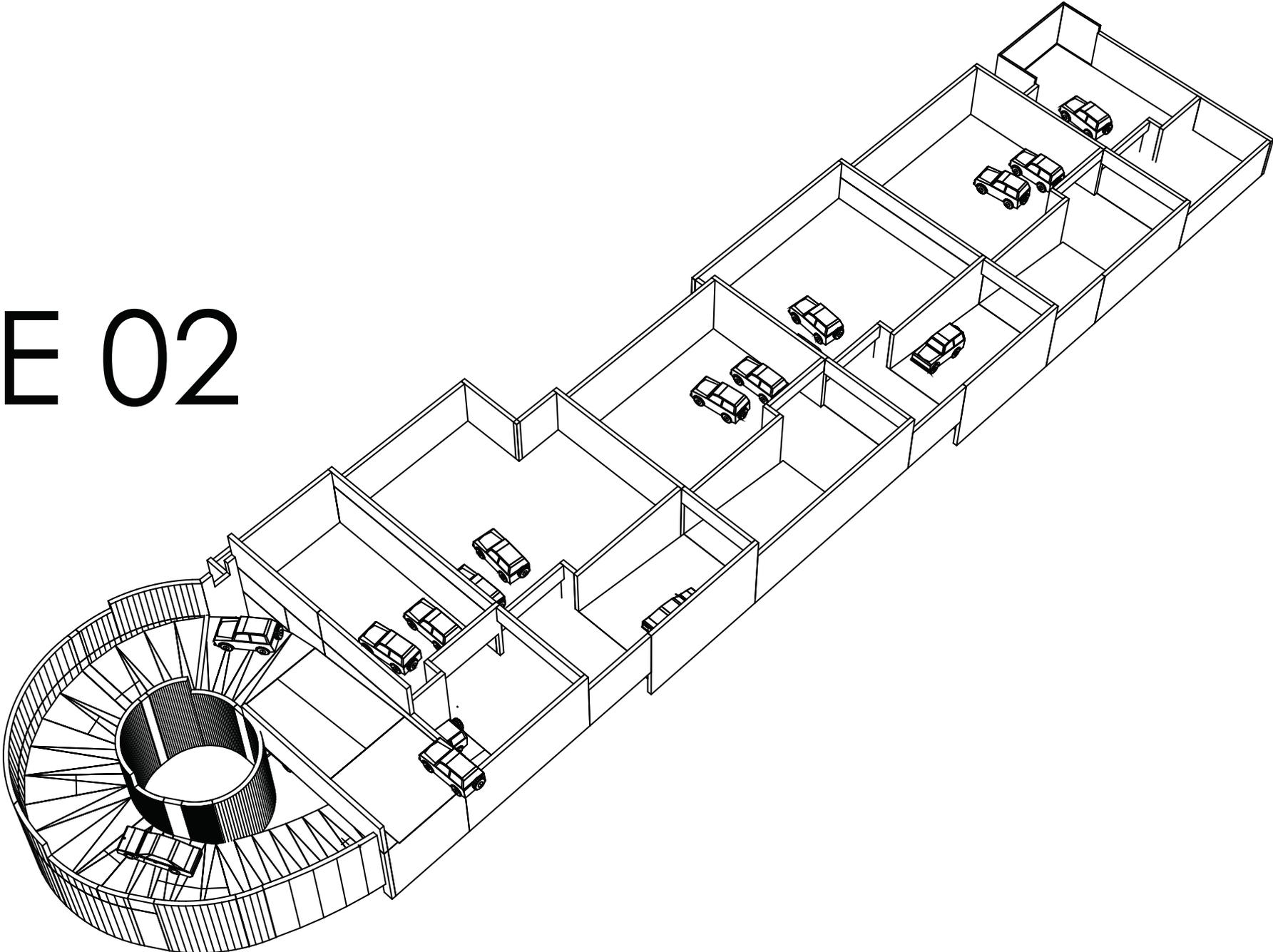
Date	
Drawn	
Project No	
CAD file No	
Drawing No	

A-004.1

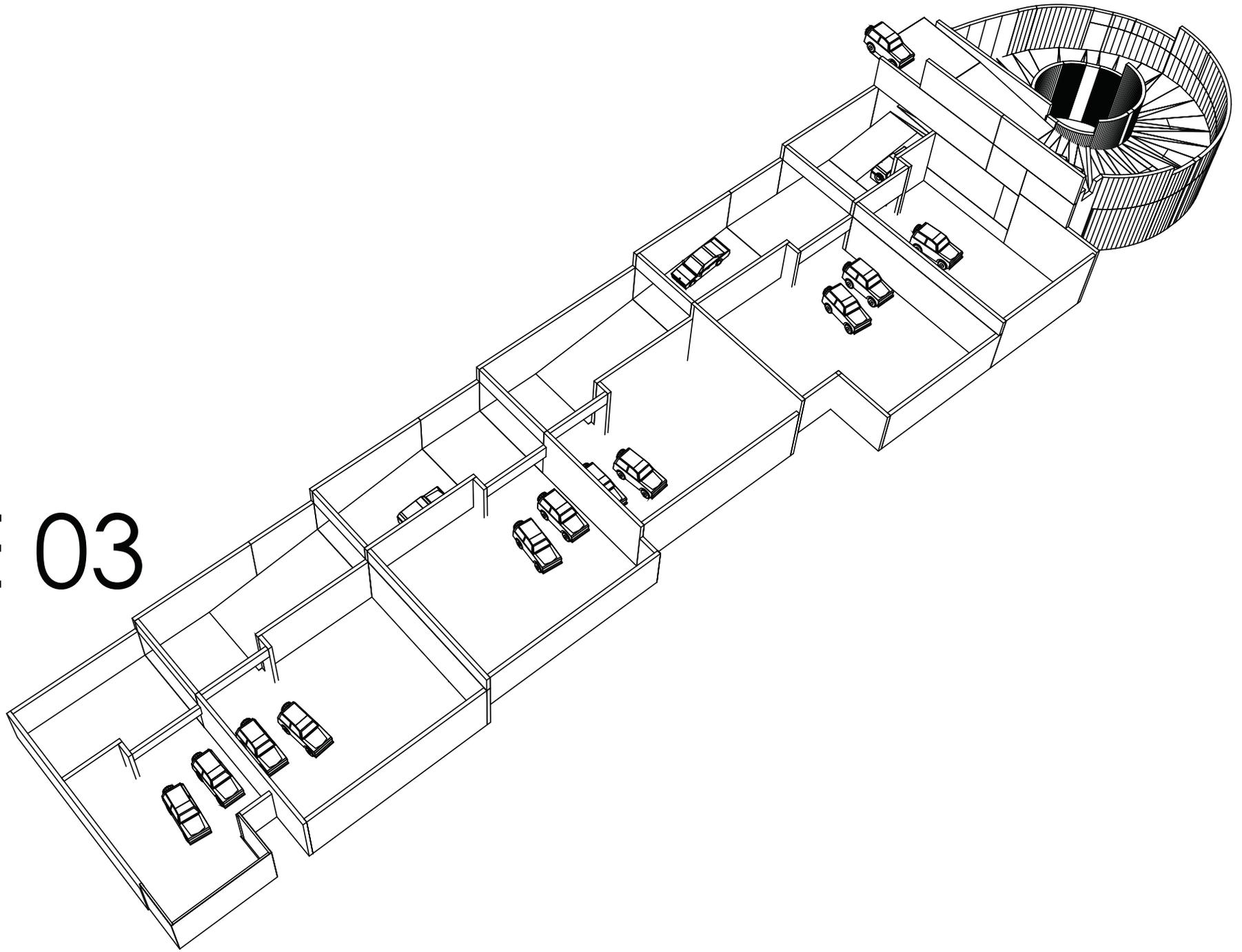


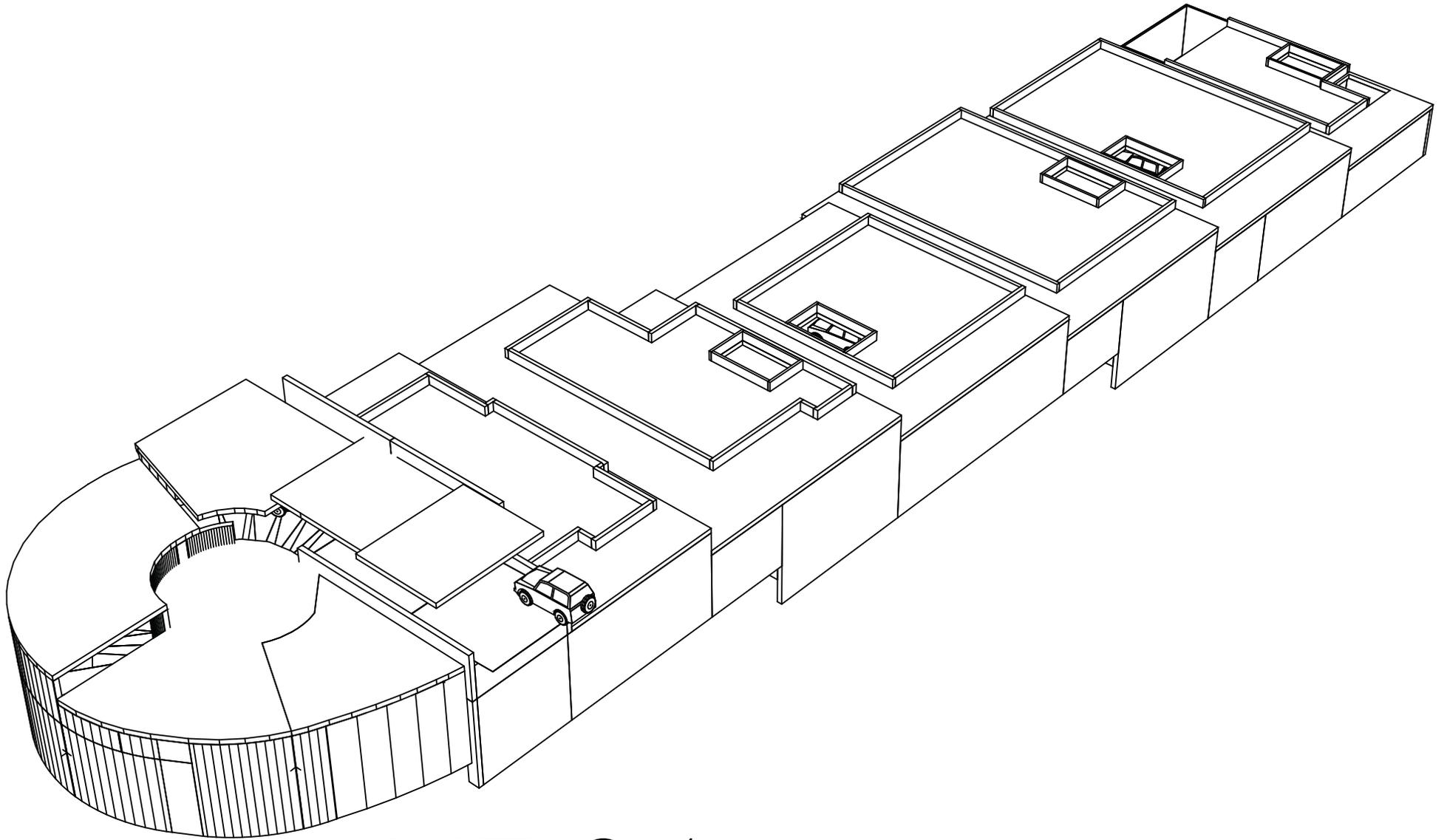
VE 01

VE 02

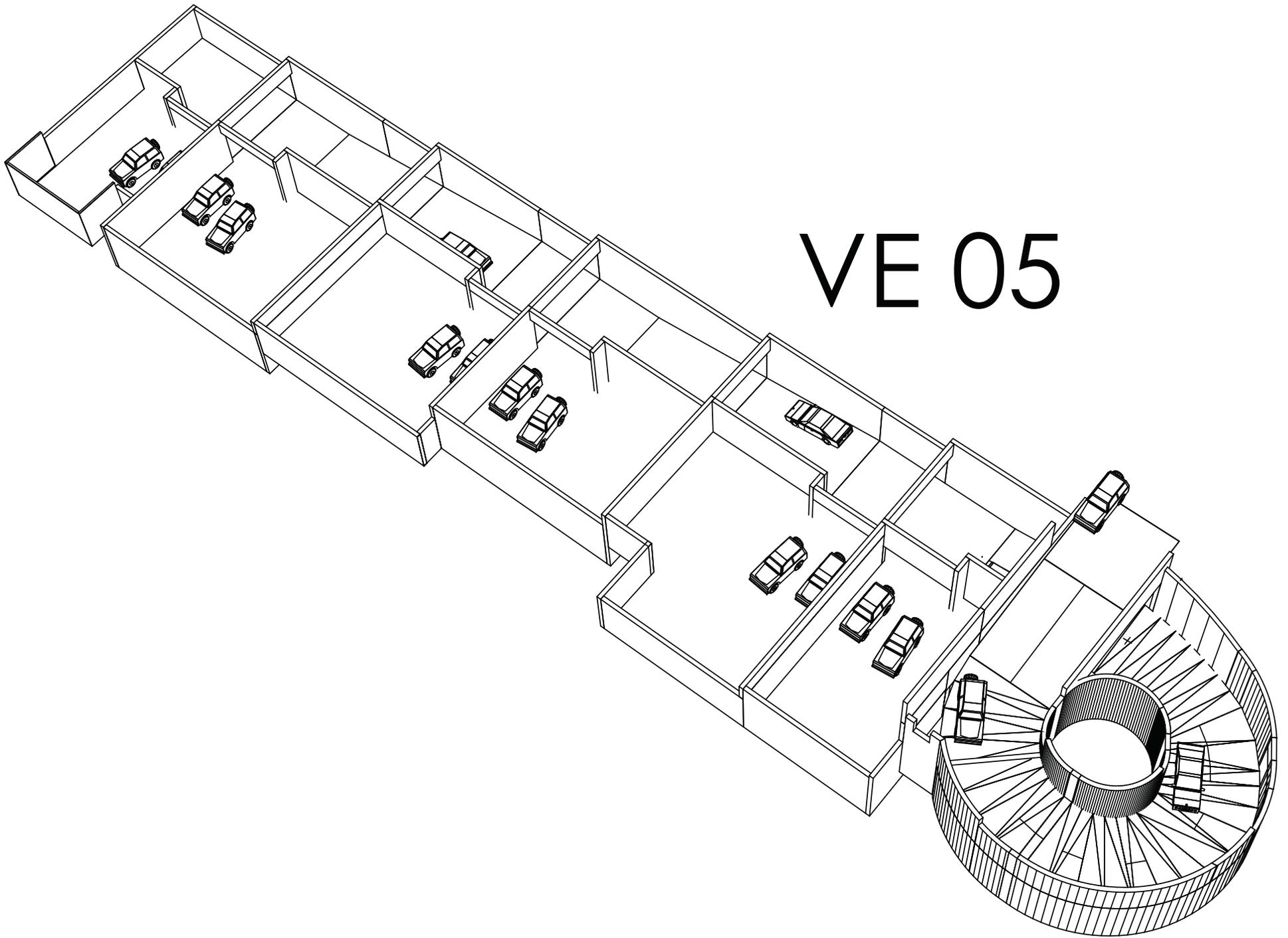


VE 03

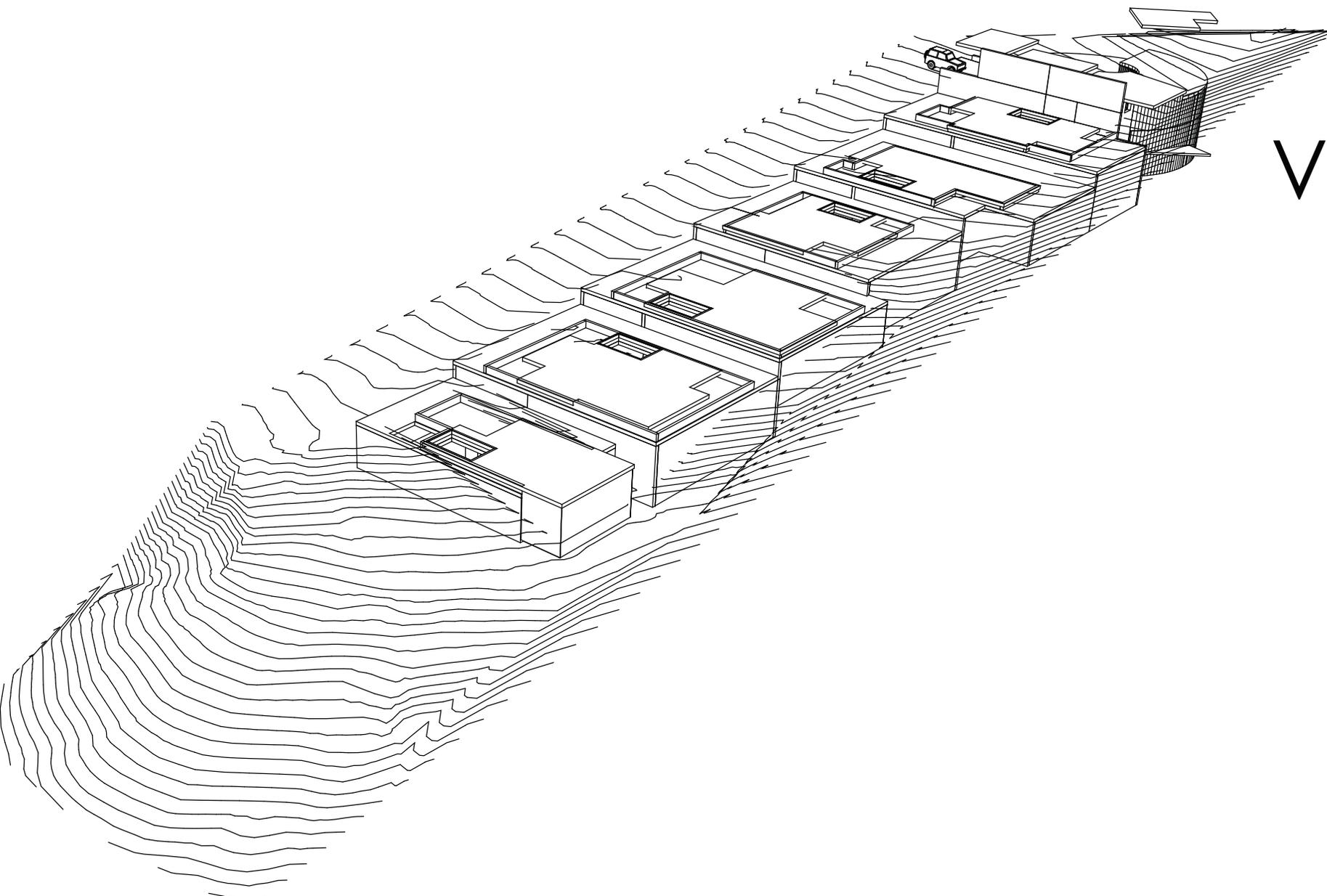




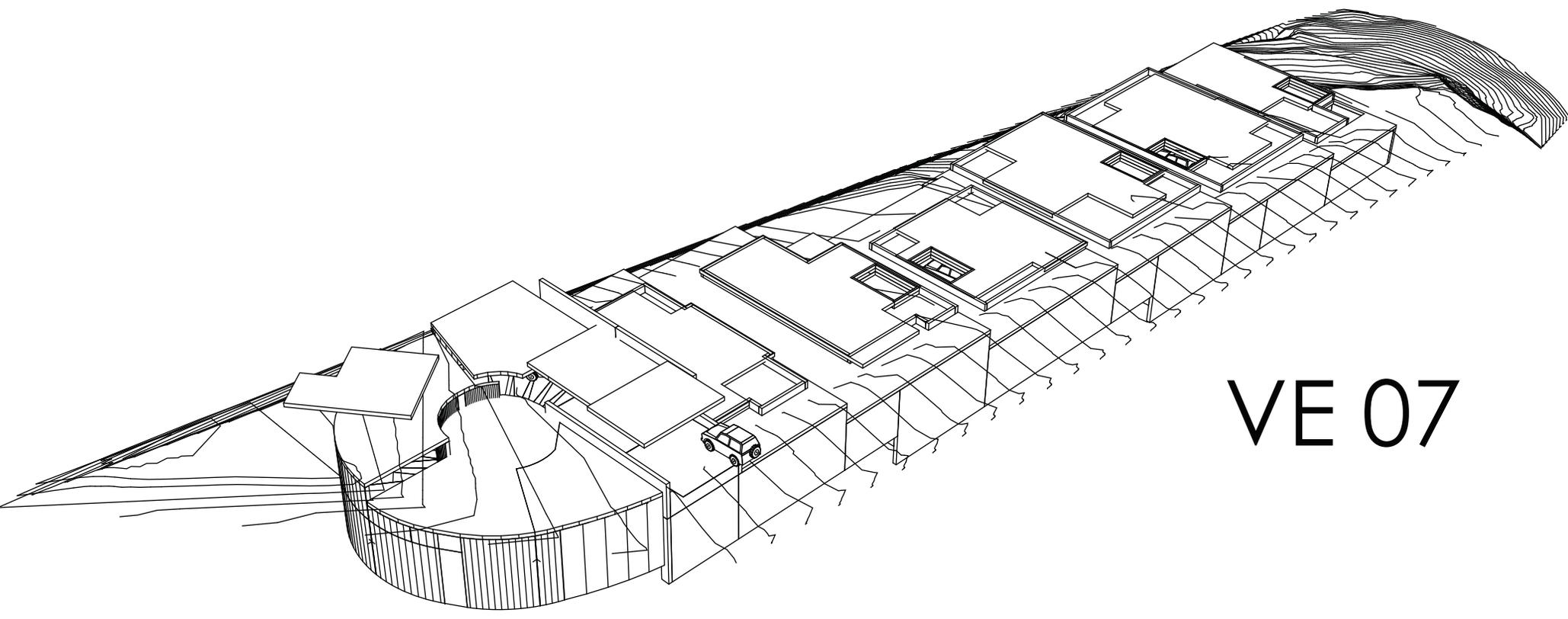
VE 04



VE 05



VE 06



VE 07



Resolution No. 8-98

**RESOLUTION ADOPTING A POLICY STATEMENT REGARDING
THE VACATION OF PUBLIC RIGHT-OF-WAYS WITHIN PARK CITY, UTAH**

WHEREAS, the Municipal Land Use Development and Management Act of the Utah Code (“Act”) provides that the City Council may vacate public right-of-ways upon findings of: (1) good cause for the proposed vacation; and (2) that neither the public nor any person will be materially injured by the proposed vacation; and

WHEREAS, the Act and relevant common law fail to further define “good cause” and allow the local jurisdiction discretion in disposing of public right-of-ways; and

WHEREAS, to help assure the consistent and reasonable application of the Act, the Planning Commission and City Council wish to provide their constituents with some general guidance as to the circumstances in which the City may favorably consider vacating public right-of-ways; and

WHEREAS, this policy statement is not an evaluation of any particular request for vacation, but a general position regarding the terms and conditions in which the City may typically grant a citizen’s request to vacate a public right-of-way within the City; and

WHEREAS, nothing herein shall be construed as an abandonment of public right-of-way within Park City; and

WHEREAS, this policy shall not be construed as creating a vested right nor entitlement of any nature with regard to vacation of right-of-way, but shall only be advisory for the Planning Commission and City Council to utilize when exercising their legislative discretion in evaluating the merits of a vacation petition; and

WHEREAS, the Planning Commission and City Council shall continue to evaluate vacation petitions on a case-by-case basis; and

WHEREAS, although the City Council will give significant weight to the Planning Commission recommendation the ultimate decision to vacate or not rests squarely with the City Council.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of Park City, Utah hereby adopt the following guidelines:

SECTION 1. GOOD CAUSE. The City may generally find “good cause” when a proposal evaluated as a whole demonstrates a “net tangible benefit” to the immediate neighborhood and to the City as a whole. The City will evaluate a particular proposal against the following criteria to determine whether a “net tangible benefit” has been demonstrated by the petitioner:

- (a) **No Increase in Density.** Existing density shall be determined by counting the lots/units that the petitioner could reasonably obtain a building permit for at the time the petition is filed. The existing density must have existing access and must not require a plat amendment in order to obtain a building permit. Street rights-of-way will generally not be vacated to facilitate greater density, floor area or area of disturbance. New applications which proposed the subdivision of rights-of-way shall be reviewed under Land Management Code (“LMC”) Chapter 15, Subdivisions, and must result in a lower density than that permitted by the underlying zoning (Chapter 7), without the vacated right-of-way.

- (b) **Neighborhood Compatibility.** The proposed shall be analyzed according to the following criteria: the application complies with all requirements of the LMC; the use will be compatible with surrounding structures in use, scale, mass and circulation; the use is consistent with the Park City General Plan, as amended; and the effects of any differences in use or scale have been mitigated through careful planning. The City shall review each of the following items when considering compatibility: (1) size and location of the site; (2) traffic impacts including capacity of the existing streets in the area; (3) utility capacity; (4) emergency vehicle access; (5) location and amount of off-street parking; (6) internal circulation; (7) fencing, screening, and landscaping to separate the use from adjoining uses; (8) building mass, bulk, and site plan; (9) usable open space; (10) signs and lighting; (11) physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing; (12) provision of snow storage, and mitigation of noise, vibration, odors, steam, or other mechanical factors that might affect people and property off site; (13) control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up areas; (14) expected ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies; (15) proposed uses in an historic district must comply with the Historic District Architectural Guidelines provided in a supplement to the LMC; (16) all proposed uses in the zones outside an historic district must comply with the General Architectural Guidelines in LMC Chapter 9; and (17) the Sensitive Area Overlay Zone Regulations (which normally apply only to property within the Sensitive Area Overlay Zone) shall apply to all development proposals including a petition to vacate right-of-way, regardless of the underlying zoning/platting of the development.

- (c) **Consideration.** Proposals must compensate the City for the loss of the right-of-way. Consideration favored by the City will generally be financial (market value based upon

square footage); open space dedication above and beyond normal subdivision or development approval requirements; trail or public access dedication above and beyond normal subdivision or development approval requirements; replacement of right-of-way dedication; and/or any other public amenity deemed in the best interests of Park City's citizens.

- (d) **Utility of existing Right-of-Way.** The City shall typically dispose of public right-of-way only when the right-of-way is no longer of significant utility to the City. The City shall consider the right-of-way's status as listed in the Streets Master Plan. The recommendation to the City Engineer, existing improvements and utilities within the right-of-way, and the Capital Improvement Plan. Replacement of the prior right-of-way alignment or dedication of new right-of-way must meet the construction and width standards in the Street Master Plan, unless otherwise reduced by the City Engineer.

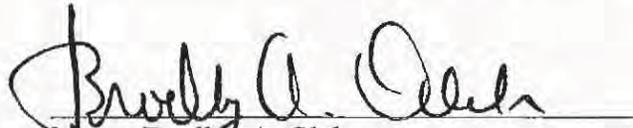
SECTION 2. MATERIAL INJURY. The City must find that no person nor the public is "materially injured" by the proposal. "Materially injured" generally means direct or indirect injury to property or a property right as a result of the proposal. The injury must be significant enough to raise to the level of interfering with the injured party's use of his/her property or property right. The injury must be demonstrated by evidence on the record, or the City's reasonable inference therefrom, and shall not merely be conjecture nor public clamor.

SECTION 3. JOINT MEETINGS. Joint meetings between the Planning Commission and City Council, and Historic District Commission as necessary, are encouraged early in the process for large (greater than five lot) projects and master planned developments, which propose vacation and reconfiguration of public rights-of-way.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED this 9th day of July, 1998.

PARK CITY MUNICIPAL CORPORATION



Mayor Bradley A. Olch

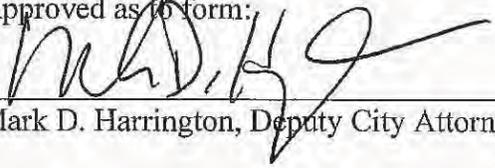
Attest:



Janet M. Scott, City Recorder



Approved as to form:



Mark D. Harrington, Deputy City Attorney

Francisco Astorga

From: Brooks Jacobsen <brooksjacobsen4@gmail.com>
Sent: Monday, May 06, 2013 2:57 PM
To: Francisco Astorga
Subject: echo spur project

Hi Francisco,

I want to voice my support for the echo spur project plan.
Sean Kelleher has done a good job of addressing the needs of the neighborhood

Thanks Brooks Jacobsen
416 ontario ave.
435 659 4907

Francisco Astorga

From: William Tew <wptew1@gmail.com>
Sent: Wednesday, May 08, 2013 9:50 AM
To: Francisco Astorga
Cc: Ernie Campo; Pam Maupin; Mitch Bryars; Jack Fenton; Brooks; Susie Graves; Liza Simpson
Subject: Echo Spur Development
Attachments: Site Plan edits #2 April 2013.pdf; ATT00001.htm; Site Plan edits #2 April 2013.pdf; ATT00002.htm

Francisco -

I recently received an e-mail from Sean Kelleher (Echo Spur developer) indicating that he expects to be before the Planning Commission at their May 22nd meeting. Also, included in his e-mail was a schematic illustrating his proposal for homes, planting, and walkways within the development. I have attached a copy below. Since it is unlikely that I will be able to attend the planning meeting on the 22nd, I would ask that my comments below be made available to the Planning Commission members in advance of that meeting.

I and my neighbors have endured the starts and stops of the Echo Spur development for over 5 years and today can look out on what must surely be one of the most unattractive features of Old Town - The Echo Spur Retaining Wall. Nevertheless, I would welcome the completion of this project. In spite of the developer's promotion of "energy efficient construction" in exchange for exceptions to the HR 1 building codes, I trust the Commissioners will guide the applicant toward home designs which are appropriate in mass and scale, visually compatible with Old Town, and consistent with the Design Guidelines for New Construction within our Historic District.

From his recent e-mail, the developer has indicated that the Planning Commission has "encourage us to put the parking underground". While I have no objections to the concept, I would think that this would be an enormous excavation and back fill project that will surely eliminate most if not all of the existing grade. How is it that we can be assured that there will not be a few extra feet added back to the grade upon back filling to improve the view for these homes? Preserving view corridors is very important to those of us on Rossi Hill.

Additionally, if underground parking is approved, I trust the Commission will require the full completion of the underground structure rather than in sections as homes are built. I and my neighbors on Rossi Hill and Ontario have endured years of dust and dirt from the excavation of the McHenry right-of-way. As development of the site continues, the developer should be required to undertake appropriate measures to reduce blowing dust and dirt during excavation and construction of the underground parking structure. Requiring the parking structure to be fully completed once started would certainly help to minimize the impact on all of us with adjacent homes.

Thanks for your consideration,

Bill

William Tew, PhD
525 Rossie Hill Drive

PO Box 2321
Park City, Utah 84060

mobile: 435-640-9640
wptew1@gmail.com
wptew@icloud.com



LEGEND

PM PEAK TRAFFIC COUNT (4:30-5:30 pm) XX →

24 HOUR TRAFFIC COUNT (12:30pm-12:29pm, beg Mar. 27) XX →

TRAFFIC COUNTS TAKEN MARCH 27-28, 2013

RECOUNT TAKEN APRIL 25-26, 2013

RILEY TRAFFIC CONSULTANTS



RILEY TRAFFIC CONSULTANTS, LLC
4001 S. 700 East, #500
Salt Lake City, UT 84107
Tel: 301.264.6734

PROJECT: Echo Spur Development
ACME NY: JGC Beach Properties
Park City, Utah
610 Gondoliere Ave.
Coral Gables, FL 33143
PROJECT NO.: SC
DRAWN BY: SC

Traffic Map
Vicinity

A.01



LEGEND

PM PEAK TRAFFIC COUNT (4:30-5:30 pm) **XX** →

24 HOUR TRAFFIC COUNT (12:30pm-12:29pm, beg Mar. 27) **XX** →

TRAFFIC COUNTS TAKEN MARCH 27-28, 2013
RILEY TRAFFIC CONSULTANTS

RILEY TRAFFIC CONSULTANTS, LLC
4001 S. 700 East, #500
Salt Lake City, UT 84107
Tel: 301.264.6734

PROJECT
Echo Spur Development
Park City, Utah

ISSUE
03.29.13

ACME NY
JGC Beach Properties
610 Gondoliere Ave.
Coral Gables, FL 33143
Tel: 305.377.0985

DRAWN BY
SC

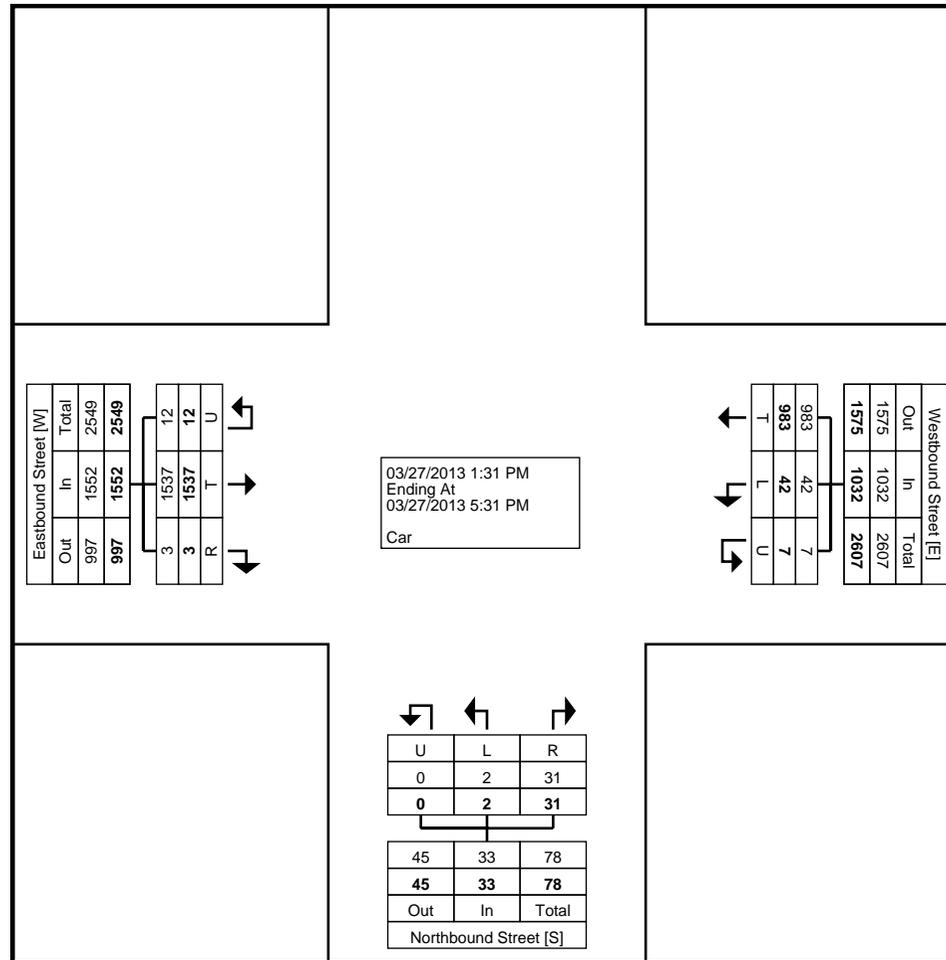
PROJECT NO.

Traffic Map
Vicinity

A.01

Turning Movement Data

Start Time	Westbound Street Westbound				Northbound Street Northbound				Eastbound Street Eastbound				Int. Total
	Thru	Left	U-Turn	App. Total	Right	Left	U-Turn	App. Total	Right	Thru	U-Turn	App. Total	
1:31 PM	82	3	2	87	3	0	0	3	0	86	0	86	176
1:46 PM	69	2	0	71	4	0	0	4	1	97	0	98	173
Hourly Total	151	5	2	158	7	0	0	7	1	183	0	184	349
2:01 PM	80	4	2	86	2	0	0	2	0	95	1	96	184
2:16 PM	85	3	2	90	2	0	0	2	0	109	1	110	202
2:31 PM	82	1	0	83	3	1	0	4	0	105	0	105	192
2:46 PM	83	0	0	83	3	0	0	3	0	92	1	93	179
Hourly Total	330	8	4	342	10	1	0	11	0	401	3	404	757
3:01 PM	71	2	0	73	1	0	0	1	0	100	1	101	175
3:16 PM	88	7	0	95	2	0	0	2	1	103	2	106	203
3:31 PM	1	0	0	1	0	0	0	0	0	1	0	1	2
*** BREAK ***	-	-	-	-	-	-	-	-	-	-	-	-	-
Hourly Total	160	9	0	169	3	0	0	3	1	204	3	208	380
4:31 PM	86	3	0	89	4	0	0	4	0	220	3	223	316
4:46 PM	82	7	0	89	1	1	0	2	0	195	1	196	287
Hourly Total	168	10	0	178	5	1	0	6	0	415	4	419	603
5:01 PM	90	6	1	97	4	0	0	4	0	187	1	188	289
5:16 PM	84	4	0	88	2	0	0	2	1	147	1	149	239
Grand Total	983	42	7	1032	31	2	0	33	3	1537	12	1552	2617
Approach %	95.3	4.1	0.7	-	93.9	6.1	0.0	-	0.2	99.0	0.8	-	-
Total %	37.6	1.6	0.3	39.4	1.2	0.1	0.0	1.3	0.1	58.7	0.5	59.3	-
Car	983	42	7	1032	31	2	0	33	3	1537	12	1552	2617
% Car	100.0	100.0	100.0	100.0	100.0	100.0	-	100.0	100.0	100.0	100.0	100.0	100.0



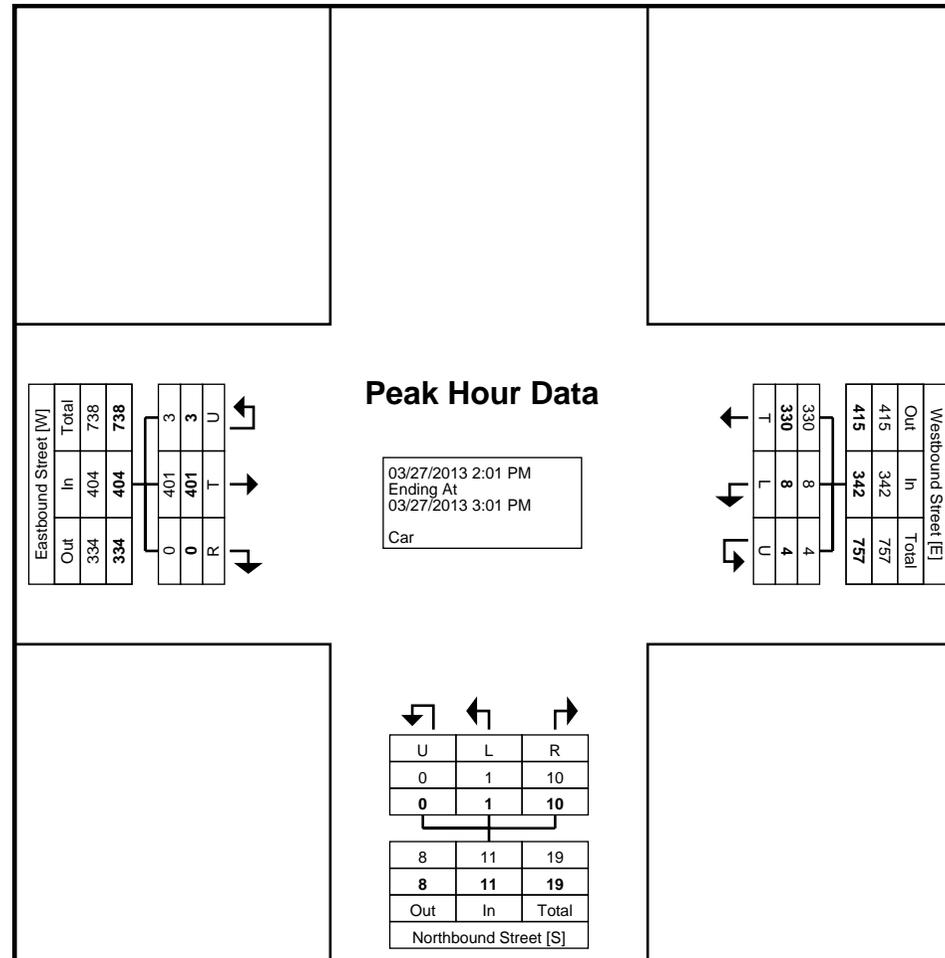
Turning Movement Data Plot

Riley Traffic L.L.C
 4001 South 700 East
 Suite 500
 Salt Lake City, Utah, United States 84107
 801-264-6634 scolosimo@rileytraffic.com

Count Name: Deer Valley Drive & Deer Valley Loop
 Site Code: Deer Vally Dr * Deer Valley Loop
 Start Date: 03/27/2013
 Page No: 3

Turning Movement Peak Hour Data (2:01 PM)

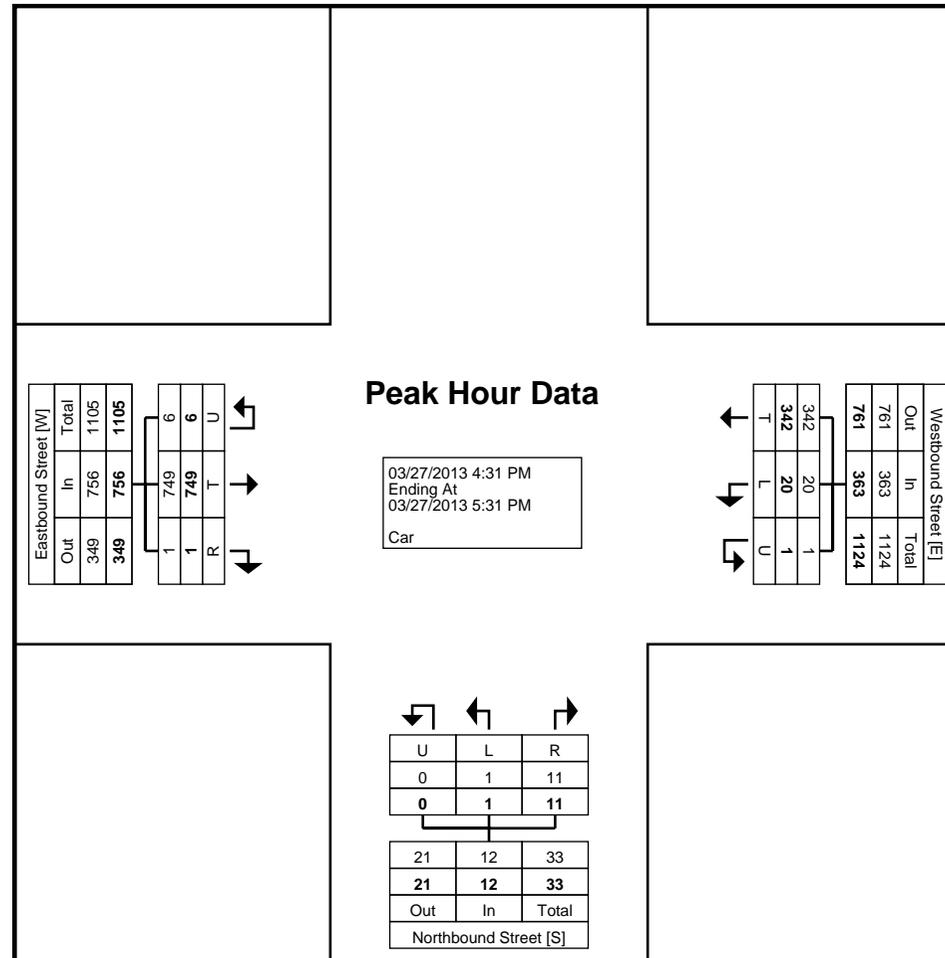
Start Time	Westbound Street Westbound				Northbound Street Northbound				Eastbound Street Eastbound				Int. Total
	Thru	Left	U-Turn	App. Total	Right	Left	U-Turn	App. Total	Right	Thru	U-Turn	App. Total	
2:01 PM	80	4	2	86	2	0	0	2	0	95	1	96	184
2:16 PM	85	3	2	90	2	0	0	2	0	109	1	110	202
2:31 PM	82	1	0	83	3	1	0	4	0	105	0	105	192
2:46 PM	83	0	0	83	3	0	0	3	0	92	1	93	179
Total	330	8	4	342	10	1	0	11	0	401	3	404	757
Approach %	96.5	2.3	1.2	-	90.9	9.1	0.0	-	0.0	99.3	0.7	-	-
Total %	43.6	1.1	0.5	45.2	1.3	0.1	0.0	1.5	0.0	53.0	0.4	53.4	-
PHF	0.971	0.500	0.500	0.950	0.833	0.250	0.000	0.688	0.000	0.920	0.750	0.918	0.937
Car	330	8	4	342	10	1	0	11	0	401	3	404	757
% Car	100.0	100.0	100.0	100.0	100.0	100.0	-	100.0	-	100.0	100.0	100.0	100.0



Turning Movement Peak Hour Data Plot (2:01 PM)

Turning Movement Peak Hour Data (4:31 PM)

Start Time	Westbound Street Westbound				Northbound Street Northbound				Eastbound Street Eastbound				Int. Total
	Thru	Left	U-Turn	App. Total	Right	Left	U-Turn	App. Total	Right	Thru	U-Turn	App. Total	
4:31 PM	86	3	0	89	4	0	0	4	0	220	3	223	316
4:46 PM	82	7	0	89	1	1	0	2	0	195	1	196	287
5:01 PM	90	6	1	97	4	0	0	4	0	187	1	188	289
5:16 PM	84	4	0	88	2	0	0	2	1	147	1	149	239
Total	342	20	1	363	11	1	0	12	1	749	6	756	1131
Approach %	94.2	5.5	0.3	-	91.7	8.3	0.0	-	0.1	99.1	0.8	-	-
Total %	30.2	1.8	0.1	32.1	1.0	0.1	0.0	1.1	0.1	66.2	0.5	66.8	-
PHF	0.950	0.714	0.250	0.936	0.688	0.250	0.000	0.750	0.250	0.851	0.500	0.848	0.895
Car	342	20	1	363	11	1	0	12	1	749	6	756	1131
% Car	100.0	100.0	100.0	100.0	100.0	100.0	-	100.0	100.0	100.0	100.0	100.0	100.0



Turning Movement Peak Hour Data Plot (4:31 PM)