



AGENDA

MEETING CALLED TO ORDER AT 5:30PM

ROLL CALL

ADOPTION OF MINUTES OF May 13, 2015 and June 10, 2015

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF/BOARD COMMUNICATIONS AND DISCLOSURES

WORK SESSION – *Discussion items only, no action taken*

Sign Code Amendment discussion regarding Resort Free-Standing Signs *Planner* 107
Alexander

CONTINUATIONS

Land Management Code Amendment regarding Nightly Rentals use in the HR-L Chapter 2.1 and green roof definition and application in HR-L Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15. Public hearing and continuation to July 22, 2015 PL-15-02817 121
Planner
Astorga

CONSENT AGENDA – *All items on the consent agenda shall be passed or denied by a single motion at the Commission meeting, unless a motion to remove a specific item is made. If a member of the public or a member of the Planning Commission requests a public hearing on a consent agenda item, then the item shall be removed from the consent agenda and acted on at the same meeting.*

125 Norfolk Avenue - – Hewtex Plat Amendment combining portions of lots 7, 8, 11 and all of Lots 9 and 10 Block 78 of the Millsite Reservation. PL-15-02720 131
Public hearing and possible recommendation to City Council on July 9, 2015 *Planner*
Turpen

REGULAR AGENDA – *Discussion, public hearing, and possible action as outlined below*

543 Park Avenue - Conditional Use Permit Modification to relocate the bed and breakfast's laundry facilities into the non-historic garage on the property. PL-15-02759 155
Public hearing and possible action *Planner*
Grahn

259, 261, 263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance No. 06-55. PL-15-02665 189
Public hearing and possible recommendation to City Council on July 16, 2015 *Planner*
Astorga

Land Management Code Amendments regarding 1) Setbacks for patios and hot tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16; 2) Annexations procedure and review in Chapter 8; 3) Non-conforming uses and non-complying structures in Chapter 9; 4) Definitions of carports, essential municipal and public utilities, facilities, and uses and PL-14-02595 293
Planner
Whetstone

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.

others in Chapter 15; 5) Applicability of Steep Slope Conditional Use Permits in HRL, HR-1, and HR-2; 6) Conditional Use Permit review and site requirements in HRM Section 15-2.; 7) Board of Adjustment standard of review and appeals in Chapter 1 and Chapter 10; and 8) Combination of condominium units procedure in Chapter 7.

Public hearing and possible recommendation to City Council on July 16, 2015

Land Management Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2 Uses in Historic Recreation Commercial (HRC), Chapter 15-2.6-2 Uses in Historic Commercial Business (HCB), and associated Definitions in Chapter 15-15 Defined Terms.

Public hearing discussion and continuation to July 22, 2015

PL-15-02810 475
Planner
Whetstone

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.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 13, 2015

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Preston Campbell, John Phillips, Nann Worel

EX OFFICIO:

Kirsten Whetstone, Planner; Christy Alexander; Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:45 p.m. and noted that all Commissioners were present except Commissioners Band, Joyce and Thimm who were excused.

ADOPTION OF MINUTES

April 8, 2015

Commissioner Worel referred to the bottom of page 19 of the Staff report, page 17 of the minutes, and removed the word **they** from the second sentence. The correct sentence should read, "Mr. Fiat stated that more engineering work was done on this project regarding those issues than has been done on any other project."

MOTION: Commissioner Phillips to APPROVE the minutes of April 8, 2015 as corrected. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planner Astorga submitted copies of signage the Planning Department was considering for public noticing. The signs were more typical of the older signs. They are more expensive

but they do stay in place and last longer. The signs will also include a sentence warning people not to tamper with the noticing signs.

Commissioner Worel asked if a date had been set for the City Council/Planning Commission dinner. Planner Alexander believed it was Tuesday, June 16th.

Planner Alexander announced that an open house for the growth study with Envision Utah would be held on June 15th. It is an open house for the community and the Planning Department will send out invitations when the specifics have been finalized.

Commissioner Phillips asked if it was possible for the Planning Commission to have a session regarding historic building rehabilitation. His request was spurred by what had occurred at the Rio Grande. Commissioner Phillips thought the end result was unpredictable and not what he and others had expected to see. Regardless of whether it was right or wrong, he wanted the opportunity to see if the Staff and the Planning Commission could have done something different in the application process to at least have made it more predictable.

Planner Alexander stated that the preservation planners could put together a presentation for the Planning Commission. Commissioner Phillips asked if they could use the Rio Grande building as an example so they could follow the process and see how it ended up as it did. He thought it would be helpful for future applications to understand what they could do to make sure the end result is what they intended.

Planner Astorga reported that the Preservation Planner, Anya Grahn was looking into the Rio Grande building. He understood that Rory Murphy was scheduled to share his thoughts and comments about the Rio Grande building at a City Council meeting the following evening. Planner Astorga offered to pursue a work session when the full Planning Commission and Planning Manager Kayla Sintz could be present.

Planner Kirsten Whetstone understood that Commissioner Phillips was asking for a work session to discuss a general process for historic preservation, using the Rio Grande building as an example to begin the discussion.

Council Member Cindy Matsumoto reported that the City Council had asked the Staff to look into what happened with the Rio Grande Building. She understood that the legal department was also going to look into. Ms. Matsumoto stated that when the first plan did not go forward the applicant met with the Staff, and the question was whether or not that was the correct process. She also did not believe the Staff had a full understanding of what the applicant had proposed. Ms. Matsumoto thought it was a good idea for the Planning Commission to look at it as well.

WORK SESSION

Capital Improvement Projects

Planner Whetstone stated that Matt Cassel was unable to attend the meeting but he had submitted a list of items for the Planning Commission to review. Mr. Cassel had highlighted the items that pertained to the Planning Commission. Planner Whetstone stated that if the Commissioners had input or questions they could either provide that now or contact Matt Cassel.

Assistant City Attorney McLean stated that if the Commissioners had questions, she suggested that they invite Mr. Cassel to attend a meeting as opposed to contacting him individually.

Commissioner Worel asked if the list was prioritized. Planner Whetstone believed it was a general list and the projects were not prioritized. Commissioner Worel would like Mr. Cassel to address some of the priorities.

Commissioner Phillips pointed out a typo on 1450-1460 Park Avenue. On the third line on page 71 of the Staff report the number 2,61,750 was missing a digit. He was unsure where the missing digit belonged but it could potentially be a 540,000 difference.

355 Ontario Avenue – Steep Slope Conditional Use Permit for a new accessory building/garage (Application PL-15-02716)

Planner Alexander stated that this was a discussion item for the Planning Commission prior to the regular session for 355 Ontario Avenue. She noted that in November 2013 LMC amendments were brought before the Planning Commission and the City Council in regards to Building Heights in the historic districts. At that time the LMC was amended to require a 10' stepback of structures at the 23' height to decrease the visible massing at the street front or from cross canyon views.

Planner Alexander stated that something situations are overlooked when the Code is amended because it is impossible to know what might come forward in the future. Planner Alexander noted that Ontario is a unique neighborhood because it is a narrow street with extremely steep slope coming off of Ontario on the downhill side. This applicant was proposing to build a garage as an accessory building. An addition to the home was not being proposed. However, a stepback at 23 feet would cut into the garage and they would not be able to build a feasible garage large enough for a car. The entire purpose of building the accessory structure is to provide on-site parking since the historic home does not require parking and there is no on-street parking on Ontario. Planner Alexander stated

that this item was discussed at a Staff meeting and they determined that the historic home on the property steps back at the 22' height and more than 10 feet. The Staff believes the garage meets the intent of the Code. Looking from Marsac or from the public stairway easement and down from the cross canyon view, a full three story massing is not seen. Because the intent of the Code is to minimize the three-story massing directly from the street, the Staff believes the garage meets the intent of the Code. However, the Code itself for the HR-1 District, Section 15-2.2-5(b), the Building Height reads, "The ten foot minimum horizontal step on the downhill façade is required unless the first story is located completely under the finished grade on all sides of the structure. The horizontal step shall take place at a maximum height of 23 feet from where the building footprint meets the lowest point of existing grade." Planner Alexander stated that the language specifies structure. It did not take into account an addition or accessory structure with an existing home on the lot.

Planner Alexander stated that the Staff was suggesting for this project that the Planning Commission find that it meets the intent of the Code. They also asked whether the Planning Commission would like the Staff to look at amending the Code to address instances in the future where additions or an accessory structure are proposed.

Commissioner Phillips felt the proposal met the intent of the Code as demonstrated in the cross canyon view. He noted that it was a small portion of the upper level and not the complete back of the building. If it went all the way across he might have issues with it, but as proposed he agreed with the Staff determination that it meets the intent of the Code. Commissioner Phillips identified several homes that did not meet the new Code, which was a good example of why the Code was put into place.

Commissioners Worel concurred with Commissioner Phillips. Commissioner Campbell thought it looked great.

Chair Strachan asked if they were talking about the garage and the house behind it. Planner Alexander replied that it was an accessory building, which allows them to only have the garage and storage. The applicants originally planned to build an accessory apartment but it did not meet the Code in terms of size for an accessory apartment. The kitchen and bathroom were removed from the plans and the applicant was aware that it could only be used as a garage and storage. She clarified that the structure would be an accessory building used as a garage and storage. It would not have livable space and it would not have plumbing.

David White, the project architect, explained that the top floor is a small single car garage with an open parking space beside it. The first and second floors were open space.

Planner Alexander remarked that the work session was primarily to discuss the stepback. The Planning Commission could go into more details of the project during the regular session.

Chair Strachan preferred to hold his comments until the regular session.

Continuations (public hearing and continue to date specified.)

1. 212 Main Street, Condominium Conversion – Staff recommends that the Planning Commission conduct a public hearing and continue the item to a date uncertain to allow the Staff to confirm new ownership. (Application PL-14-02491)

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE 212 Main Street Condominium Conversion to a date uncertain. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

2. 327 Woodside Avenue – Plat Amendment combining two (2) lots into one (1). (Application PL-14-02663)

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Worel moved to CONTINUE 327 Woodside Avenue Plat Amendment to May 27, 2015. Commissioner Phillips seconded the motion.

3. 7101 Stein Circle – Stein Eriksen Residences Condominium Plat Amending the North Silver Lake Condominium Plat. (Application PL-15-02680)

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Worel moved to CONTINUE 7101 Stein Circle, Stein Eriksen Residence Condominium Plat Amending the North Silver Lake Condominium Plat to May 27, 2015. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

4. 259/261/263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance N. 06-55.
(Application PL-15-02665)

Planner Astorga stated that the developer requested a continuance to June 10, 2015 rather than May 27, 2015.

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE 259/261/263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat to June 10, 2015. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA – Discussion, public hearing, action.

1. **355 Ontario Avenue – Steep Slope CUP for a new accessory building/garage on a lot with an existing historic home.** (Application PL-15-02716)

Planner Alexander reported that an existing historic home sits on the property. The owner, William McKenna, was requesting to build an accessory structure with a garage that is approximately 1,270 square feet total, including the garage. The footprint of the new accessory building combined with the footprint of the existing home meets the maximum footprint of 1,388.3 square feet. Due to the slope of the lot being an average of 40%, with 30% being within the first 50 feet from Ontario, a Steep Slope Conditional Use permit is required.

Planner Alexander stated that the setback standards have been met and the applicant was requesting a height exception. The maximum height within the district is 27'. The height of the garage goes up to 29'. Planner Alexander noted that the Code allows an exception if it is approved by the Planning Director. She stated that the applicant made that request and the Planning Director determined that because it was only a difference of 2 feet it falls within exceptions that have been granted in other areas within the neighborhood. Therefore, the Planning Director granted the height exception for the additional two feet. The action letter was included in the Staff report.

Planner Alexander remarked that as discussed during the work session the applicant was proposing to use the lower two floors as storage and work space. There will be no plumbing in the structure. The garage will be the upper level with stairs that exit out on to

an existing deck, which goes straight into the existing home. Planner Alexander stated that parking is not required parking for this historic house; however, because Ontario Avenue is very narrow and lacks on-street parking, and the steepness of the lot is very dangerous, they applicant was requesting to build a garage.

Since there are several other garages within the neighborhood the Staff finds this to be a good use of the property and finds no other issues or unmitigated impacts with the Steep Slope CUP. The Staff recommended that the Planning Commission conduct a public hearing and approve the Steep Slope CUP.

Chair Strachan opened the public hearing.

Planner Alexander had received two letters from neighboring properties who were in favor of this project. The letters would be added into the record.

Chair Strachan closed the public hearing.

Chair Strachan stated that having condition of approval #14, which states that no livable bedrooms, bathrooms or kitchen areas shall be created inside the accessory building, made him feel more comfortable. In looking at the cross canyon view, he thought the structure looked like a house waiting to happen; and had the potential for a future owner to violate the rules and add a bathroom and a bedroom to make it a home. He pointed out that 1200 square feet was a significant size for a garage.

Planner Whetstone noted that the Code allows accessory structures to have living space and bathrooms. The Code prohibits the structure from having a kitchen, without applying for a conditional use permit for an accessory apartment. She asked Planner Alexander to verify if the applicants were aware of Condition of Approval #14. Commissioner Strachan noted that one of the findings of facts indicates that the applicant has stipulated to Condition #14. Planner Alexander pointed out that the proposed structure could not become an accessory apartment because an accessory apartment has to be one-third the size of the existing home.

Assistant City Attorney McLean suggested that one of the Findings refer to the definition of an accessory building found in LMC 15-15-1.3, which restricts it to "building on the same lot as the principle building and that it is clearly incidental to and customarily found in connection with such principle building such as attached garages, barns and other similar structures that require a building permit, operated and maintained for the benefit of the principle use, not a dwelling unit. It also includes structures that do not require a building permit."

Planner Alexander noted that the one-third size for an accessory apartment was addressed in LMC Section 15-4-7. She remarked that it has to be one-third of the principle dwelling size but no less than 400 square feet. Since the existing home is not 1200 square feet it would be impossible to make the proposed accessory structure an accessory dwelling unit.

Assistant City Attorney McLean stated that the restrictions in terms of the use are defined by the accessory building, which is defined in Section 15-15-1.3 and also in the definition of a dwelling unit, which is a “building or portion thereof designed for the use as the residence for a sleeping place for one or more persons or families.” She pointed out that it does not meet the definition of a dwelling unit and it cannot have a kitchen.

Chair Strachan understood that Ms. McLean was suggested that the Planning Commission make a finding that says it is subject to 15-4-7 and 15-15-1.3.

Commissioner Worel wanted to know whether these conditions of approval would be followed if someone ten years from now applied for a building permit to make the structure into an apartment. Ms. McLean replied that if the process works as it should, they would see the prior approval for the Steep Slope CUP and the attached conditions. She thought it might be worth adding a condition of approval as well as the finding. Chair Strachan noted that Condition of Approval #14 already addresses that issue. He did not think they should add that it must comply at all times with Section 15-4-7 because the Code might be changed at some point.

Chair Strachan suggested that the Planning Commission approve the Steep Slope CUP with the amendment to add Finding of Fact #27 to read, “The project shall comply with Code Sections 15-4-7 and 15-15-1.3.”

MOTION: Commissioner Worel moved to APPROVE the CUP for 355 Ontario Avenue according to the Findings of Fact, Conclusions of Law, and Conditions of Approval with the amendment to add Finding of Fact #27 as stated by Chair Strachan. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 355 Ontario Avenue

1. The property is located at 355 Ontario Avenue.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.

3. The property is described as Lot A of the Ontario Three Subdivision. The lot area is 3,352 square feet.
4. A Historic District Design Review (HDDR) application is required and will be reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
5. This lot is a combination of a portion of Lots 18 and 19 located in Block 54 of the Park City Survey, which was previously vacated. This is downhill lot with an existing historic home.
6. Access to the property is from Ontario Avenue, a public street.
7. Two parking spaces are proposed on site. One space is proposed within an attached garage and the second is on the driveway directly adjacent to the garage on the south, within the lot area.
8. The neighborhood is characterized by primarily non-historic and historic residential structures, single family homes and duplexes.
9. The proposal consists of a total of 1,270.5 total square feet, including the garage.
10. The proposed driveway was designed with a maximum width of twelve feet and is approximately 20 feet in length from the garage to the existing edge of street and located on the property. The garage door complies with the maximum height and width of nine feet by nine feet.
11. The proposed driveway has an overall slope of 0% as measured from the front of the garage to the edge of the paved street.
12. An overall combined building footprint with the existing Landmark historic house and accessory structure of 1,338.3 square feet is proposed. The maximum allowed footprint for this lot is 1,338.3 square feet. The accessory structure totals 596.3 square feet of footprint and the historic home totals 792 square feet of footprint.
13. The proposed structure complies with all setbacks of 5' side yards and 10' front and rear yards, with the proposed structure setback 5' on both side yards, 10' on the front and 44' on the rear.
14. The proposed structure complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade except for portions of the garage.

The Planning Director has approved an exception to the height of 29' for a garage on a downhill lot. Portions of the building are less than 27' in height.

15. The proposed structure complies with the LMC required total building height of 35' from the lowest floor plane to the highest wall plate and is in compliance with the LMC required step back of 10' at the building height of 23' at the rear façade of the existing historic home whereas it does not meet the step back on the accessory structure itself.

16. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this home on the cross canyon views and the Ontario Avenue streetscape.

17. Retaining is not necessary around the home on the upper, steeper portion of the lot. There will be no free-standing retaining walls. There are no window wells.

18. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography.

19. The site design, stepping of the foundation and building mass, increased articulation, and decrease in the allowed difference between the existing and final grade mitigates impacts of construction on the 30% or greater slope areas on the first 50' of the front of the lot, which requires the Steep Slope CUP.

20. The design includes setback variations in the front and back and lower building heights for portions of the structure in both the front and back where facades are less than twenty-seven feet in height.

21. The proposed massing and architectural design components are compatible with both the volume and massing of other buildings in the area. No wall effect is created with adjacent structures due to stepping, articulation, and placement of the house on the lot.

22. The proposed structure follows the predominant pattern of buildings along the street, maintaining traditional setbacks, orientation, and alignment. Lot coverage, site grading, and steep slope issues are also compatible with neighboring sites. The size and mass of the structure is compatible with surrounding sites, as are details such as foundation, roofing, materials, window and door openings, and single car garages.

23. No lighting has been proposed at this time. Lighting will be reviewed at the time of

Building Permit application for compliance with the LMC lighting code standards.

24. The applicant submitted a visual analysis, cross canyon view, and streetscape showing a contextual analysis of visual impacts of the proposed structure on the adjacent streetscape.

25. The findings in the Analysis section of this report are incorporated herein.

26. The applicant stipulates to the conditions of approval.

27. The project shall comply with Code Sections 15-4-7 and 15-15-1.3.

Conclusions of Law – 355 Ontario Avenue

1. The Steep Slope CUP application is consistent with the Park City General Plan.
2. The application is consistent with requirements of the Park City LMC, specifically Section 15-2.2-6 (B) (1-10) regarding development on Steep Slopes.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 355 Ontario Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. A final utility plan, including a drainage plan, for utility installation, public improvements, and storm drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers, including Snyderville Basin Water Reclamation District, prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.

5. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit, the 2009 Design Guidelines for Historic Districts and Historic Sites (Historic District Design Review) and the Land Management Code.
7. No building permit shall be issued until the Ontario Three Subdivision is recorded.
8. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
9. This approval will expire on May 13, 2016, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and the request is granted by the Planning Director.
10. Modified 13-D residential fire sprinklers are required for all new structures on the lot.
11. All exterior lighting, on porches, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way. Light trespass into the night sky is prohibited.
12. Construction waste should be diverted from the landfill and recycled when possible.
13. All electrical service equipment and sub-panels and all mechanical equipment, except those owned and maintained by public utility companies and solar panels, shall be painted to match the surroundings.
14. No livable bedrooms, bathrooms, or kitchen areas shall be created inside the accessory building as it is for a garage and storage only, due to the proposed building not meeting the size requirement of an accessory apartment in association with the size of the existing dwelling.

2. 1021 Park Avenue – Plat Amendment combining two lots in order to remove the lot line with an existing historic home (Application PL-15-02703)

Planner Alexander reviewed the application for a plat amendment for the purpose of combining two existing lots that previously had a historic home located over the property lines. The applicant, Bill Hart, and his representative Marshall King, were present to answer questions.

Planner Alexander stated that the application first came to the Planning Department as a Historic District Design Review in order to deconstruct the existing historic home that was located on this property. It went through the HDDR process with Planner Anya Grahn and it was approved. Planner Alexander noted that the applicant would be required to apply for another HDDR for reconstruction of the home. A preservation plan is in place which requires the owner to reconstruct the historic single family home exactly as it was previous to deconstruction. The Staff report included a brief timeline summary of the historic home and the reasoning for the deconstruction.

Planner Alexander reported that in order to reconstruct the home the existing lot lines need to be removed to make the property one complete lot of record, which is why the applicant was requesting this plat amendment.

The Staff found no issues with this request because the applicant had met the HDDR requirements and the home was already deconstructed. The property is currently vacant. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation on this plat amendment.

Chair Strachan opened the public hearing.

Planner Alexander had received a letter from Ross Wilson, a neighbor at 1025 Park Avenue, who supported the plat amendment and urged the Planning Commission to approve the application. The letter from Mr. Wilson was entered into the record.

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation for the plat amendment at 1021 Park Avenue, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1021 Park Avenue

1. The plat is located at 1021 Park Avenue within the Historic Residential (HR-1) District.
2. The 1021 Park Avenue Subdivision consists of Lots 5 & 6 of Block 4 of the Snyder's Addition to the Park City Survey.
3. On February 25, 2015, the applicants submitted an application for a plat amendment to combine two (2) lots containing a total of 3,750 square feet into one (1) lot of record.
4. The application was deemed complete on March 11, 2015.
5. The site is a developed parcel which had a historic structure which has been deconstructed, identified on the City's Historic Sites Inventory (HSI) as a "Landmark" site.
6. The lots at 1021 Park Ave are currently vacant after the historic home was deconstructed in order to satisfy the Building Department's Notice and Order.
7. Approval of the HDDR for deconstruction was noticed on March 18, 2015.
8. The Encumbrance and Agreement for Historic Preservation for 1021 Park Avenue states that the historic home must be reconstructed as outlined in the Historic Preservation Plan by March 30, 2017.
9. The HR-1 zone requires a minimum lot area of 1,875 square feet for a single family dwelling.
10. The maximum footprint allowed in the HR-1 zone is 1,518.75 square feet for the proposed lot based on the lot area of the lot.
11. The plat amendment secures public snow storage easements of ten (10') feet across the frontage of the lot.
12. Lots 5 & 6 of Block 4 of the Snyder's Addition to the Park City Survey are located in a FEMA flood zone X, which is an area with an 0.2% annual chance of flooding or an areas with a 1% annual chance of flooding with average depths of less than one (1) foot.

13. The front yard setback is approximately 13 feet, the rear yard setback is approximately 16 feet. The side yard setbacks are approximately 11 feet each. These setbacks meet the requirements of the Land Management Code.

Conclusions of Law – 1021 Park 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 – 1021 Park Avenue

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. Recordation of this plat is required prior to building permit issuance for any construction on the proposed lot.
4. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.
5. A ten foot (10') wide public snow storage easement is required along the frontage of the lots with Park Avenue and shall be shown on the plat.
6. All conditions of approval from the HDDR approval of March 18, 2015 continue to

apply.

3. **545 Main Street & 550/554/560 Park Avenue – Plat Amendment to create four (4) lots of record from five (5) lots (Application PL-15-02466)**
4. **550 Park Avenue – Steep Slope CUP for construction of a new single-family dwelling and a CUP for a parking area with five or more spaces. (Application PL-14-02541 and PL-15-02471)**

Planner Astorga requested that the Planning Commission discuss the two items together, conduct a public hearing and take two separate actions.

Planner Astorga noted that there were two different zone districts within the plat amendment that includes 545 Main Street, which is the April Inn, and four lots on Park Avenue. He presented a slide showing that Lots 2 and 3 would become larger. Lot 3 would be 32.5 feet in width and the standard 75' deep lot. Lot 2 as proposed would be 32.42 x 75'. Lots 2 and 3 are on Park Avenue and the zoning district on that side of the block is HR-2. Historically the HR-2 was known as the HTO zone, which was the historic transitional overlay from the Main Street uses that tended to spill into the residential HR-1 zone.

Planner Astorga noted that the applicant submitted the plat amendment application, as well as a conditional use permit. He explained that the purpose of combining 550 and 545 Main Street is to accommodate a use that is listed in the HR-2 zone. Planner Astorga stated that the plat amendment and the CUP are related because the special criteria for the HR-2(A) zone applied to both. He stated that the reason for the plat amendment is to accommodate a structure on 550 Park Avenue with a conditional use permit for the structure and residential a parking area with five or more parking spaces for the associated use on the same lot.

Planner Astorga reported that the original application that was submitted was not a plat amendment. It rearranged the lot on Park Avenue but it did not combine the two lots. The applicant had to request a plat amendment to remove the lot line because the use would not work as the April Inn recently received a Historic District Design Review approval to remodel 12 units into 3 units. Planner Astorga pointed out that the April Inn is not a historic building; however when it was approved there was no parking on site. The developer began working with the Staff and paid \$14,000 per parking space in order to move forward with that specific remodel. Planner Astorga remarked that his unique concept was a conditional use permit based upon a building where the main floor and the upper floor would be the single family dwelling, and the lower level would be the parking structure for the uses associated in the HCB zoned lot. The Code allows for this type of request. The

Staff report contained the analysis regarding the special requirements for the HR-2(A). The Staff report for the conditional use permit application outlines the necessary criteria for the Steep Slope CUP, special conditional use requirements, as well as the HR-2(A) criteria.

Planner Astorga reported that a few months ago the City Engineer, Matt Cassel, went before the City Council on behalf of the applicant to see if the Council would grant an easement on the alley to use the property for the lowest level of the structure. He noted that people mistakenly think it is a right-of-way because of the layout, but it is actually City owned property. The easement would allow the structure to only be accessed through Main Street. The City Council indicated that the easement would be granted and they were in the process of drafting the final language.

Planner Astorga reported on a letter he received from John Plunkett that was included as public comment in the Staff report.

Chair Strachan understood that there would be six parking spaces in Lot 1; two would be uncovered and four would be covered. He asked if the uncovered spaces would be off of Park Avenue or toward Main Street.

Jonathan DeGray, representing the applicant, replied that they would be toward Main Street. Planner Astorga reviewed the proposed site plan showing where the parking spaces would be located.

Commissioner Phillips thought the two uncovered spaces already exist because people park cars there. Chair Strachan asked if Lots 2 and 3 would eventually be single family homes. Mr. DeGray answered yes. Commissioner Strachan asked if those homes would have garages. Mr. DeGray answered yes. There would be space for one car in the garage and another car in the driveway. Chair Strachan assumed there would be no access from the easement to those lots. Mr. DeGray replied that this was correct. They would be independent lots accessed off of Park Avenue. Planner Astorga clarified that the six parking spaces belong to the April Inn. The main floor of the structure has separate parking for the house.

Chair Strachan referred to the letter from Mr. Plunkett and he asked if the applicants would be willing to a condition stating that none of the parking that may be built on Lots 1, 2, or 3 for the residential uses could ever be used for the April Inn or any commercial use. He noted that Mr. Plunkett was concerned that if the April Inn parking overflows they could potentially tell people to park in the Park Avenue residence parking.

Paul Colton, representing the applicant, noted that the Code already has that requirement and they were not opposed to adding it as a condition. Planner Astorga noted that per

Code the parking must be below the Park Avenue level. The Staff was comfortable adding a condition of approval to reiterate the Code requirement.

Assistant City Attorney McLean suggested a condition to read, "Parking for the April Inn may only be accessed from Main Street". Mr. Colton pointed out that the only physical access to the parking is off of Main Street.

Chair Strachan also favored some of the other conditions that were suggested by Mr. Plunkett. For example, a condition stating that the emergency exit door for the April Inn could not be used as an entrance. Planner Astorga clarified that he had not added language regarding the door because the building permit for the April Inn shows that the door would be eliminated. Chair Strachan asked if there was any access to the April Inn from the Park Avenue side. He was told there was not. Chair Strachan stated that the fine line between the HR1 and the HCB was difficult to work with and he felt this proposal actually works for the commercial side without impacting the residential on Park Avenue. Commissioner Worel thought it was a creative solution. Commissioner Phillips concurred. It also relieves some of the existing parking pressures.

Chair Strachan opened the public hearing for both the plat amendment and the CUP.

Sanford Melville, a resident at 527 Park Avenue, commented on the letter from John Plunkett and he stated for the record that he fully supported the comments and concerns that were raised in the letter. Mr. Melville was concerned about the four tandem parking spaces on the middle level of the Park Avenue home. A one-bedroom residence was being proposed and he thought it was unusual to have four-car parking for a one-bedroom house. He believed it called into question the ultimate use of the parking. If this is approved, Mr. Melville thought a condition of approval should include a statement that the four car parking could only be used for the Park Avenue residents. Mr. Melville was also concerned about the two garage doors facing Park Avenue for the tandem parking. He referred to the elevation on page 190 of the Staff report. He thought it presented a visual wall of garage doors on the street level which is something Park City has been trying to eliminate from recent projects. Mr. Melville found nothing in the proposal to protect the historic retaining wall at the top of the steps on Park Avenue on the City property. He suggested adding a provision to protect or damage or not undermine the historic wall. Mr. Melville was concerned about the re-routing of the steps leading from Park Avenue to the alley and the City property. He thought it appeared that the applicant was proposing to use almost all of the City property up to Park Avenue as entrances to the lower garage level. The exhibit on page 188 illustrates how they intend to re-route the steps. The existing steps go down into the alley. If the steps are re-routed he was concerned that they would become very steep. Mr. Melville was concerned that the public steps would be sacrificed for the project. He noted that the steps are heavily used by the residents of Park Avenue

and re-routing them would be unfortunate. Mr. Melville believed there were inconsistencies in the drawings as far as whether there would be doors on the six parking spaces or whether it would be an open space. It was unclear from the packet how that would look.

Mary Wintzer, a resident at 320 McHenry, stated that she had not studied this particular item; however, after listening to Mr. Melville she agreed that if this is a one bedroom structure it makes no sense to have the parking. She asked the Planning Commission to scrutinize the project and consider the comment about the stairs being used by the public. If all of this is being facilitated by using City property, that also makes no sense because of the Visioning of small town and historic character. If the applicant has to use City property to facilitate all of this development, she would ask the Planning Commission to look at it carefully because that was not what the citizens in Old Town intended in the Visioning.

Chair Strachan closed the public hearing.

Chair Strachan asked if the four spaces built for the single family homes would only be used by the single family residents, or whether they could be used by April Inn. Planner Astorga stated that per Code, the parking spaces that access off Park Avenue could only be used for the single family dwelling. The HCB uses can only spill over into the HR-2 if it is below the Park Avenue level. Therefore the spaces cannot be used as parking for any of the HCB.

Chair Strachan asked the reason for having four spaces for a one-bedroom dwelling. Mr. DeGray explained that the two tandem garages are locked out. Two spaces are required and dedicated for the residents. The other two are for the building owner. When he rents the building he wants to have a lockout to store his vehicles and other things.

Chair Strachan asked if Lots 2 and 3 would have tandem garages side by side. Mr. DeGray stated that Lots 2 and 3 are individual single family lots that have not been designed. Because of the loss of space on the lowest level to facilitate the parking for the residential units at the April Inn, it would be a very small house that would probably be used as a one-bedroom rental facility. Having extra storage for his uses made more sense than having a 1,000 square foot home.

Commissioner Phillips agreed that it was a lot of stalls for one unit, but he understood that the garage could be used for storage, table tennis, or other uses. However, the garage is supposed to be subordinate in design, but he sees a lot of garage doors facing the street with a subordinate entry. He personally did not believe the garages were subordinate.

Mr. DeGray stated that based on the Staff's input during the HDDR review they created stepping in the front elevations and recesses at the entry and at the garage door to create

movement along the front elevation. Mr. Phillips noted that those techniques are typically used. He was unsure how to define subordinate and asked Planner Astorga if he was correct in understanding that the Code requires garages to be subordinate.

Planner Astorga replied that the General Plan defines the word subordinate, but he was unsure whether there was a specific regulation or policy requiring it. Planner Whetstone noted that the Historic District Design Review Guidelines address garages being subordinate.

Commissioner Phillips understood that the second half of the garage was for the building owner. He asked if it was the same owner of the Main Street property, and if so, whether he could park there and walk down the stairs into the other building. Regardless of whether it is the owner or a tenant they were trying to discourage that type of access. Planner Astorga replied that it was actually prohibited. Mr. DeGray noted that during the plat discussion the Planning Commission had talked about adding a condition limiting the use of the parking garage to the residents at 550 Park Avenue.

Assistant City Attorney McLean noted that Criteria #6 for a Steep Slope CUP outlined on page 170 of the Staff report specifically states that the garage must be subordinate in design to the main Building. Criteria #6 also states that in order to decrease the perceived bulk of the main building, the Planning Commission may require a garage separate from the main structure or no garage.

Mr. DeGray asked Planner Astorga to show the streetscape on page 191 of the Staff report because he thought the west elevation of the building was somewhat deceiving as what is seen from the street.

Commissioner Phillips noted that in the past the Planning Commission has requested that applicants step the garage. He referred to the three homes on page 191 and commented on the percentage of garage doors facing the street. He believed the intent of the word "subordinate" was to keep from having the whole face of the house be the garage. Commissioner Phillips pointed out that the existing house has a single car garage with a nice dominant entry. He was concerned that the entry door of the proposed house would not even be seen driving down Park Avenue because it is recessed, and only the garage doors would be visible. Commissioner Phillips felt strongly that the intent of the Code was to prevent that from occurring.

Assistant City Attorney McLean understood that Commissioner Phillips felt that the double garage door impacts the building form and scale. However, those impacts could be mitigated if, for example, there was one garage door. Commissioner Phillips understood the difficulty of having one garage door because there were two separate

garages. He thought adding windows to the side of the garage would help add some interest to the building driving down the street. Commissioner Phillips offered design suggestions for the applicant to consider. Planner Whetstone suggested the possibility of flipping the entrance and the garage so the entrance would be to the front and the garage would be recessed.

Commissioner Campbell thought that because it was already stepped the two garage doors would not present the unified façade that it appeared to be in the drawing. He believed the applicant had already complied with the intent of the Code by making that step and they were giving up garage space to do it. He suggested that they try to camouflage the garage doors in some way to make it look more like the siding of the house. Commissioner Campbell thought a 3-D model would help better visualize the true effect of the garage doors, because he believed the garages were stepped more than what was showing in the drawing.

Commissioner Worel agreed that the garage doors were not subordinate to the house. She also thought a 3-D model would help.

Chair Strachan read from the Code regarding special requirements for MPDs and Conditional Use Permits in Subzone A. "The commercial portions of a structure extending from the HCB to the HR-2 must be designed to minimize the commercial character of the building and use, and must mitigate all impacts on the adjacent residential uses." He pointed out that it was not the classic "reasonably mitigate" the impacts. In these situations all the impacts must be mitigated. Chair Strachan remarked that the owner was using this as a personal garage to forward a commercial use of renting the unit. He pointed out that under that scenario it was a commercial use and not a residential use. The impact to the adjacent residential uses would be the owner driving up and down Park Avenue to park in the garage when he does not live there. Chair Strachan did not believe the purpose and intent of the garage a residential use that complies with the Code.

Mr. DeGray thought Chair Strachan was misrepresenting the intent of the owner. The owner intended to use the garage purely for storage while he was renting the building whether nightly or monthly. The owner would not be using the garage daily. Chair Strachan remarked that the owner may not have that intent but he could use it on a daily basis. Mr. DeGray agreed, but the purpose is to use it as storage space, which is not prohibited by Code. He clarified that it was not for a commercial enterprise.

Chair Strachan clarified that if this was only for a residential unit, the person designing the residential unit would not opt for four parking spaces for a one-bedroom unit. He believed they would opt to have more bedrooms and two parking spaces. Chair

Strachan stated that the extra garage was obviously for the owner of the residential unit on Lot 1 so he could park there and use it for storage in conjunction with the commercial lot that he owns. He pointed out that in combining the lots Lot 1 becomes a commercial lot. It is residential on the top but the rest is commercial.

Assistant City Attorney McLean recommended that the Planning Commission look at Criteria. She understood that their concern was that the impacts of this design do not coordinate with adjacent properties in terms of preserving of natural vegetation, minimizing driveway and parking areas and provide variation of the front yard. Those concerns were addressed in Criteria #5. She also heard concerns related to Criteria #6 regarding the garage must be subordinate in design to the main building. Another issue was addressed in Criteria 8, the dwelling volume.

Commissioner Campbell stated that the perceived bulk of the garage and the house were intertwined. He believed the only issue was the two garage doors. If one of the garage doors looked like siding you would not be able to tell it was a garage door unless you were up close to it.

Mr. DeGray summarized the direction from the Planning Commission for either re-designing the front of the garage or better portraying what was actually designed. He was willing to prepare a 3-D model showing the shade and shadow and how the garages are stepped back. He would look at creating even further stepping between the garage doors and making the entry to the building proud of the garage doors. He asked if that would be acceptable to the Planning Commission if he came back with a proposal that accomplished those three items.

Chair Strachan suggested that the Planning Commission could forward a positive recommendation for the plat amendment this evening because the design for Lot 1 design works as a good way to access the HCB zone. They should continue the CUP for the single family dwelling and approve the CUP for a parking area with five or more spaces.

Assistant City Attorney McLean pointed out that the Findings for both CUPs were intertwined. She recommended that both CUPs be continued and that the Staff draft separate Findings for each CUP application. She noted that the CUP for parking could be a Consent Agenda item at the next meeting.

Commissioner Campbell clarified that he was personally not opposed to having four cars in the garage. However, he would like the applicant to hide the fact that two-thirds of the front of the house is a garage door. Commissioner Phillips concurred.

Mr. DeGray commented on the landscaping element and noted that the curb cut is limited to the front of the northerly garage door. He would also show that as a street view on a 3-D model.

Chair Strachan requested that the applicant also address the public comments regarding the stairs and how they would be re-routed. Assistant City Attorney McLean stated that she was not aware that the stairs were moving. The stairs are on City property and she asked if they had obtained permission from the City engineer to re-route the stairs. Planner Astorga stated that a condition of approval states that any type of work or remodeling of the City stairs would have to be approved by the City Engineer. Planner Astorga understood that the reason for changing the stairs was to allow for a car to pull in and out of the first driveway.

Mr. DeGray stated that the bottom third of the stairs would be remodeled and the number of rise and run would remain the same. The steepness of the stairs would be the same. Mr. DeGray remarked that historic wall that was mentioned would not be affected at all. Planner Astorga noted that the landscaping would also have to be approved by the City Engineer through the encroachment agreement process. Chair Strachan asked Mr. DeGray to address those issues at the next meeting to allay their concerns and the public concerns.

Commissioner Phillips noted that the stairs are heavily used. He asked about the width of the existing paved area of the alley and whether it would be wide enough to paint a line for pedestrians. Assistant City Attorney McLean stated that they were working on the easement to allow the applicant to use the alley. As part of that they could require designating a pedestrian area to make it safer for pedestrians since they were adding parking for six additional cars.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the Plat Amendment at Cardinal Park Subdivision based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Worel moved to CONTINUE the Steep Slope Conditional Use Permit for construction of a new single-family dwelling at 550 Park Avenue, as well as the Conditional Use Permit for a parking area of five or more spaces to June 10, 2015. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Cardinal Park Subdivision – Plat Amendment

1. The property is located at 545 Main Street and 550, 554, 560 Park Avenue.
2. The property is in the Historic Commercial Business (HCB) and Historic Residential-2 (HR-2) District, respectively.
3. The subject property consists of Lot 1 of the 545 Main Street Plat and Lot 32, 33, 34, and 35 of Block 9 of the Amended Plat of the Park City Survey.
4. The Main Street lot has a non-historic building known as the April Inn and is recognized by Summit County as Parcel 545-MAIN-1.
5. The four (4) Park Avenue lots are vacant and are recognized by Summit County as Parcels PC-137 (lot 32 & 33), PC-131 (lot 34), and PC-138 (lot 35).
6. The proposed Plat Amendment creates three (3) lots of record from the existing five (5) lots.
7. The four (4) existing Park Avenue lots are to be reconfigured into three (3) lots with a depth of seventy-five feet (75') and a width ranging from 32.42' to 35' and the April Inn lot would be combined with the newly reconfigured lot northwest of it.
8. Lot 1 would have two (2) addresses, one (1) for Main Street, the April Inn, 545 Main Street and one (1) for Park Avenue, 550 Park Avenue.
9. Lot 2 would be addressed 554 Park Avenue.
10. Lot 3 would be addressed 560 Park Avenue.
11. Lot 1 would retain the HR-2 District zoning on the Park Avenue side and the HCB District zoning on the Main Street side with all of their associated rights and restrictions.
12. There are no provisions in the Land Management Code (LMC) which prohibit the two (2) Districts within the same lot.
13. A single-family dwelling is an allowed use in the Historic Residential-2 District.
14. The minimum lot area for a single-family dwelling is 1,875 square feet.

15. The area of proposed Lot 1 is 8,425.5 square feet.
16. The minimum lot area in the HCB District is 1,250 square feet.
17. The proposed area of lot 1 within the HR-2 District is 2,625 square feet.
18. The area of proposed Lot 2 is 2,431.5 square feet.
19. The area of proposed Lot 3 is 2,437.5 square feet.
20. The areas of proposed lots meet the minimum lot area for single-family dwellings in the HR-2.
21. A duplex dwelling is a conditional use in the Historic Residential-2 District.
22. The minimum lot area for a duplex dwelling is 3,750 square feet.
23. The proposed lots, including the HR-2 portion of Lot 1, do not meet the minimum lot area for a duplex dwelling.
24. The minimum lot width allowed in the Historic Residential-2 District is twenty-five feet (25').
25. The proposed lot width of Lot 1 within the HR-2 District is 35 feet.
26. The proposed lot width of Lot 2 is 32.42 feet.
27. The proposed lot width of Lot 3 is 32.5 feet.
28. The proposed lots, including the HR-2 portion of Lot 1, meet the minimum lot width requirement.
29. Any provisions regarding lot size regarding Lot 1 shall be governed by the rights and restrictions of their corresponding zoning Districts.
30. The maximum building footprint of lot 1 shall be 1,132.5 square feet. (HR-2 District).
31. The maximum building footprint of Lot 2 shall be 1,060.5 square feet.
32. The maximum building footprint of Lot 3 shall be 1,062.7 square feet.

33.The rear yard setback for Lot 1 shall be measured from the zone line.

34.The current property owner would own everything within these two areas, proposed lot 1, until a Condominium Record of Survey is submitted by the applicant, reviewed and approved by the City and recorded at the County.

35.The Property Owner must protect Significant Vegetation during any Development activity.

36.Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4 ½ ') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

37.The Property Owner must demonstrate the health and viability of all large trees through a certified arborist.

38.The applicant must submit the required report by the certified arborist and that the loss of significant mitigation is replaced on a like per like basis.

39.LMC § 15-2.3-8 indicates special requirements for Master Planned Development and Conditional Use Permits in Sub-zone A, consisting of lots in the HR-2 District that are west of Main Street, excluding those Lots within Block 13.

40.Special requirements apply to Lots in Sub-Zone A that are part of a Plat Amendment that combines a Main Street, HCB zoned, Lot with an adjacent Park Avenue, HR-2 zoned, Lot for the purpose of constructing a residential dwelling or Garage on Park Avenue.

41.The applicant requests to build a residential parking area for the April Inn below grade of Park Avenue projected across the HR-2 and beneath the main floor of a single-family dwelling, a residential structure facing Park Avenue.

42.The proposed structure within the HR-2 portion of the lot meets the minimum side and front yard setbacks of the HR-2 District as stated.

43.The parking structure below the single-family dwelling does not occupy side yard setbacks other than the access leading to it.

44.The proposed structure within the HR-2 portion of the lot meets the building height

requirements of the HR-2 District as stated.

45.The new structure fronting on Park Avenue does not contain commercial uses.

46.Only the lot area within the HCB portion of the lot shall be used to calculate the commercial floor area.

47.The number of residential units allowed on the HR-2 portion of the Development is limited by the Lot and Site Requirements of the HR-2 District as stated in Section 15-2.3-4.

48.The access for the parking structure underneath the single-family dwelling is off Main Street, HCB District, through an easement. The applicant is not asking for a commercial structure. No emergency access onto the HR-2 portion of the property is proposed.

49.Next to the four (4) parking spaces are four (4) small storage areas and also a small mechanical room. The storage and mechanical areas cannot be seen from elevation except from the south side as they are indeed located on the lowest parking level and access from the interior part of this level.

50.The width of the proposed structure is twenty nine feet (29').

51.There are no historic sites or buildings within the proposed plat amendment.

52.The applicant controls the Claimjumper Building located at 573 Main Street, which already received a Plat Amendment approval by the City in 2012, and these same Special Requirements were analyzed, reviewed, and applied, as findings of fact, conclusions of law, and conditions of approval were met.

53.No density transfer is being proposed.

54.Maximum allowed Building Footprint for the HR-2 Lot is subject to Section 15-6-5(B).

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

Conclusions of Law – Cardinal Park Subdivision – Plat Amendment

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 – Cardinal Park Subdivision – Plat Amendment

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' 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. A ten feet (10') wide public snow storage easement will be required along the front of the property along Park Avenue.
4. A note shall be added to the Plat Amendment to be approved in a form by the City Attorney which shall indicate that the any provisions regarding lot size regarding Lot 1 shall be governed by the rights and restrictions of their corresponding zoning Districts and for purposes of lot area shall not be added collectively.
5. Fire sprinklers shall be required for all new construction or substantial renovations, as determined by the Park City Building Department during building permit review.
6. The applicant shall submit the report by a certified arborist per LMC § 15-2.3-15 and that the loss of significant mitigation shall be replaced on a like per like basis.
5. **1893 Prospector Avenue – Master Planned Development for a new building containing 11 residential units on Lot 25b of the Giga plat Replat of Parking Lot F at Prospector Square (Application PL-15-02698)**

Planner Whetstone stated that this project has two applications. One is a master planned development and the second is a conditional use permit. The property is located in

Prospector Square on one of the vacant lots at 1893 Prospector Avenue. There is currently development occurring at 1897 Prospector Avenue. Planner Whetstone stated that a plat amendment called the Giga plat amendment that was approved and recorded and that property is under construction for the Park City lodging on the bottom floor and four residential rental units for employees. Planner Whetstone stated that the lot subject to this application is along the Rail Trail.

Planner Whetstone stated that the MPD is a request to approve a Master Planned Development because there are ten or more units and because the applicants have requested a height exception, which is allowed through the MPD portion of the Land Management Code. She noted that the MPD is reviewed through the criteria in Section 15-6-5 as outlined in the Staff report.

Planner Whetstone stated that the conditional use permit was for residential uses in the GC zone. She explained that the GC zone does not allow single-family or duplexes, but it does allow multi-family that requires a conditional use permit. This particular project is a request for 11 residential units with 12 parking spaces on the lower level but not underneath the ground. The structure is proposed to be on stilts with parking underneath.

Ehlias Louis with Gigaplex Architecture introduced the project architect, Andrew Foster, and Brandon and Mike Schoefield with CDR Development.

Planner Whetstone stated that the Staff report identified some of the criteria for review of the Master Planned Development. She noted that one of the requirements of an MPD is for the Planning Commission to review a pre-MPD for compliance or consistency with the General Plan and the goals of the General Plan that would be applicable in this area, as well as the purposes of the GC zone. The Planning Commission reviewed the pre-MPD on March 25th and found that the concept plans were consistent with the General Commercial Zone and the General Plan concepts.

Planner Whetstone stated that the applicant submitted a full MPD application for 11 residential units. The Staff had reviewed the application against the criteria on pages 226-227. However, one item for discussion was the requested height exception. Page 228 of the Staff report outlined the five criteria for granting a height exception. Planner Whetstone stated that the applicant may request an exception and the Planning Commission may consider an increase in height based on the five criteria.

Planner Whetstone reported that the applicant was requesting a height increase of 6'6". The zone height is 35 and allows an additional five feet for a pitched roof. She noted that the proposed design has a flat roof and the proposed building height is 41'6".

Planner Whetstone reviewed the five criteria for a height exception. Criteria #1 is that the increase in height does not result in additional density or additional floor area. She stated that the lot is in the Prospector Square Overlay and has a density that is based on the floor area ratio or two times the lot area. Under that formula the applicant would be allowed 11,520 square feet. The design as proposed is 11,279 square feet. The floor area includes the required affordable housing. Planner Whetstone explained that the applicant originally proposed ten units; however, with an MPD they are required to meet a housing obligation which is why the MPD is for 11 units. She noted that the affordable housing plan was still being reviewed. The question was whether the affordable housing requirement would be satisfied with two units, which would make the project 9 market units and 2 affordable units; or if it would be satisfied with 1 affordable unit allowing for 10 market units. Planner Whetstone stated that the City Housing Authority was scheduled to hear this on May 28th.

Planner Whetstone reviewed the site plan. She noted that in Prospector Square it is zero lot line development due to the way the development area was platted.

Planner Whetstone noted that the applicant was only requesting the height exception for the eastern roof, which is 30% of the total roof area. The height exception allows for more articulation and open roof areas.

With the exception of the height and a resolution on the affordable housing, the Staff found that the project complies with the criteria for an MPD. The Staff requested that the Planning Commission discuss the height exception, conduct a public hearing and consider approving this application according to the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report.

Ehlias Louis, representing the applicant, provided a global overview statement on how the design concept came about. He stated that due to the replat they had a development agreement with the Prospector Square HOA, which allowed them to do the replat but to include the parking that existed. In order to do that they agreed to build their building on stilts to preserve the amount of parking required. Mr. Louis stated that with the FAR of two, the easiest solution was to build the building on stilts. The first floor would be the actual dimensions of the lot and with a FAR of 2 they could build two of those and have a perfect rectangle. However, from the standpoint of an architect, a rectangle did not add to the flavor of the target market they were looking with the feel they wanted to provide to the residents. Therefore, they looked at what would make sense. The target market is young professionals and even though the units are small they wanted to take advantage of corner views with natural light coming in. Mr. Ehlias pointed out that rather than a rectangle the building would be L-shaped. Again, to create a community feel because it was a zero lot line, they added as much deck space as possible for the residents. However, in order to

provide the amount of livable space that is allowed in the FAR, the most interesting rendition was a design with a third level residency on the eastern side, which pushes the height above the 35' foot height restriction.

The applicants had prepared a 3-D model to demonstrate their vision of an interesting building with a modern design that provides diversity on the Prospector Avenue corridor. It allows them to bring over the bridge to increase the alternate transportation uses of a resort lifestyle for young professionals. Mr. Louis stated that the design challenge was having 10 units coming to an MPD and using the LMC to request a height exception for the eastern side.

Mr. Louis stated that Gigaplex Architects and their partnership are big proponents of the affordable housing initiative in Park City. The requirement is to add 15% of the square footage into the building and they were happy to do so. He pointed out that there were options to delay the affordable housing to a future development or to pay an in-lieu fee. They also had the ability add the affordable housing on-site in the building, which was their preferred approach. Mr. Louis stated that in order to add 1350 square feet to this building, they changed the number of units from ten to eleven to include a studio and a small apartment. He believed they have designed a great solution to what they think is the spirit of the LMC and the MPD for a project like this. It is interesting, it invites questions, it is a modern design, it has open space, it is communal, and it abides by all of the development agreements to move the lot.

Mr. Louis remarked that the main goal was to provide both affordable units within the building rather than pay an in-lieu fee. That approach affords the ability to add more square footage and density to the complex itself. He noted that they were not going to ask for the extra 13,000 square feet on this building to accommodate the deed restricted units. Therefore, the envelope of the building that the Commissioners saw with the pre-MPD stays the same. The result is less market rate square footage, which they were willing to do to put the affordable units in the building.

Mr. Louis stated that they really like their proposed design and believe it is the best solution for the market they were targeting, as well as the greater community in general.

Commissioner Worel thought the 3-D model was helpful to see the difference in building heights. She asked if the other structures on the model were approved under a different LMC and why one structure had a 44.7 foot height. Mr. Louis stated that it was the Suncreek Apartments. He did not believe there has been new residential development in that area for ten or fifteen years. For that reason he was unable to speculate what the LMC allowed at that time. Mr. Louis remarked that they did their due diligence to compare

heights in the area to give the Commissioners an idea of how the requested height exception would fit with what already exists.

Commissioner Phillips pointed out that the applicant was asking for a height exception for one portion of the building; however, other portions of the roof were below the 35' allowed height. He thought it was safe to assume that the average roof height was at or below the maximum allowed.

Planner Whetstone noted that the height of the building under construction at 1897 Prospector as shown on the 3-D model was actually the height of the penthouse and did not need a height exception. The actual height of the main building is 35'. Mr. Louis agreed that the main building is 35'. He clarified that penthouse did not require a height exception because it is a pop-out for circulation and not habitable space.

Chair Strachan opened the public hearing.

Charlie Wintzer stated that he had not intended to speak on this application. However, as someone who typically speaks out against height exceptions this is the first time he has heard a great cause for it. It is in the right location, it is up against the hillside, the uses are right, and the building fits the neighborhood. Mr. Wintzer encouraged the Planning Commission to grant the height exception.

Lincoln Calder, a 30 year resident of Park City spoke in favor of the project. He is a local realtor and given his age and peer group he works with a lot of younger buys with moderate budgets. Mr. Calder stated that currently there is no product in Park City that appeals to young professional buyers at a moderate price. There is an affordable housing option, but young professionals are not interested in deed restricted housing with a price appreciation cap. They want their primary residence to be an investment for a better future. Currently, the young professionals only have the choice of buying at Kimball Junction or other areas within the County. Mr. Calder pointed out that if the City wants a diverse community in terms of income, age and occupation, this project appeals to that group. He thought the City would gain more by granting a small height exception.

Chair Strachan closed the public hearing.

Commissioner Campbell liked the proposed project. He was nervous about setting a precedent by granting the height exception. However, he concurred with Mr. Wintzer that this was the best case for granting height because it is low impact to the neighbors and adds a lot of positives. Commissioner Campbell referred to the comment about young professionals moving to Kimball Junction. He noted that those same people come to Park City on Friday night and they all drive. He could see the people living in this building

walking to restaurants and the grocery store. Commissioner Campbell thought this project was exactly what they need in Park City.

Commissioner Worel appreciated the models. She thought the project was creative and she liked how they included the heights of the surrounding projects to give them a better perspective. Commissioner Worel pointed out that if they had designed a pitched roof the allowed height would be 40'. Therefore, they were only talking about 1'6" more than what was allowed. Commissioner Worel liked the project and thought it was well-done.

Commissioner Phillips liked how the project engages the Rail Trail. In his opinion this project fits the definition of live/work/play. This proposal was one of the best he has seen in his time on the Planning Commission. He thought they should encourage this type of development as a model for other areas of town being redeveloped. Commissioner Phillips suggested the possibility of having a future discussion about allowing additional height in Bonanza Park for these same reasons.

Chair Strachan echoed the comments of his fellow Commissioners. He remarked that the Planning Commission needed to make findings as to why the height exception was appropriate. He thought the evidence was the 70/30 split and that overall the building height was below the 35' maximum.

Commissioner Campbell had concerns with specifying the 70/30 split. If they approve the height exception based on the average height being below the maximum, the next applicant could have a design with an average below the 35' maximum, but it may not meet the other criteria.

Chair Strachan clarified that the Planning Commission needed to have some evidence on the record as to why the height exception was appropriate for this project. The question is whether the additional height increases the volume. If 70% is lower and only 30% is higher, then the dwelling volume is not increased by the height exception.

Assistant City Attorney McLean commented on a potential problem she had just noticed as she was reading through the Code. Under the MPD Section, there are different ways that an MPD applies. She noted that prior to 2013 an MPD was required for any residential project with ten or more lots or ten or more units. However, in 2013 that was changed to ten or more residential unit equivalents. A residential unit equivalent is defined as 2,000 square feet, which is less than what was being proposed. Ms. McLean clarified that in this case the MPD did not appear to be required and there were no commercial uses proposed.

Assistant City Attorney McLean stated that another section talks about when an MPD is allowed but not required. She read from subsection 2, "The Master Planned Development

process is allowed but is not required when the property is not part of the original Park City Survey or Snyder's Addition to the Park City Survey.....and the proposed MPD is for an affordable MPD consistent with Section 15-6-7 herein." Ms. McLean was unsure whether that was the intent and she wanted the opportunity to look at the amended ordinance when this was suggested to see if there was a typo and that the "and" was supposed to be an "or" for affordable housing.

Assistant City Attorney McLean apologized for not catching this situation sooner, but when she first saw this project she thought the MPD was required because there were more than ten units. She found her mistake when she was reading the Code for another project. Ms. McLean stated that legally she was uncertain whether the City could permit this to be an MPD. She preferred to take the time to research it further to make sure that it was an allowable application.

Planner Whetstone suggested that Ms. McLean look at Section 1, Allowed but not Required, because that was where it fell under when it was discussed with the former Planning Director. Ms. McLean believed there was consensus that the MPD was not required under Item A. Subsection 1 that Planner Whetstone referenced states that, "The Master Planned Development process is allowed but is not required in the historic residential and historic residential HR1 and HR2 zones, only when the HR1 or HR2 zone properties and combined with adjacent HCB or HRC zoned properties. Height exceptions will not be granted for master planned development in those and other zones." Ms. McLean could not see what Planner Whetstone relied on when talking with the former Planning Director.

Chair Strachan clarified that the applicant may not need an MPD and the plat amendment was already approved. Ms. McLean explained that they might not need an MPD, and an MPD may not be allowed or available to them under the Code. She understood that part of the reason for seeking an MPD was the ability to request a height exception. She thought it looked like a great project and again apologized to the applicants and the Commissioners for raising the issue this late in the process. However, she was not comfortable having the Planning Commission vote on something that may not be allowed by Code.

Commissioner Campbell asked if there was another mechanism to allow for a height exception besides the MPD. Ms. McLean could not find another mechanism in the GC zone if the space is habitable.

Commissioner Worel wanted to know how much parking was required for the entire area. Mr. Louis stated that 103 spaces were required by the development agreement with the Prospector Square Property Owners Association. Without parking under the proposed building 12 spaces would be lost, reducing the parking to 91 spaces.

Planner Whetstone noted that there was also a flood plain issue. Mr. Louis stated that the flood plain issue was currently being studied by Gus Sherry. Mr. Louis has been working with Mr. Sherry and Matt Cassel. Mr. Sherry had not completed his study but he did not believe there would be an issue with the flood plain. Mr. Louis remarked that the flood plain was one reason for the stilts concept. They could not build habitable units below the base flood elevation.

Mr. Louis stated that the MPD process was started on December 15th and they were unaware that it would take this long. They understood the process, but they were now on a limited time-frame because of the Park City Lodging building that is under construction. Mr. Louis preferred to have a yes or no answer from the Planning Commission. If the answer is no, unfortunately they would lose the affordable units and possibly the bridge, and they would be forced to build a box with larger condos. Mr. Louis reiterated that they could not afford to wait much longer to start building.

Commissioner Worel asked if the Planning Commission could approve the MPD conditioned on legal findings. For example, if Ms. McLean found that the MPD could move forward the applicants could begin work without coming back to the Planning Commission. If the MPD is not legal then the applicant would know to pursue a different approach.

Assistant City Attorney McLean was hesitant to have the Planning Commission to take an action on something that did not appear to be permissible from the evidence she found this evening. She preferred to continue this item to the next meeting to allow time to see if there was something that could be done to help the applicant. Ms. McLean believed the Staff and other have the mindset that ten units or more requires an MPD; however, that requirement changed in 2013. She recognized that there were a number of benefits for this MPD and she was sorry that neither she nor the Staff had caught the mistake before this.

Assistant City Attorney McLean took a few minutes to pull up the ordinance from 2013 and found that the word "and" was not a typo. She was hoping that the ordinance language would say "or" but it did not. She reiterated her recommendation to continue this item to the next meeting to allow for more research. If it is allowable, the Staff had the findings ready to move forward with an approval.

Assistant City Attorney McLean suggested that the Planning Commission could take action on the CUP this evening because the outcome of the MPD would not affect the CUP. Mr. Louis stated that if they could get approval for the CUP they could at least begin designing the rectangular building, which is what they would most likely build if they could not get the height exception.

MOTION: Commissioner Worel moved to CONTINUE the Central Park City Condos – Master Planned Development for a new building containing 11 residential units on Lot 25B of the Giga Plat replat of Parking Lot F at Prospector Square to May 27, 2015. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

6. **1893 Prospector Avenue – Conditional Use Permit for residential uses in the General Commercial (GC) zone for a new building containing 11 residential units on Lot 25b of the Giga plat Replat of Parking Lot F at Prospector Square (Application PL-14-02584)**

Chair Strachan opened the public hearing.

There were not comments.

Chair Strachan closed the public hearing.

Chair Strachan stated that based on the MPD discussion, he was comfortable approving a conditional use permit based on the findings of fact, conclusions of law and conditions of approval found in the Staff report. The Commissioners concurred.

MOTION: Commissioner Phillips moved to APPROVE the Conditional Use Permit for residential uses for Central Park City Condominiums based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1893 Prospector Avenue - CUP

1. The subject property is located at 1893 Prospector Avenue and consists of Lot 25b of the Gigaplat replat, a replat of Lots 25a, 25b, and Parking Lot F of the Prospector Square Supplemental Amended Plat.

2. The Gigaplat replat was approved by City Council on June 5, 2014. The final mylar was recorded on May 1, 2015.

3. Lot 25b is a vacant, undeveloped privately owned development lot.

4. The property is located in the General Commercial (GC) zone and within the Prospector Square Subdivision Overlay.
5. On December 15, 2014, Staff received an application for a pre-MPD for the Central Park City Condominiums project located in the General Commercial zoning district. The application was considered complete on February 24, 2015.
6. On February 24, 2015, the applicant submitted a complete application for the Conditional Use Permit for residential uses in the GC District. The CUP application was revised on April 13, 2015 to incorporate the required affordable unit, bringing the total number of residential units to eleven.
7. On March 25, 2015, the Planning Commission conducted a public meeting on the pre-MPD and Conditional Use Permit application. The Commission found that the pre-MPD preliminary concept plans were consistent with the General Plan and GC Zone. The Conditional Use Permit application was reviewed and continued to the May 13, 2015 meeting.
8. In the General Commercial (GC) zoning district, residential uses, including multi-dwelling units, are required to be reviewed per the Conditional Use Permit criteria in the Land Management Code (LMC) and require approval by the Planning Commission. Retail and offices uses are allowed uses in the GC zone.
9. An FAR of 2 is allowed for buildings within the Prospector Square Subdivision Overlay.
10. The building consists of approximately 11,279 sf of residential uses and circulation area. The proposed FAR is 1.96. There are seven units at approximately 810 sf, three units at 1,017 s, and one studio unit at 500 sf. The units are designed to be smaller, attainable market rate dwelling units for full time residents. At least one and potentially two units will be deed restricted affordable unit depending on the Housing Authority's approval.
11. Allowing smaller residential uses in an area of high employment opportunities and within walking distance of the bus lines, shops, restaurants, schools, and recreation amenities is one method of mitigating vehicular trips of residential uses.
12. The capacity of streets, intersections, and shared parking lots were designed with the Prospector Square planned area to accommodate build

out of all the development parcels. There are no significant traffic impacts associated with the proposed uses as build out of these platted lots is anticipated with the Prospector Square Subdivision approval. Office and retail uses are allowed to be constructed on this lot without approval of a Conditional Use Permit.

13. Utilities necessary for this use are available at or near the site. Prior to recordation of the plat amendment for this property a utility plan and utility easements will be approved by the City Engineer and utility providers.

14. Any additional utility capacity, in terms of fire flows and residential fire sprinklers will be reviewed by the Fire District, Water Department, and Building Department prior to issuance of a building permit and prior to recordation of the subdivision plat. Necessary utilities and upgrades shall be installed as required by the City Engineer.

15. The proposed development will not interfere with access routes for emergency vehicles.

16. The residential uses create a reduced parking impact from the allowed uses of retail and office. Parking demand (in terms of timing) for residential uses is generally opposite the demand for retail and office uses.

17. There are 91 existing parking spaces within Parking Lot F. Parking within Prospector Square is shared and upon completion of the reconfigured Parking Lot F, there will be a total of 103 parking spaces, including the 12 spaces located under the building, as per the Owner's parking agreement with the Prospector Square Property Owner Association. All 103 parking spaces are intended to be shared parking per the parking agreement.

18. Internal vehicular and pedestrian circulation system includes existing sidewalks along Prospector Avenue, a Prospector Association walkway located to the west of the parking lot, and the Rail Trail bike path located to the south, with informal access that will not be altered. Circulation within the Parking Lot will be improved with the reconfigured parking lot.

19. A pedestrian bridge connection to the Rail Trail is proposed from the building. The Rail Trail is owned by State Parks and certain permits and/or encroachment agreements will be necessary in order to construct the bridge. The bridge will not be constructed if necessary agreements and easements are not secured.

20. No outdoor storage of goods or mechanical equipment is proposed.
21. No fencing is proposed.
22. The three and four story building is proposed to be located north of the Rail Trail fully within platted Lot 25b. The Prospector Overlay within the GC zone allows zero setbacks to property lines. The building is oriented towards the Rail Trail and is separated from the Rail Trail and adjacent buildings so as not to cause adverse shadowing on any existing units, or on the Rail Trail.
23. The building includes façade shifts on all elevations. Residential uses are located on the second, third, and fourth floors with common outdoor terraces and green roof elements oriented to the south.
24. Maximum building height in the GC zone is 35' and the applicant has requested through the MPD application, a building height exception of six feet six inches (6'6") for 30% of the roof for the eastern portion of the building to a height of 41'6". The remainder of the building roof (70%) is less than the allowed building height. The building would not exceed the allowable density or maximum floor area ratio (FAR of 2) as allowed by the GC zone.
25. No changes to the existing open space within the Prospector Square planned area are proposed with the residential uses. The new building is proposed to be constructed on an existing re-platted lot. Common decks and terraces are provided as open areas for the units to share.
26. The physical design of the building, in terms of mass, scale, style, design and architectural detailing complies with Title 15-5-5- Architectural Design Guidelines of the Land Management Code and is compatible with the surrounding buildings. The proposed building is contemporary and distinct in design and compliments the variety of building styles in the area. Materials consist of wood, metal, concrete and glass. Green planted roofs and roof terraces provide outdoor space for the residents.
27. No signs are proposed at this time. All signs are subject to the Park City Sign Code.
28. Exterior lighting will be reviewed at the time of the building permit review.
29. The residential uses will not create noise, vibration, odors, steam or other

mechanical factors that might affect people and property off-site.

30. The applicants propose to design and construct an enclosure for the existing trash dumpster located at the southwest corner of the parking lot. The service area within the enclosed parking area will include a recycling area.

31. There are no loading docks associated with this use.

32. If the owner desires to sell individual units in the future, a condominium record of survey plat will need to be applied for and recorded at Summit County.

33. The proposal exists within the Park City Soil Ordinance Boundary.

34. The development is located in a FEMA Flood Zone A.

35. The development is located adjacent to a stream with wetlands.

36. The findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 1893 Prospector Avenue – CUP

1. The application satisfies all Conditional Use Permit review criteria for residential uses as established by the LMC's Conditional Use Review process [Section 15-1-10(E) (1-15)] and all requirements of the LMC.

2. The use as conditioned will be compatible with surrounding structures in use, scale, mass, and circulation.

3. The use as conditioned is consistent with the Park City General Plan.

4. The effects of any differences in use or scale have been mitigated through careful planning and conditions of approval.

Conditions of Approval 1893 Prospector Avenue - CUP

1. All standard conditions of project approval shall apply to this project.

2. Any signs associated with the use of the property must comply with the City's Sign Code.

3. No outdoor storage of goods or mechanical equipment is allowed on-site.

4. Review and approval of a final drainage plan by the City Engineer is required prior to building permit issuance.
5. Review and approval of the final utility plans for 1893 Prospector are required prior to building permit issuance.
6. Prior to issuance of a certificate of occupancy for the building, the reconfigured Parking Lot F shall be completed, including paving, striping, and landscaping.
7. Building Height shall be verified for compliance with the approved MPD plans prior building permit issuance.
8. The Construction Mitigation Plan, submitted prior to building permit issuance, shall include detailed information regarding coordination of utility installation, reconstruction of Parking Lot F, and the provision of any required interim parking during construction.
9. Prior to issuance of a building permit for construction of the proposed pedestrian bridge connection to the Rail Trail all required permits and/or encroachment agreements shall be obtained from the State Parks property owner and the City.
10. A stream alteration permit and/or 404 permit will be required for any work in the stream area.
11. An elevation certificate will be required showing that the lowest occupied floor is at or above the base flood elevation.
12. A stream study will be required to determine the upstream and downstream flood plain impacts. Impacts will be required to be mitigated.
13. A wetland delineation study by a certified wetland delineator will be required prior to building permit issuance to verify if any wetlands will be disturbed with construction of the building.
14. As part of the final utility plan and prior to issuance of a building permit, the water system must be modeled to verify that adequate fire flows and pressures can be provided to this building and whether water line upgrades are required.
15. All exterior lighting on the terraces and porches shall be reviewed by the

Planning Department with the Building Permit application and shall be subdued, down directed, shielded, and with no exposed bare bulbs.

16. All conditions of approval of the Master Planned Development for 1893 Prospector Avenue apply to this Conditional Use Permit.

7. **Land Management Code Amendment regarding Nightly Rentals use in the HR-L Chapter 2.1 and green roof definition and application in HR-L Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15**

Nightly Rentals in the HR-L East District

Planner Astorga stated that the Planning Department initiated this request based on many discussions the Staff has had with residents in the HR-L East District. He explained that he was calling it HR-L East because there are two sections in town with HR-L zoning. One is known as the McHenry neighborhood and the other one is by King Road and Sampson Avenue. Because of the proximity to PCMR, the Staff decided not to include the HR-L West district in this discussion. Therefore, only the McHenry neighborhood was being addressed this evening.

Planner Astorga noted that the first page of the Staff report had the definition of a nightly rental. In addition, there were conclusions of law for each conditional use permit and the 15 mitigating review criteria for the CUP. Planner Astorga stated that another relevant point was the parking requirement for a nightly rental, which is triggered by the seventh and eighth bedroom. He explained that a house with six bedrooms has the same parking requirements as the dwelling, which are two spaces, and that has always been a major issue. Planner Astorga remarked that nightly rentals are allowed everywhere in Park City with the exception of the HR-L District, which requires a conditional use permit. They are also prohibited in the SF District where there are some exceptions throughout.

Planner Astorga stated that the Planning Department felt it was time to review nightly rentals to see where the Planning Commission stands on the issues. The Staff will come back on June 24th with a more appropriate analysis. As indicated in the Staff report, the intent is to survey all of the residents in the HR-L District regarding their thoughts on nightly rentals. Planner Astorga noted that if the City decided not to allow nightly rentals they would be creating a legal non-conforming use. The Staff would also come back with a thorough General Plan analysis. Planner Astorga asked the Planning Commission whether other studies or analyses should be conducted.

Planner Astorga stated that the Staff had drafted a pending ordinance for the nightly rental portion of the proposed LMC amendment. The pending ordinance allows the City to put a hold on any conditional use permits for a nightly rental in this District.

Chair Strachan asked what needed to be done to solidify the pending ordinance to avoid a rush of applications. Planner Astorga clarified that the pending ordinance was in effect and no action was required by the Planning Commission. He explained that it would eventually need to be acted on by the City Council, but the ordinance goes live as soon as it is noticed and published on the agenda. Planner Astorga remarked that the pending ordinance did not require a noticing letter, but because the District is small he planned to send a letter to the property owners.

Planner Astorga stated that this was a legislative item and the Planning Commission had the ability to make a recommendation to amend the Code. The original intent could be reconsidered from the standpoint of the current situation of the use, the neighborhood, and the impacts.

Green Roofs

Planner Astorga noted that there was not a pending ordinance for the green roof discussion. Green roofs were introduced in the City in 2009. However, in 2009 the City did not address active versus passive space, and accessible versus non-accessible, and that has presented a challenge for the Planning Department.

Commissioner Worel recalled that the Planning Commission has had issues regarding green roofs with past applications. Planner Astorga noted that the project discussed this evening for 550 Park Avenue had a green roof, but it was passive and non-accessible. He reiterated that the City decided to allow green roofs with the 2009 LMC amendments.

Commissioner Worel asked how many houses in the District have six bedrooms. Planner Astorga was unsure. He stated that the minimum lot size in the District was 3750 square feet, which is the equivalent of two old town lots. Therefore, the houses are larger than in other parts of town just because the minimum lot size is doubled. He offered to do the research on the number of bedrooms if the Commissioners thought it was necessary.

Chair Strachan opened the public hearing for nightly rentals.

Mary Wintzer explained that the HRL zone was created for McHenry Street, but not all of Rossi Hill. It is a dead-end street with extremely poor access. They are the last bastion of full-time residents. Because they were full-time residents, for their protection and the safety of their families, as well as trying to preserve the spirit of McHenry Street as a

neighborhood, the City created the HR-L zone sometime around 1979 or 1980 specifically for McHenry Street. Ms. Wintzer was not sure what happened but sometime between 1981 and 1984 it was taken away. There were 13 homes and no one received notice or they would have spoken to it. Ms. Wintzer believed it was a bureaucratic snafu that on the map they no longer had the designation of no nightly rentals. Ms. Wintzer stated that their property values are higher because they are a full-time neighborhood and do not have nightly rentals. They were also different from other Old Town neighborhood because they have more open space and smaller homes on larger lots. Ms. Wintzer stated that a few years ago when they created the Rossi Hill subdivision for some of the houses on the east side of the road, the Planning Director asked them to cap the size of homes that could be built on those lots. She owns two houses and they gladly did that because of the spirit and how they feel about Old Town and their neighborhood. Ms. Wintzer remarked that they did that with the promise that they would be helped to maintain this full-time neighborhood status with no nightly rentals. Currently, the homes that are second homeowners are owned by people who have a goal to live in Park City full time. Ms. Wintzer had contacted as many of those owners as possible and no one was opposed. They all have nice houses and have no interest in renting them nightly.

Ms. Wintzer just wanted the Planning Commission to understand the reason why nightly rentals were only prohibited on McHenry Street, and that it does not take away from Old Town or the nightly rentals. She asked the Planning Commission to consider giving it back so they can return to what they always wanted to be and what they were for several years.

Chair Strachan closed the public hearing.

Commissioner Worel asked for clarification if nightly rentals became a non-conforming use in the District. Planner Astorga explained that as long as the dwelling is actively being used for nightly rental the use can remain, even if the dwelling changes ownership. It is typically tracked through the business license. The business license has to lapse one year before the use loses its non-conforming status.

Commissioner Phillips stated that he lives in Old Town and he understands the situation. He believes they have lost their neighborhoods and it has completely changed in the short time he has lived there. He sees this as preserving a neighborhood the same as they would preserve a house. Commissioner Phillips understood why the HR-L West was excluded, but he would be interested in knowing whether that neighborhood has the same sentiment as those on McHenry Street.

Planner Astorga reiterated that they were only excluded from this discussion because of the proximity to PCMR. The Planning Commission could include that area in their discussion if they wanted, but the process is that the City Council would have the final say.

Planner Astorga thought some residents on that side of the HRL would like to remove the nightly rental conditional use. He suggested that they could schedule neighborhood meetings to get a better feel for the sentiment of the majority.

Planner Astorga summarized that the Staff would do a neighborhood survey of nightly rentals and they would do a thorough General Plan analysis. He asked if the Commissioners wanted to see any other studies or surveys.

Chair Strachan thought it was important to have the broader discussion regarding nightly rentals throughout Old Town. He did not want to hold up the pending ordinance because he thought it was the right thing to do for this zone. However, once that is done, there should be a broader legislative discussion on whether nightly rentals in Old Town should be frozen. The Commissioners concurred.

Commissioner Phillips agreed that the McHenry Avenue issue should be addressed first and separately. He thought it was clear-cut and prohibiting nightly rentals for that neighborhood was wise.

Planner Astorga requested discussion on green roofs. He stated that the definition of a green roof was included in the definition section of the LMC. The Staff report outlined the roof pitch that currently exists in the Code and that the primary roof must be between 7/12 and 12/12 pitch. A green roof may be below the required 7/12 as part of the primary roof design. He noted that the Planning Department was seeing more applications for green roofs. He believed the evolution of design was taking that direction with mountain architecture. Planner Astorga remarked that the Staff has had discussion with neighbors regarding the active space versus passive space. For example, the Code does not prohibit people from sunbathing on the roof. The Code is very unclear on uses. He asked the Planning Commission if the uses should be clarified or whether they even care.

Chair Strachan did not believe a green roof should be counted as open space. On the issue of active versus passive, he preferred active because it is better when people use them.

Planner Astorga assumed the Planning Commission could recommend adding a sentence to the definition of a green roof stating that, "Green roofs shall not count towards the open space calculation." Assistant City Attorney McLean replied that they could recommend that additional language to the City Council.

Commissioner Campbell disclosed that he was currently building two projects with active green roofs; one of which might be the genesis of this discussion. He did not believe it

would affect his ability to speak to the technical aspects of green roofs. He had consulted Ms. McLean and she did not think he needed to recuse himself from the discussion.

Commissioner Phillips disclosed that he was designing his house with a flat roof, but he was unsure at this point whether it would be a green roof.

Planner Astorga stated that when the Code was clarified two years ago, item 1 was added regarding green roofs. "A structure containing a flat roof shall have a maximum height of 35' measured from the lowest floor plane to the highest wall top plate that supports a ceiling joist or roof rafters". He noted that it was the 35' rule. However, the language further states, "The height of the green roof including the parapets, railing or similar features shall not exceed 24 inches above the highest top plate mentioned above." Planner Astorga stated that this regulation only works if it is a passive roof. If it becomes an active roof by building an accessible staircase going up to it, the railing must be increased to 36 inches.

Commissioner Phillips did not believe they should allow a railing to go any higher than what was already stated. If the roof is going to be active and there is not enough room, then the roof needs to be lowered. Planner Astorga asked if they could do it under the 27' rule, which is the situation they recently encountered.

Planner Astorga clarified that he was not looking for answers this evening, but he did want the Commissioners to think about it for the discussion on June 24th. He hoped the full Planning Commission would be in attendance for that meeting to hear everyone's ideas and opinions. He reiterated that the Planning Department was getting more and more requests for green roofs. For that reason, Commissioner Worel thought they needed to figure it out and make decisions fairly soon. Commissioner Phillips commented on the number of green roofs already being built around town.

Planner Astorga stated that since the Code does not address passive or active, the Staff interprets that to mean that either one can be approved as long as it meets the current regulation for height. Assistant City Attorney McLean recalled that there was a slight exception for railing under the Code. Planner Astorga replied that it was 24'. That was done for the purpose of adding articulation on a possible parapet.

Commissioner Phillips asked if the Staff could do an analysis of some of the homes being built with green roofs to see if they could learn anything from what has already come to fruition. Assistant City Attorney stated that the Planning Commission should also provide input to help the Staff craft language. She believed it came down to the height issue and whether or not the roof can be an active area. She pointed out that these were policy issues that could be determined. Ms. McLean agreed that the Code needed clarification.

Chair Strachan thought the Planning Commission could provide firm direction on whether or not green roofs should be allowed and whether they could be active. He believed there was consensus that active green roofs should be allowed. The Staff would have the burden of determining what types of active uses would be allowed.

Commissioner Campbell pointed out that green roofs are expensive to put in and they need a lot of maintenance. He thought it would be irresponsible to make it unsafe for people to maintain the roof, and noted that it may not always be a trained worker with a harness. Homeowners will be on their flat roof putting in vegetable gardens or flower pots. He emphasized that safety is a factor.

Chair Strachan thought there should also be percentages of impermeable surfaces versus permeable surfaces. Commissioner Phillips suggested that screening may be another item for discussion.

Planner Astorga stated that there were three different scenarios in three different parts of town that he could come back with to show the massing, etc., that might help them tighten the regulations.

Chair Strachan felt strongly that an active green roof needed to be a conditional use in Old Town to mitigate the impacts to the neighbors.

Assistant City Attorney McLean recommended that the Commissioners provide input in terms of the height, and whether fencing or railing should be included in the overall height. She noted that it is included now, but there is a 2-foot height exception. Planner Astorga clarified that the 2-foot rule was above the 35' foot. They would still not be able to break the 27-foot height even with the railing. Commissioner Phillips remarked that the railing should not be allowed to break the 27' plane. He did not believe this should be an exception. Commissioner Campbell disagreed because he believed people would push the deck of the roof up higher and leave off the railing. It would push them into what he considers to be an unsafe condition. Ms. McLean understood that the Building Department would not allow access to a roof without railing.

Chair Strachan suggested that it would be worthwhile for the Staff to draft height exception language with conditions that have to be met. At that point the Planning Commission could decide whether they did not want to allow a height exception or whether the conditions could adequately mitigate the problems. He thought it should be clear for the next meeting that there was no consensus from the Commissioners this evening and that their comments were primarily brainstorming.

Chair Strachan opened the public hearing on green roofs.

Charlie Wintzer stated that the green roof came to the Planning Commission through the City Council. It was never brought to the Planning Commission, and they first found out about it when they received an application for a green roof. The Planning Commission wrote the definition of a green roof because they did not believe it was appropriate to have people on a deck five feet from their property line. It also made the houses bigger, so they were trying to deal with the mass and scale of the buildings and give some privacy on the side yards of houses. Mr. Wintzer remarked that if they allow green roofs to become habitable space it impacts their neighbors. He did not believe it was appropriate in Old Town to have habitable spaces on a roof. If someone wants a deck they can put it in their back yard, which is 15 or 20 feet away from the property line.

Chair Strachan stated that Mr. Wintzer had reminded him of some of the history. Currently there are no controls over someone building a large deck and partying on their deck. It is not a conditional use.

Mr. Wintzer replied that the control is that people will not give up the living space in the house to build a larger deck. If people want a deck they will make their house smaller. However, if they allow green roofs to be habitable space, people will build bigger houses. Mr. Wintzer was concerned that people who go to sleep at a reasonable hour are impacted by someone in a nightly rental partying on the roof. The noise would be heard all over town. He urged the Planning Commission to look at it closely because it would be a problem.

Chair Strachan closed the public hearing.

Commissioner Phillips stated that Mr. Wintzer's comment was his reason for suggesting that they keep everything as low as possible. If they do not have the room for it they will not lose living space.

Chair Strachan stated that the Planning Commission would discuss the issues at the June 24th meeting with the full Planning Commission and make some decisions.

Planner Astorga stated that he would come back with a pending ordinance language. Chair Strachan thought a pending ordinance may be going too far. Assistant City Attorney McLean suggested that if they have language it would be easier for the Planning Commission to revise and amend it, as opposed to waiting another month.

Chair Strachan preferred to wait for the full Planning Commission before directing the Staff to come forward with an ordinance. He thought it was premature to provide that direction.

MOTION: Commissioner Phillips moved to CONTINUE the LMC Amendments for Nightly Rental in the HRL East District and green roofs in the Historic Residential and the RC Districts to June 24, 2015. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Park City Planning Commission meeting adjourned at 9:00 p.m.

Approved by Planning Commission: _____

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 10, 2015

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Doug Thimm

EX OFFICIO:

Planning Manager Kayla Sintz, Kirsten Whetstone, Planner; Francisco Astorga, Planner; Christy Alexander Planner; Makena Hawley; Planning Technician; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Worel who was excused.

ADOPTION OF MINUTES

May 13, 2015

The Planning Commission lacked a quorum of members who had attended the May 13, 2015 Planning Commission Meeting. The minutes were continued to the next meeting

MOTION: Commissioner Phillips moved to CONTINUE the minutes of May 13, 2015 to the next meeting. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

May 27, 2015

Commissioner Joyce moved to APPROVE the minutes of May 27, 2015 as written. Commissioner Thimm seconded the motion.

VOTE: The motion passed. Commissioner Strachan abstained since he was absent from the May 27th meeting.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

The Staff presented the new public noticing signs for projects that would be posted on properties. Seventy signs were ordered.

Planning Manager Kayla Sintz stated that at the last meeting she told the Commissioners that City Engineer Matt Cassel would provide a capital improvements update. However, due to the length of the agenda this evening his update was moved to the June 24th meeting. Ms. Sintz noted that a representative from the Building Department would also be present on June 24th to do a work session on construction mitigation plans.

Planning Manager Sintz reminded the Planning Commission of the dinner at the Mayor's house on Tuesday, 5:30 p.m.

Planner Manager Sintz reported on a growth discussion called What's Next at the Santy Auditorium on Monday May 15th, from 5:45 to 8:00. The Mayor and Tim Henney will be presenting, as well as Envision Utah, followed by roundtable discussions.

Commissioner Phillips disclosed that he owns a lot at Victory Ranch, but he is not a Club member. He does not have a stake in 875 Main on the agenda this evening and it would not affect his ability to discuss and vote on the matter.

Commissioner Phillips disclosed that he would be recusing himself from the Alice Claim matters on the agenda this evening due to past relationships with the owner. To be fair to both the public and the applicant he was not 100% confident that he would be able to remain objective.

Commissioner Phillips noted that the Planning Commission would be discussing hot tubs this evening under the LMC amendments. He disclosed that he has a non-compliant hot tub at his home.

Commissioner Phillips disclosed that he was currently designing an addition on his home that his less than 1,000 square feet. Proposed language under the LMC amendments would change the requirements for a CUP; however, the new language would not put him under the CUP requirements and it would not affect his application. Commissioner Phillips believed he could be objective in the discussion this evening.

Commissioner Band disclosed that she would be recusing herself from 7101 Stein Circle because Stein Eriksen Lodging Management Company owns the brokerage she works for.

Commissioner Thimm disclosed that in the past he he has worked both professionally and collaboratively with Greg Brown, a representative for the Alice Claim applicants. However, they have no current business dealings and he felt that he could remain objective.

Chair Strachan disclosed that Joe Tesch, a representative for the Alice Claim applicants, contacted him a number of months ago to discuss the Alice Claim application. The conversation was non-substantive, but he thought it should be disclosed.

CONTINUATIONS (Public hearing and continue to date specified)

1. 259, 261, 263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk, Subdivision Plat – Amending Conditions of Approval on Ordinance No. 06-55.
(Application PL-15-02665)

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE 259, 261, 263 Norfolk Avenue to June 24th, 2015. Melissa Band seconded the motion.

VOTE: The motion passed unanimously.

2. 550 Park Avenue – Steep Slope CUP for Construction of a new single-family dwelling and a Conditional Use Permit for a parking area with five or more spaces.
(Application PL-14-02451 and PL-15-02471)

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Band moved to CONTINUE 550 Park Avenue Steep Slope Conditional Use Permit to an uncertain date. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

CONSENT AGENDA

1. 936 Empire Avenue – Modification to the Steep Slope Conditional Use Permit for a new single-family home on a vacant lot. (Application PL-15-02618)

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to APPROVE the Consent Agenda. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 7101 Stein Circle – Stein Eriksen Residences Condominium Plat Amending the North Silver Lake Condominium Plat (Application PL-15-02680)

Commissioner Band recused herself and left the room.

Planner Francisco Astorga reviewed the application for an amendment to a record of survey for the plat that was approved by the Planning Commission and City Council last year known as the North Silver Lake plat condominium record of survey. Planner Astorga stated that due to market demand and buyer request revisions, the applicant was requesting to adjust the building envelopes.

Planner Astorga noted that the newly updated address based on the last plat amendment from last year was 7101 Stein Circle. It used to be 1701 North Silver Lake Drive. The Staff report included history going back to the former appeal from 2010. The Staff did not find that the requested condominium plat affects any of the former determinations as all of the current and former conditions of approval shall continue to apply.

Planner Astorga presented an exhibit showing the actual plat itself and the requested plat amendment outlined in red. He noted that Unit 6 was supposed to be a duplex; however, instead of a duplex they decided to build a larger home. The perimeter footprint is primarily the same and the Staff finds that it is in substantial compliance with the 2010 conditional use permit. Planner Astorga pointed out that the footprint of the north building was changing and getting little smaller.

Planner Astorga stated that as the Staff reviewed the plat they found that none of the units were getting taller from what was originally recorded from the 2014 approval. He referred to an exhibit on page 130 of the Staff report comparing the estimated square footage of each unit with the square footage recorded in 2014. He noted that some of the common areas got bigger to accommodate for specific columns, which accounted for the -124 for the multi-dwelling units. The commercial units were increased 161 square feet. The

residences on the perimeter homes were larger at 6,000 square feet. However, spreading that out over 14 single family dwellings was not a significant change and substantially complies with the original approval.

Planner Astorga reported that the plan is for the applicant to retire the current North Silver Lake Condominium Plat and record the newly updated plat.

The Staff requested that the Planning Commission 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 in the Staff report.

Commissioner Joyce understood Planner Astorga to say that the duplex on Lot 6 would become a bigger house. He thought it was actually taking a larger home and making it into a duplex. Planner Astorga stated that Commissioner Joyce was correct.

John Shirley, representing the applicant, explained that originally it was a duplex and for the plat that was currently approved it was converted to a single family home. It was not converting back to a duplex. Mr. Shirley stated that it was also the reason for the square footage change. The square footage was reduced for the single family home and it was increased back to where it was for the duplex.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Joyce understood that before he became a Planning Commission the North Silver Lake project was negotiated down to every detail. This is the second time it has come back to the Planning Commission for changes driven by the market. He asked the Commissioners who were part of the original process to inform the Commissioners who were not involved if changes come back that conflict with the original approval.

Chair Strachan agreed that the project was negotiated in detail. However, the change requested this evening were minimal and it is important to give developers some flexibility when necessary. Commissioner Thimm agreed that the changes were not substantial. Commissioner Campbell and Phillips concurred.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for 7101 Stein Circle, the Stein Eriksen residences Condominium Plat based on

the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously. Commissioner Band was recused.

Findings of Fact – 7101 Stein Circle

1. The site is located at 7101 Stein Circle in Deer Valley.
2. The site is located in the Residential Development (RD) District.
3. The proposed Condominium Plat amends building envelopes and interiors from the existing plat approved by the City Council on May 08, 2014.
4. The proposed Condominium Plat Amendment adjusts the platted condominium units, common area, and limited common area for the development.
5. The proposed plat identifies the private, limited common, support limited common and facilities, and common areas.
6. The current Condominium Plat consists of twelve (12) single-family dwellings, one (1) duplex dwellings with two (2) units, forty (40) multi-unit dwellings, two (2) American with Disabilities Act (ADA) compliant units (platted as common areas), three (3) support commercial units, and corresponding common areas and facilities, limited common areas and facilities, support unit, and commercial units.
7. The Condominium Plat approved in 2014 was consistent with the 2010 approved Conditional Use Permit containing 54 units.
8. The proposed Condominium Plat consists of eleven (11) single-family dwellings, two (2) duplex dwellings with two (2) units each, thirty-nine (39) multi-unit dwellings, two (2) American with Disabilities Act (ADA) compliant units (platted as common areas), three (3) support commercial units, and corresponding common areas and facilities, limited common areas and facilities, support unit, and commercial units.
9. The proposed Condominium Plat Amendment is consistent with the 2010 approved Conditional Use Permit containing 54 units.
10. Even though the number of detached structures and multi-unit dwelling is changing from the Condo Plat, the density remains the same at 54 units as

specified in the Deer Valley Master Plan.

11.The massing remains in substantial compliance with the 2010 CUP approval due to the shift in size from the units that will be modified from a single-family dwelling into a duplex and the changes from the multi-unit dwelling being affected that does not increase additional building footprint but completely interior changes.

12.The original CUP does not have to be re-reviewed as the proposal complies with the approved CUP. The density of 54 units still remains the same.

13.The size of the private units within the single-family, duplex, and multi-unit dwelling ranges from 1,997 - 8,686 square feet.

14.One (1) multi-unit dwelling unit is eliminated as a duplex is accommodated as unit 6.

15.This adjustment is consistent with the 2010 CUP plan and layout.

16.The net increase in size is 6,363 square feet.

17. The Deer Valley MPD did not allocate a maximum house size or a UE allocation for each residential unit.

18.The Deer Valley MPD density allocation was based on a density of fifty four (54) units.

19.Several building permits have been issued since the last Condominium Plat was approved and recorded in May 2014.

20.The applicant is actively working on the project.

21.All findings in the analysis section of the staff report are incorporated herein

Conclusions of Law – 7101 Stein Circle

Conclusions of Law:

1. There is good cause for this Condominium Plat amendment.

2. The Condominium Plat amendment is consistent with the Park City Land Management Code and applicable State law regarding condominium record of survey plats.

3. Neither the public nor any person will be materially injured by the proposed condominium record of survey plat.
4. Approval of the condominium plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.
5. The condominium plat amendment is consistent with the approved North Silver Lake Conditional Use Permit.

Conditions of Approval – 7101 Stein Circle

1. The City Attorney and City Engineer will review and approve the final form and content of the condominium record of survey plat 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 condominium plat 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. A note shall be added to the plat referencing that the conditions of approval of the Deer Valley MPD and the 2010 North Silver Lake CUP apply to this plat amendment.
 4. All conditions of approval of the City Council's July 1, 2011 order on the Conditional Use appeal shall continue to apply.
 5. All conditions of approval of the Planning Commission's February 26, 2014 action modifying the CUP to allow Lockout Units shall continue to apply.
 6. All conditions of approval of the City Council's May 08, 2014 approval of the North Silver Lake Condominium Plat shall continue to apply
2. **875 Main Street – Conditional Use Permit for an Off-site Private Residence Club in the Historic Recreation Commercial (HRC) Zoning District for Victory Ranch Member Center** (Application PL-15-02732)

Commissioner Band returned to the meeting.

Planning Technician Makena Hawley reviewed the request for an off-premise private residence club at 875 Main Street. It is located in the HRC zone and noted as a conditional use. The owner has had an active business license since November 2014. However, it was determined that the space was being used under a different business license that was incorrect for the use. In order to obtain the correct business license a conditional use permit process was required.

After reviewing the 15 criteria the Staff recommended that the Planning Commission review the proposed conditional use permit for an off-premise private residence club at 875 Main Street, Unit A, conduct a public hearing and consider approving the Conditional Use Permit based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

Planning Manager Sintz stated that the vertical zoning ordinance and storefront discussion would be coming to the Planning Commission on June 24th as a potential LMC Code change. If this application triggers a discussion that the Commissioners would like to have, the Staff would be happy to take input and bring it back. Ms. Sintz noted that this application was vested under what is available for the conditional use permit.

Chair Strachan asked if there was history as to why the footnote to the conditional uses specifies those particular properties but does not mention 875 Main Street. Planning Manager Sintz stated that it indicates any properties north of 8th Street are also excluded. 875 Main Street falls under that condition. Chair Strachan noted that it was this property and one other and he questioned why they were excluded.

Planning Manager Sintz explained that the Summit Watch plat was an area where a number of addresses fell under for the analysis. At the time the plat was approved and when the vertical zoning ordinance went into effect, they were concerned that the area did not receive as much foot traffic and it was difficult to lease the spaces. Therefore, during the discussion at that time a certain number of the addresses on Lower Main were excluded. Ms. Sintz stated that the Staff would present a full analysis and a timeline on June 24th and open the discussion.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Band stated that after 205 Main Street slipped through the cracks and in 2007 an amendment to the LMC was made specifically excluding these private residences clubs, she was curious as to why just a few properties were excluded. She read Purpose Statement G for the HRC, "Allow for limited retail and commercial uses consistent with resort bed base and the needs of the local community. Statement I, "Maintain and enhance the long term viability of the downtown core as a designation for residents and tourists by ensuring a business mix that encourages a high level of vitality, public access, vibrancy, activity, public and resort related actions." Commissioner Band did not have an issue with a private club above the ground level, but she was uncomfortable having a private club in a store front on Main Street. She believed it was the opposite of what they were trying to accomplish for Main Street.

Commissioner Band referred to the criteria, Size and Location of the Site, and stated that in her opinion having a private club in this location was an unmitigated impact.

Commissioner Joyce noted that the Staff report identified the number of users during the day. The number was small, but he wanted to know how built out Victory Ranch was currently.

Jeff Graham, representing the applicant, believed it was 10% built-out. Commissioner Joyce noted that an approval extends beyond the current situation. When looking at all the numbers and scenarios, and assuming the Club will be successful, the number increased over time to 80 people per day and a 120 on a busy day. Commissioner Joyce thought it was difficult to use the current users and the current volume of traffic as anything other than a base multiplier. He assumed the next 90% would use it with the same regularity.

Mr. Graham stated that it was not really a private club. That is the term under the definitions of the LMC, but the real use is a hospitality unit. It has locker rooms, refreshments, and a restroom. The purpose is to have people come in during the ski season or during the summer to use the restroom, change into ski clothes, and put their things in the locker. They also plan to use it for a social event once a month. They have had two events since they opened in November and it was not an issue. Mr. Graham noted that growth and size is limited by the Fire District to 48 people maximum. The space is 1225 square feet and 90 people would not fit. Mr. Graham was not opposed to adding a condition of approval limiting the occupancy to what the Fire District has approved.

Mr. Graham stated that parking should not be an issue. They provide a shuttle service, there are three spaces in the basement, and they have a joint parking agreement with a neighboring property with 120 to 130 spaces. Mr. Graham believed the use brings vitality to Main Street because it is a place for people to come before they go out to dinner. They

serve refreshments but not dinner and it is as good place to stop by before or after having dinner. It brings people to Main Street and promotes the use of Main Street.

Commissioner Band clarified that her only issue is having the private club use in a store front on Main Street. She did not think it was an appropriate place for a private club. Commissioner Band believed the City agreed with her at some point when the amendment was written.

Mr. Graham stated that he would argue the definition because it is not a private club. Commissioner Band understood that it was not a private club per se, but not being a member she would not be able to walk in and use the facility. Commissioner Joyce agreed that the key word was "private". Commissioner Band thought it was a mistake to exclude this building from the store front requirements.

Commissioner Phillips pointed out that this application was a conditional use. Commissioner Band has used 205 Main Street as an example, but if that had come to them as a conditional use the outcome would have been different.

Assistant City Attorney McLean reminded the Commissioners that they would have the opportunity to amend the Code and recommended the changes to the City Council. However, currently it is a conditional use in the zone and under State Code a conditional use is an allowed use as long as the impacts are mitigated.

Commissioner Band disagreed with the Staff that the impact is mitigated in terms of size and location of the site. In her opinion, it is in a location where the public should be allowed.

Commissioner Phillips stated that if he were to choose anywhere on Main where this could exist, he would choose this location. It is tucked away at the very end and there is not a lot of passing traffic in the area. It is setback and the store front is not directly on the sidewalk.

Commissioner Campbell liked the idea but he wanted to better understand how people would get in and out. He favored the idea of people leaving their cars outside of the City. Mr. Graham replied that some people would still be driving to the facility, but shuttle vans would reduce the number of people who drive there. Some owners and club members live in Park City and the vans pick them up from home and shuttle them to the facility. Commissioner Campbell liked that people could shuttle in, change into their ski clothes and get on the Town Lift without congesting the streets or taking up parking spaces.

Commissioner Phillips stated that traffic is always a concern but he thought the public buses might also reduce the number of cars.

Commissioner Thimm stated that when he first read through the Staff report his thoughts paralleled with Commissioner Band. However, he realized that it does promote vibrancy on Main Street. In terms of intensity of use, if this was a more commercial use that was open to the public he thought there would be more intensity of use. However, because the use is different from most of the other uses it was difficult to measure intensity. Commissioner Thimm stated that if the LMC is amended, he would prefer to see a clear store front and people going in and out, but he could not find any major unmitigated major factors for denying this conditional use.

Commissioner Joyce commented on the mitigation of parking and noted that the public buses already take people wherever they want to go. Whether or not this club exists will not sway people to take the bus instead of their car. Commissioner Joyce still questioned the math for parking and how it was determined. If they were to have 48 people each day he questioned how the parking requirement is mitigated based on the current Code.

Planning Technician Hawley referred to Finding of Fact #18 and explained the shared parking and the access agreement to show where the extra parking would be available. Commissioner Joyce was comfortable if the Staff felt there was enough parking and the issues were mitigated.

Planning Manager Sintz noted that Ms. Hawley had drafted a condition of approval that the Planning Commission might review this application for parking issue after one year of use or possibly two years of use. Chair Strachan felt the reviews did not have much teeth because once a CUP is granted it runs with the land. Assistant City Attorney McLean stated that the purpose of review is to see if there are ways to mitigate other impacts.

Ms. McLean clarified that if the Fire Code only allows 48 members to use the Club at one time. Commissioner Joyce pointed out that the Fire Code will not stop the number of cars. Commissioner Phillips remarked that more than 48 people could use the facility throughout the day but they would not all be there at the same time. He stated that lockers give people the opportunity to leave their equipment at the facility and use public transportation. Commissioners Joyce and Band cited examples where skiers would drive in and keep their cars parked all day while they ski and in the evening while they have dinner.

Chair Strachan recalled when the vertical zoning ordinance was enacted and he vigorously disagreed with the decision to carve out specific properties. He believed the exclusion was made because they segregated lower Main Street from Upper Main Street. At the time he thought Lower Main Street would grow and be similar to Main Street. Chair Strachan noted

this property was not subject to the Vertical Zoning Ordinance and it is a conditional use. He personally does not like the use but it is allowed by Code. Chair Strachan stated that his view has always been that parking on Main Street is self-regulating and when it gets to a choking point people will stop coming to Main Street. He hoped that people would realize that parking on Main Street is unattainable and they will take the van.

Chair Strachan recommended a one-year review to look at the impacts. Commissioner Joyce preferred a review in two years. Commissioner Phillips thought three years was a better time frame to get a realistic idea of any additional impacts.

Mr. Graham was comfortable with the condition requiring a future review. He also noted that the applicant intends to do their own parking study to understand the parking habits of their staff and members.

Planning Technician Hawley read the added condition. "The applicant shall submit to the City Planning Department for review by the Planning Commission a three-year review of the Club, including use, parking and traffic impacts, and a summary of complaints received regarding impacts of the Club on the operation, guest, and owners of adjacent or nearby properties.

Chair Strachan thought "use" was too vague and suggested that they take it out.

Assistant City Attorney McLean asked if they should come back to the Planning Commission or just the Planning Department. Chair Strachan was comfortable with a review by the Planning Staff.

Mr. Graham asked if the reference to traffic was people in and out of the facility or traffic on the street. Chair Strachan thought it was a valid point and that the condition should only be tied to parking.

Ms. Hawley read the revised condition, "The applicant shall submit to the City Planning Department a three year review of the Club including parking impacts."

Planning Manager Sintz stated that the Staff would bring the review to the Planning Commission as an update under Staff Communications once the trigger occurs.

MOTION: Commissioner Thimm moved to APPROVE the conditional use permit of an off-premises private residence club at 875 Main Street, Unit A, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended to add Condition #5. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 875 Main Street.

1. Applicant requests the use of the commercial condominium unit as an offpremise private residence club at 875 Main Street Unit A.
2. The proposed use requires a Conditional Use Permit in the Historic Recreation Commercial (HRC) District.
3. This use will not affect any exterior areas and no exterior changes are proposed to the building.
4. The current space was previously used as a gallery, a development group office, and a retail use.
5. The entire unit, Unit A, is 1225 square feet.
6. The requested use will occupy the entire unit.
7. Based on Fire District Approval the 1225 square foot unit has a maximum capacity of 48 people.
8. The unit was platted as Private Commercial Ownership Unit A of the Lift Lodge at Town Lift plat recorded in 1999. It is not part of any Master Planned Development.
9. The structure was reviewed by the Design Review Task Force for compliance with design guidelines and approved as an allowed use.
10. Land Management Code (LMC) § 15-2.5-3(B)(31) indicates that a Private Residence Club, Off Site, is a Conditional Use in the HRC District.
11. The footnote attached to the Conditional Use of a Private Residence Club, Off Site reads as: "Prohibited in storefronts adjacent to the Main Street, Swede Alley, Heber Avenue, or Park Avenue Rights-of-Way, excluding those HRC zoned Areas north of 8th Street; excluding without limitation, addresses contained within the following Buildings: 702 Main Street, 710 Main Street, 780 Main Street, 804 Main Street, 890 Main Street, and 900 Main Street ". 875 Main Street is located north of 8th Street, therefore is excluded from the provisions of the vertical zoning regulations.

12.The Land Management Code defines the Club, Private Residence Off-Site as: Any Use organized for the exclusive benefit, support of, or linked to or associated with, or in any way offers exclusive hospitality services and/or concierge support to any defined Owner's association, timeshare membership, residential club, or real estate project. Hospitality includes, but is not limited to, any of the following services: real estate, restaurant, bar, gaming, locker rooms, storage, salon, personal improvement, Office. "(LMC § 15-15-81.49)(E).

13.The actual use of the member club will not be public and is for the exclusive benefit of the Victory Ranch Members. It will be a home base at the bottom of Park City Mountain Resort for members to utilize lockers, allow a space to change from/to ski gear, for families to re-group, and to serve as a gathering spot for après ski.

14.No additional utility capacity is required for the requested use.

15.Emergency vehicles can easily access the unit and no additional access is required.

16.According to the Non-Residential Parking Ratio, the requested use fits best under the definition of a "Recreation Facility, Private or HOA" (LMC § 15-3-13 (B)). This triggers a minimum parking requirement of 1 space per 4 persons maximum rated capacity. With the 1225 square foot unit having a maximum capacity of 48 people based on Fire District Approval, 12 parking spaces are required.

17.The parking in the Lift Lodge provides 12 spaces to share between the three (3) commercial uses in the building.

18.The unit was approved with the Lift Lodge at Town Lift condominium plat in 1999. The building was approved in June 11, 1997 with the McIntosh Mill CUP.

19. The Lift Lodge was involved in a shared Parking Plan with the Summit Watch and Town Lift Plaza/Caledonian parking structures allowing the parking needs for the adjacent developments to be shared.

20.The applicant, Victory Ranch LLC, provides a twelve (12) person sprinter van

and a Suburban that shuttle members from their homes to the member center/Main Street. These vehicles are always on call. The General Director of Victory Ranch noted that typically 4-6 people, per van, utilize this service a day.

21.The parking area/driveway is directly accessed off 9th street and no changes to the access or parking area are proposed.

22.Fencing, screening, and landscaping are not proposed at this time and are not needed to separate uses as the uses are fully enclosed within the building

23.The requested use will not affect the existing building mass, bulk, orientation and the location on site, including orientation to adjacent building.

24.No useable open space will be affected with the requested use from what is currently found on site.

25.All signs are subject to the Park City Sign Code. No additional signs and lighting are associated with this proposal.

26.Any new exterior lighting is subject to the LMC development standards related to lighting and will be reviewed for compliance with the LMC at the time of application. No additional lighting is proposed at this time.

27.The requested use will not affect the existing physical design and compatibility with surrounding structures in mass, scale and style.

28.Noise, vibration, odors, steam or mechanical factors normally associated with the purpose use will not require additional mitigation as the space was constructed as a commercial unit and no changes to the shared interior walls or to the exterior windows or doors are proposed.

29.The club will hold small wine and cheese gatherings for members once a month in the winter and roughly 15 people attend. The impacts for the private resident club are less than a bar or restaurant located in this area facing Main Street.

30.The proposal will not affect any control of delivery and service vehicles, loading/unloading, and screening.

31. The expected ownership and management of the property is not projected to add impacts that would need additional mitigation.

32. The entire unit is owned by Victory Ranch Acquisitions LLC with private use by members of the Victory Ranch Owner's Association and guests.

33. The proposal is not located within the Sensitive Lands Overlay.

34. Unit A is shown on the plat as part of the private commercial ownership designation. The plat identifies four (4) categories: Common areas and facilities, private residential ownership, limited common areas, and private commercial ownership. Commercial areas include retail, meeting rooms, and restaurants. The proposed private residence club space would be located within the commercial space noted on the Plat as Unit A.

Conclusions of Law – 875 Main Street

1. The application complies with all requirements of the Land Management Code.
2. The use will be compatible with surrounding structures in use, scale, mass, and circulation.
3. The use is consistent with the Park City General Plan, as amended. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 875 Main Street

1. The requested use shall be conducted within the specified space at 875 Main Street, Unit A as approved by the Planning Commission, which is within a fully enclosed building per Park City Land Management.
2. The applicant is responsible for management of the club and enforcement of the Covenants, Conditions and Restrictions of the Lift Lodge Condominiums.
3. If the Off Premise Private Residence Club use is abandoned for a year or more, this Conditional Use Permit shall be void.
4. All conditions of approval of the McIntosh Mill CUP continue to apply.

5. The applicant shall submit to the City Planning Department a three year review of the Club including parking impacts.

3. **Alice Claim south of intersection of King Road and Ridge Avenue – Alice Claim Subdivision and Plat Amendment** (Application PL-08-00371)

4. **Alice Claim south of intersection of King Road and Ridge Avenue – CUP for retaining walls up to 10’ in height.** (Application PL-15-02669)

Commissioner Phillips recused himself and left the room.

Assistant City Attorney McLean requested that the Planning Commission take public comment on both items at the same time and discuss the applications together since the Subdivision and Plat Amendment and the CUP were intertwined. However, two separate actions were required.

Planner Christy Alexander noted that the Planning Commission held a site visit and work session on October 8th, 2014. The applicants came back to the Planning Commission in March and April, at which time the Commissioners continued it to allow the applicant to work through the issues.

Planner Alexander outlined the main concerns raised at the April 8th meeting, which included 1) more clustering; 2) change in layout; 3) site suitability with the slopes; 4) possible geo-tech issues and stability issues on the steep slopes; 5) further terracing and mitigation and landscaping of the retaining walls; 6) reducing cut and fill; 7) the need for so many retaining walls; 8) reducing disturbance on each lot; 9) compatibility with the HR-1 zone; 10) Lot 7 concerns; 11) defining open space conservation easement and access. Planner Alexander stated that the applicant heard the concerns and tried to find a better way to layout the subdivision and mitigate the concerns. The applicant submitted revisions to the site plan as noted in the Exhibits. The applicants would explain the revisions during their presentation this evening. Planner Alexander noted that the Planning Commission had major concerns with Lot 7 due to the steepness of the slope, as well as it being a unique position and closer to the ridge, as well as the proposal to bring up the roadway to create a bridge over the City property with extremely large retaining walls. She pointed out that Lot 7 was completely removed from the site and moved to where Lot 5 was located, and the lots were clustered closer together. That revision significantly changed the retaining wall layout. Planner Alexander noted that there was no longer a need for the road which eliminated the bridge. The applicants were also proposing three 10’ retaining walls at the access that would terrace back 4’ in between each wall as required by Code to allow for vegetation landscaping. The retaining walls in between Lot 2 and 3 and above Lots 5

and 6 were also changed. Therefore, all of the retaining walls in that location would be 6' and under, which does not require a CUP. The only retaining walls required under the CUP are the three 10' walls at the access.

Planner Alexander noted that the neighbor on the corner spoke at the last meeting and he was willing to negotiate an easement to allow access over his property. At this time an agreement has not been negotiated and the applicant was unsure when that would occur. The applicant was asking to put both access ways on the plat in case the plat is approved before the negotiations are finalized. Planner Alexander noted that the Staff would not allow that because only one possibility can be shown on the plat. If the negotiations go through, the Staff believes that access would create a better route and would lessen the need for large retaining. The Staff favored bringing the access over the easement. If the Planning Commission chooses to approve the plat and an easement agreement is reached prior to the plat going to the City Council, Staff requested that the Commissioners allow the applicants to move forward with the preferred access route at the City Council level.

Planner Alexander remarked that regarding the need for more clustering, changing the layout and compatibility with other nearby HR-1 zones within the City, the applicants had proposed to limit the footprints to 2500 square feet. As noted in the HR-1 zone and considering the size of the lot, she did not believe 2500 square feet was limiting the footprint enough. She stated that if the Planning Commission wanted to forward a positive recommendation, they could still require the footprint to be limited even further. The Staff recommended that the homes be limited to two stories to reduce the visibility from cross canyon and other places within Old Town. They also recommended a 25' height maximum.

Planner Alexander noted that the two-story limitation was mentioned in the Staff report but it was not stated in the conditions of approval. The 25' height was laid out in the Conditions but not two-stories. If the Planning Commission decides to forward a positive recommendation on the plat, she recommended revising Condition of Approval 17 to read, "All homes within the HR-1 District in this subdivision shall be limited to a building height maximum of 25 feet from existing grade **and a maximum of 2 floors...**". Planner Alexander noted that currently a 35' interior height is allowed in order to allow homes to stack up on the hillside. Because the Staff did not want to allow the floors to be stacked, she recommended adding "**exterior maximum of 30 feet.**"

Planner Alexander stated that the building pad areas shown on the site plan were listed in the conditions of approval; therefore, the building pads would have to remain in those locations.

Planner Alexander commented on issues with conditions of approval. Condition #32 states, "All Site and Public Improvements shall be completed prior to plat recordation, or if the Applicant submits a finalized and engineered design the Applicant may petition the Planning Commission to allow the Applicant to submit an adequate financial Guarantee for all Site and Public Improvements prior to the expiration of the plat approval."

She also noted that Condition of Approval #3 states, "Recordation of this plat and completion and approval of final Historic District Design Review (HDDR) and Steep Slope CUP, if required, applications are required prior to building permit issuance for any construction of buildings or retaining walls within this subdivision". Planner Alexander pointed out that Conditions #3 and #32 do not comply with one another. The applicant would be allowed to do the retaining walls before the plat is recorded and she requested revising Condition #3 to remove "**or retaining walls**", and a sentence, "**completion and approval of final HDDR applications are required prior to building permit issuance for any construction of retaining walls within the subdivision**". Planner Alexander revised Condition #32 to read, "**Building permits for the grading and retaining walls will be permitted prior to plat recordation, so long as a bond for site restoration and revegetation is put in place**".

Planner Alexander stated that the City Engineer had reviewed the geo-technical report and felt that it met City standards. The site is on bedrock and the soils are the same as other areas within the City that were developed. Planner Alexander pointed out that the mine was filled in as noted in the letter from the applicant's engineer. It would also be noted on the plat with a restriction that no construction can occur within ten feet of the mine site.

Regarding the concerns for terracing and mitigation and landscaping of the retaining walls, Planner Alexander reiterated that all terracing of retaining walls would have to be four feet and set apart horizontally in order to allow for vegetation and landscaping. The height of the retaining walls was lowered. Planner Alexander stated that the Staff was unclear about the limit of disturbance on the lots, but the applicant has informed the Staff that the proposed LODs are the lot lines. It will be noted that the building pads cannot be changed from what was proposed on the site plan and on the plat.

Planner Alexander stated that the open space conservation easement will be dedicated as open space and transferred to a third party in the future.

Planner Alexander requested that the Planning Commission allow the applicant time for their presentation and then open the public hearing.

Chair Strachan asked if the changes to the conditions of approval were revisions to conditions contained in the Staff report, or whether there were new conditions of approval. Planner Alexander clarified that it was only revisions to Conditions 3, 17 and 32. Planning

Manager Sintz noted that story is a defined term in the LMC and she recommended that they use the word “stories” rather than “floors”.

Commissioner Thimm stated that Condition of Approval 30 talks about maintaining a 10’ setback from the mine opening; however, the soils report recommends filling mine openings. He questioned why they were diverging from what the soils report recommended. Planner Alexander replied that the Engineer noted that the mine has been filled.

Greg Brown with DHM Design thanked the Staff for their efforts in helping to revise the plan. He appreciated their time and energy. Mr. Brown introduced Jerry Fiat, with King Development, Brad Cahoon, Legal Counsel; Sheldon Baskin and David Cagen with King Development; Marc Diemer with DHM Design; Kathy Harris, the environmental consultant, Joe Tesch, Legal Counsel, and Peter Duberow with Stantec Engineering.

Mr. Brown gave a power point presentation on the four applications which included the subdivision, the plat amendment, a rear yard setback variance for the Estate Lot, and the CUP application for the entry retaining wall.

Chair Strachan thought the variance was a Board of Adjustment matter. Assistant City Attorney McLean explained that the applicant was requesting a setback reduction which is allowed per the LMC and it was a matter for the Planning Commission because it was not an actual variance.

Mr. Brown noted that in October 2014 they came before the Planning Commission for a work session. The concerns raised at that time related to open lands, the amount of site disturbance, and further mitigating the entry wall. The Staff was asked to compatibility studies with the surrounding neighborhoods. There was also a lot of concern and discussion regarding the Estate lot location. On April 8th the applicants presented suggestions they had for solving some of the problems. They significantly reduced the lot size of the HR-1. Mr. Brown noted that the lot lines were reduced and the .1 acre proposed is the minimum they can go with a 2500 square foot footprint per the LMC. Mr. Brown pointed out that the lots are small enough now that to build the house the disturbance would be within the lot line. Mr. Brown stated that terracing and landscaping were shown at the last meeting and they would show additional terracing and landscaping to mitigate the retaining walls. He noted that the building size and height in the HR-1 District was further restricted based on the Staff recommendation, and the applicant agreed to the 25’ building height for the HR-1 District. Mr. Brown stated that the Estate Lot was relocated from the steep land to the flatter bottom. He presented a plan showing the new location of the Estate Lot. It is lower on the site and the amount of site disturbance is reduced.

Mr. Brown stated that the applicants heard a variety of suggestions at the April 8th meeting and he summarized them into 9 points. The first was site suitable. They were concerns regarding slopes and geo-technical issues in terms of buildability. Marc Diemer with DHM Design had submitted a letter that responded to the 11 criteria items in LMC Section 15-7.3 that talks about the restrictions to development due to the character of the land. The letter was attached to the Staff report as Exhibit L on page 351.

Mr. Brown reviewed the 11 criteria and summarized why they believe they meet the criteria.

1) Flooding - The FEMA mapping stops below the site. There has never been evidence of flooding and the engineer does not believe there is a flood problem. The houses will not have basements and the homes will be located above the drainage channel.

Mr. Brown pointed out that the FEMA map is part of the conditions of approval and the FEMA map will be updated prior to recording the plat. The FEMA map will define the exact location of the flood plain.

2) Improper Drainage – The drainage channel was reconstructed as part of the remediation project. It has been in for six years and does a very good job of carrying the runoff.

3) Steep Slopes – A geo-tech report was included in the Staff report. There were no issues identified in the geo-tech report that prohibits development on this site.

4) Rock Formations – There is an outcrop within the Estate Lot; however, the new Estate Lot location pulls it further away from the rock outcrop. More separation, the road, and the ditch further provides a safety zone.

5) Mine Hazard - The mine was filled during the remediation project. Per the requirement, once filled the setback can be reduced to ten feet.

6) Potentially toxic waste - The remediation project program in 2008 removed and capped the hazardous waste on this project specifically for residential development.

7) Adverse earth formations or topography. The geo-technical report concludes that there are no potential hazards existing on the site.

8) There are no wetlands on the site.

9) Geologic hazards. The geo-tech report provides guidance for construction. Any special construction techniques would be covered by construction detailing.

10) Utility easements. The applicants have been working with the City Engineer and City Staff to make sure the easements were accounted for. Part of the entry road is on City property and easements would be placed for access and utilities. Access easements for the City to access the water tank would be addressed on the plat. The City Engineer has final review and signs the plat to make sure he agrees. That must be done before they can move forward.

11) Ridgelines – Per the City ridgeline map there is not a ridgeline on the site. There was significant discussion at the last meeting about Lot 7, which would have been the lot closest to any ridgeline above. Lot 7 has been relocated and it is now further away from anything that might have been perceived as a ridgeline.

Mr. Brown noted that the relocation of Lot 7 eliminates the driveway through sensitive lands, as well as the retaining wall and the bridge. The home will be accessed from a road that was already in the design. The amount of roadway was reduced and the lots are more clustered, which reduces the overall disturbance within the project.

Mr. Brown presented the current plan which showed where the lots were plotted out in the HR-1 zone and how the lots sizes were reduced and moved down the hill to increase the open space. He pointed out that the spur road to Lot 7 was eliminated when the lot was moved.

Mr. Brown showed samples of the retaining walls and landscaping. Relocating Lot 7 reduced the need for such a large wall. The retaining walls for lots 2, 3, 4 and 5 were lowered. The homes were reconfigured to reduce the site walls and the buildings will be used to retain a lot of slope. The walls were stepped down to six feet to reduce the number of 10' walls. The only walls over 6' will be at the project entry. They had looked at reducing the entry walls to 6' but it would further impact the evergreen trees on the site. The only retaining walls that needed a CUP were the ones at the entry. The remaining retaining walls would be 6' maximum height stacked stone walls with landscape beds in between. Mr. Brown presented photograph examples of similar rock walls around town.

Mr. Brown noted that the Staff had recommended that they increase the landscape by 20% with a minimum tree size of 10'. However, the applicant would like to propose an average tree size of 10' to create a variation of 6' to 14' trees. He requested the ability to work with Staff to see whether or not there could be some flexibility on the percentage of required landscaping. Mr. Brown was concerned about replacing a stone wall with a wall of trees.

Mr. Brown stated that another item of concern was clustering and the layout. He showed a before and after plan identifying the changes that were made. He remarked that a quick calculation showed that the impact to the site is less than 25% of the development area.

Mr. Brown recalled that there was significant discussion at the last meeting regarding compatibility. He presented a graph of some of the zoning in the area and noted that this site is next to a HRL zone. HRL zone roads and houses tend to follow the contours of the land, which is their goal with this development. Mr. Brown stated that the adjacent zoning is HRL zoning and Estate. The applicants see this site as a transitional area between Old Town and the open space beyond. Mr. Brown reviewed a zoning map and pointed to the HRL zone. He noted that the roads that access their site come through the HRL zone. Mr. Brown thought the design for their development should look more like the HRL zone because they were the adjacent neighbor. He felt that forcing a higher density or more of an HR-1 look was inappropriate on a site like this.

Mr. Brown referred to an analysis in the Staff report comparing house sizes in the neighborhood. They had done their own compatibility study and determined that their proposal was more in line with the HRL zone behind them. He presented a list of the 14 houses that were used in the comparison. Of the 14 houses, the average lot size was $\frac{1}{4}$ acre. Their proposed lot size is .18. The average house size is 4,933 square feet and they were requesting 5,000 square feet. Mr. Brown believed their project was compatible with the neighborhood directly adjacent to them.

Mr. Brown noted that currently the plat shows all of the open space parcels and the no disturbance zone in the Estate lot. The plat note states, "No development is allowed in open space parcels for non-disturbance areas." Mr. Brown stated that the goal for the open space is to either deed the open space itself or an easement to a third party conservation organization. Mr. Brown presented a diagram showing the amount of open space on the site and how the lots are clustered down in the lower area.

Mr. Brown remarked that the Planning Commission had talked about putting more teeth in the conditions of approval. He stated that following Planning Commission and City Council approvals all of the conditions must be met. Only then will the Staff and the agencies approve and sign the plat. He pointed out that the lots cannot be sold until the plat is recorded. Mr. Brown believed the process provided enough teeth for the conditions.

Mr. Brown stated that the applicants were also willing to restrict lot sales until the site infrastructure is complete. They have been working with Staff to make sure the conditions are as clear as possible and that both sides are protected.

Mr. Brown commented on Planner Alexander's reference about the unclear limits to the disturbance. He believed they had reduced the lots tight enough around the building footprint that the lot line would be the limit of disturbance line. Mr. Brown commented on

the Woodside Drive option that was mentioned by Planner Alexander. The applicants wanted to have both options shown on the plat, because if an agreement is reached to use Woodside Drive for access it would already be pre-approved. However, since legally both options cannot be on the plat, the applicants would like to create a finding or condition of approval that would allow the City Council to change the access. They would like the process to be as streamlined as possible.

Mr. Brown indicated the small piece of HRL land on the north side of the project that would be deeded to the City. He noted that Sampson Avenue and King Road currently come through the parcel. The Staff report talks about the land being dedicated as a right-of-way. The applicants suggested creating a right-of-way for the existing road, and the remainder of the parcel would become open space with a landscape easement to do landscape improvements. A slope on one side of the road needs stabilization and they would like the ability to do that work.

Mr. Brown commented on the timing of the expirations and their desire to simplify the process. He noted that it relates to Conditions 2, 10, 15 and 32. The applicants would like the plat and the CUP to expire one year from the date of City Council approval unless the extension is granted as allowed by Code. All approvals must be in place before plat recordation. The applicants were willing to a title restriction stating that the lots could not be sold until the infrastructure was in place. The infrastructure would be bonded prior to the issuance of the site improvement building permits. Mr. Brown believed the infrastructure would take longer than one year and he thought two years was a more practical time frame.

Mr. Brown noted that a Finding of Fact talks about the City water line running through the property. He clarified that the City water line was changed and it now runs through the City's property. The prescriptive easement on the road for those utilities is no longer needed. Mr. Brown stated that Finding #13 talks about the FEMA mapping and it implies that the lots are in the flood zone. He wanted to make sure it was clear that the mapping needed to be extended to determine whether it was in the flood zone. Mr. Brown pointed out that language in Finding #14 talks about the front side and rear setbacks and the Estate lot being reduced from 30' to 10'. He stated that the applicant was only asking for the rear setback to be reduced to 10'. The side and front setbacks would remain at 30'. Mr. Brown remarked that Finding #23 talks about the limits of disturbance being the property lines of Lots 2 through 9 and they found that to be appropriate. Finding #25 addresses the compatibility analysis that was done by Staff. The applicant requested adding a sentence stating that "The applicant has demonstrated that the houses nearby the site on King Road, upper Norfolk, Sampson and Ridge Avenue are 4,933 square feet average and the lots are an average of 0.25." Finding #34 states that existing lots 1-7 and 36-40 will be dedicated as right-of-way and open space with a landscape easement.

Mr. Brown referred to Condition #10, which goes back to their concern of having a standard process of plat recording, rather than trying to start some of the construction before the plat is recorded. Mr. Brown requested a change to Condition #15 to read, "All homes within the subdivision shall be limited to the June 10, 2015 LMC required footprint, or 2500 square feet, whichever is lower". He noted that the language as written does not have a date. If the LMC was ever changed they would be affected by the change instead of being locked into the current LMC requirement. Mr. Brown requested that Condition #32 be revised to address the timing of having all the approvals in place, recording the plat and putting in the public improvements.

Mr. Brown referred to Finding of Fact 11b in the conditional use permit and revised the language to read, "If changes occur the applicant will apply for a modification to the CUP." On 11c, he requested flexibility to work with the Staff on a final landscape plan. Mr. Brown revised Condition #10 to state that the CUP will expire one year from the date of recording the plat with the allowance for the one year extension." He explained that their goal would be to have the CUP and the plat in lockstep together. Mr. Brown understood that the Staff had concerns, but he thought it would simplify the tracking and processing if they had to come back for an extension.

Planner Alexander read Finding of Fact #4, "The City Water tank on land owned by the City is adjacent to the subject property on the south end, and a city-owned parcel bisects the subject property. The City Water line does not run within the City owned property but rather is located within a prescriptive easement on the subject property." She asked Roger McLain, the Water Department representative, to clarify the water line location.

Mr. McLain stated that last year the Water Department relocated the existing water line through that section on to the City property. The work was done in conjunction with the Judge raw water pipeline. The section of line that goes up through the existing Alice Claim property up to the tank was abandoned. Mr. McLain remarked that the easement for access to the tank would remain in place because it was not related to the water line. He clarified that the easement has not been vacated but the pipeline was relocated. Mr. McLain suggested that it could be cleaned up during the platting effort to make sure that access to the tank is maintained.

Assistant City Attorney McLean noted that the applicant had said that the City water line was completely on City property. She asked if they also have a recorded easement for water infrastructure. Mr. McLain stated that the new water lines are on City property within that portion of the project. It then conveys down into some of the existing easements and rights-of-way through the adjacent subdivision project down to King Road. Ms. McLean asked when he expected the old water line would be abandoned. Mr. McLain stated that

the water line has physically been abandoned but the line was left in place. He noted that it follows the existing tank access easement and both have gone hand in hand. Mr. McLain believed the priority at this point would be to maintain the tank access easement. With the relocation of the water line he could not see any problems with the road relocation.

Mr. Fiat explained that there is a recorded easement against the property for the access. The recorded easement runs up the existing road all the way to the water tank. In addition, the City took a portion of land which they thought was where the water line ran at one point; however, the water line ran somewhere else. Therefore, the old water line became a prescriptive easement. Mr. Fiat remarked that last year two new water lines were put in down the center of the City property. The water lines currently run from the water tank all the way out to King Road on to City property. The access to the water tank is a recorded easement. He believed the discussion related to the prescriptive easement for the water line that was abandoned, and they were not looking to remove that water line.

Mr. McLain stated that the existing tank access road easement does not follow the proposed roadway through the project. It runs from King Road straight up through the first two lots. Mr. McLain recommended that those be cleaned up at the time of platting. Mr. Brown stated that the new plat grants reciprocal access for the City, the applicant, the users and the public to use the City's property as a road; and the service road continues to be used by the City. He pointed out that there is also recreation access for bike use.

Commissioner Thimm asked if the water line was actually in Alice Court and within an easement that was already in place. Mr. Fiat replied that the water line is in City-owned property.

Chair Strachan asked Mr. McLain what he still needed. Mr. McLain replied that the Water Company needs the easement connection for the tank access road off of the proposed Alice Court as it jogs over on to the existing wishbone piece which ties into the existing access road up through the property. He believed it would be simple to clean up the existing access road from the south end.

Assistant City Attorney McLean revised Finding #4 to read, "A City water tank and land owned by the City is adjacent to the subject property on the south end and a City-owned parcel bisects the subject property." She clarified that the old water line is not within the City property. Commissioner Joyce pointed out that the old line was abandoned and it is no longer relevant. Ms. McLean further read, "The City water line does run within the City-owned property." She asked if Mr. McLain wanted a sentence regarding the tank access. Mr. McLain stated that the tank access was in a separate recorded easement and the access would have to be relocated with the plat. Ms. McLean believed that should be

addressed as a condition of approval. Planner Alexander noted that it was already addressed in Condition #28.

Mr. Fiat presented a larger version of Exhibit A as shown in the Staff report. Mr. McLain showed how the existing access road comes up off the driveway and through the lots up to the tank. He believed the Exhibit showed the new road alignment which would come off of the City property up to the tank. The applicant pointed out the old abandoned line on Exhibit A. They also pointed out how the plat granted an easement for City and public access to that area where the old public water line was located. They also pointed out the new water line and clarified that it was under City property.

Commissioner Joyce commented on the discussion from previous meetings regarding traffic patterns, stop signs and fire turns around the entrance where Sampson and King come together. He had visited the site earlier that day and it was difficult to envision a large truck making the U-turn on to King Road or making a left turn into the subdivision. Commissioner Joyce was concerned because of the steepness where the retaining walls were proposed to be cut. He asked if the City Engineer was comfortable with how the current plat was drawn, and whether there was sufficient room for emergency access. A second issue was that Commissioner Joyce could not think of anywhere else in the City where there was a hodgepodge of interconnected streets. If there is a place, he wanted to know if it works.

City Engineer Cassel stated that there is such a low volume of traffic that it currently works. However, if another drive would be added and they change around how the intersection dynamically works, they need to look at improving it as part of this project. Mr. Cassel noted that the applicant has been working towards that goal. It is a matter of maneuverability, but more importantly a health and safety issue in terms of access for emergency vehicles in and out of the development. Mr. Cassel stated that he and the applicants have been working on ways to make the intersection function a little better. He noted that due to the slopes and unique configuration, it would never be a perfect intersection. However, he expects them to mitigate the problems and get to a point where everyone is comfortable with how it works.

Commissioner Joyce wanted to know who would approve the intersection for fire and safety. Mr. Cassel replied that everyone participates. When something calls for City Engineer approval it is done with immense feedback from the Fire Department, Building Department and the Water Department. They make sure that all the issues are considered.

For many reasons, Commissioner Joyce preferred that they require moving the retaining wall back and up, and that it should be resolved sooner rather than later when it is

recorded on a plat. Mr. Cassel stated that he has been looking at the available alternative for the drive; whether it remains in the current location shown, or whether it moves over to the current dirt road access. He could not see any fatal flaws in any of the alternatives. They all work, but they all need minor tweaking. He agreed that an important element is making sure that the vehicles can make the corners and the turns and that the vehicles do not tip over. He noted that a number of dump trucks have tipped over at that intersection as they come down from King and take the corner. Mr. Cassel reiterated that the goal is to look at the whole intersection in an effort to make it better. At this point he could see nothing that would keep the added drive and the intersection from working.

Commissioner Joyce stated that he was trying to evaluate the retaining wall CUP and the fact that making it work might require noticeable changes to the retaining wall. Mr. Cassel stated that if the Commissioners wanted to add a condition stating that the road could not creep up any higher or change the height of the retaining wall, he believed they could work within that framework.

Commissioner Thimm had read through the geo-tech report and he found no red flags in terms of the soils report.

Commissioner Joyce understood that the mine was filled; however, the geo-tech report talks about the change in setback if it is filled and capped with concrete. He asked if the mine was capped as well as filled. Mr. Fiat replied that the mine was filled with granular material and impacted. There is no concrete cap. He noticed the mine has not settled in six years and it is very solid.

Commissioner Thimm commented on the 10' trees. He is used to looking at Konifers in terms of height and deciduous trees in terms of caliper. He asked if they intended to mix them. Mr. Brown stated that they typically buy multi-stemmed deciduous trees such as Aspen Trees by height. He noted that the single stem Aspen trees are generally sold as a two or three inch caliper. Mr. Brown stated that the rationale for discussing tree height was due to the fact that the wall is 10' high and trying to find something tall enough to soften the wall.

Chair Strachan referred to the slide that shows how they intend to landscape the right-of-way from the existing gravel road that comes off King. He asked Mr. Brown to explain the exact plan for making it look the way they want. He asked if it would be bark and trees or whether there would be actual disturbance. Mr. Brown stated that there was no plan to landscape the right-of-way. Commissioner Joyce understood that in his presentation Mr. Brown was talking about the plats that would be deeded over to the City along King Road and Sampson Road. Planning Manager Sintz agreed. The applicant wanted the ability to have a landscape easement at the entrance.

Mr. Brown stated that a landscape plan had not been done. He noted that the Staff report suggests that it is a right-of-way. The applicant preferred to define the actual right-of-way where the road is and call the rest of it open space with a landscape easement over it. Mr. Fiat explained that when the water lines came in they did not re-vegetate and control the erosion, and the entire bank along King Road is eroding. They were happy to give that land away; however, they first want to stabilize the soil and landscape it because it was left in terrible condition.

Chair Strachan recalled a slide during the applicant's presentation requesting a condition of approval that would streamline the process at the City Council level if the preferred access is negotiated with the neighbor. He asked Mr. Brown to bring up the slide so he could read the exact language that was being proposed.

Assistant City Attorney noted that Finding #6 talks about the access. She suggested adding Finding 6.5 to state that "If the Woodside Gulch access is possible, it would be the preferred access." Ms. McLean explained that under the Code there could not be applications at once. If negotiations are ongoing she understood why they wanted to streamline the process; and she recommended making findings as to whether or not they would support that access.

Chair Strachan asked Mr. Brown if they would build a culvert above Estate Lot 1 if the lot was not there. Mr. Brown replied that they need the culvert where the Alice Claim Court comes up and T's because the stream has to get under that section of road. The culvert would be shorter. Mr. Fiat stated that originally all of that section was in a culvert and when they started to clean it he liked the idea of a stream and the stream was put in. Mr. Brown noted that there is a snow storage area where the road T's and the pipe puts the stream under the snow storage area. He pointed out that it does extend up into the Estate zone a little ways.

Chair Strachan opened the public hearing for the plat amendment and the CUP.

Planner Alexander had forwarded eight letters of public comment to the Planning Commission and to the applicant.

Tom Gadek stated that this is an urban wildland interface. He thought a 10' retaining wall was a lot. In addition, five 6' retaining walls add up to 10'. Mr. Gadek remarked that the pictures of five stacked 6' walls with a house on either side were four or five levels. He noted that a 2500 square foot footprint was not typical in the neighborhood and it is large. Mr. Gadek felt a larger issue than emergency vehicles getting in were people getting out in the event of an emergency. He lived in Oakland, California and in 1991 there was a fire

and eleven people were killed on a road similar to Ridge. There were 25 houses and everybody tried to get out at once and it congested. A policeman was there but 11 people died. Mr. Gadek felt this was a defining point whereby to judge what the future will be on other developments in the area. He noted that Ridge Road is 12' wide with no shoulders. It is impossible to turn a car around or for two cars to pass each other. Mr. Gadek stated that since it is an interface, the construction materials should be burn resistant and a house should resist burning for 45 minutes or longer. Mr. Gadek stated that the Wildfire World details the fire in Oakland with recommendations for the future. The key point was the lesson to resist making concessions on initial development patterns, lot configurations, road alignments, and infrastructure standards. Emergency ingress and resident egress are critical and should not be compromised. Mr. Gadek stated that once the neighborhood is populated they are locked in. This was the chance to think it through.

Elizabeth Cohen, a resident of Upper Daly stated that everyone who goes up Daly and goes to Ridge turns around in her driveway. Ms. Cohen wanted to understand why so many lots were being included in the subdivision. She had read the definition of good cause and believed this project was the opposite of the definition. She had concerns about the size of the development, particularly since it was so close to town and the interface with open lands. Ms. Cohen noted that good cause for a subdivision is to provide positive benefits and mitigate negative impacts. She did not believe this project provided any positive benefits to the community and to the immediate areas surrounding the proposed development. It does not provide public amenities and it creates density issues. Ms. Cohen did not think the development promotes excellent and sustainable design. She had concerns about whether or not Best Design Practices would be used. Ms. Cohen remarked that the development would not further the health and safety of the community. She thought Mr. Gadek made a good point because she had not thought about everyone trying to get out in an emergency. In terms of historic character, Ms. Cohen did not think the proposal fits with the rest of the Daly/Ridge area. A lot of the potential impacts have not been addressed and she asked if there was a plan in place handle increased traffic to the area. She was concerned about water and sewer and whether the pressures would be high enough. She was also concerned about the ecological impacts to streams and sensitive areas. Ms. Cohen was concerned about the precedent this project would set for future development in the area. She asked if there was a plan in place to limit growth or have it be the kind of growth that Park City needs.

Ruth Meintsma, a resident at 305 Woodside, stated that Charlie Wintzer was out of town and he had asked her to read a letter into the record that he had written.

“Re: Alice Claim. Dear Commissioners, I am sorry that I am unable to attend tonight’s meeting. The subject at hand is very important to the future of Old Town and Park City. We can all see from the hole being dug at the roundabout that things can get out of hand

very quickly, and time needs to be taken at the planning stage to preserve the character and scale of Old Town that we all love and for which we all have so much pride. Remember at this time there is only one lot of record. If this subdivision is passed there will be nine lots of record with nine times the entitlements and impacts. With only difficult lots left more time is needed to get them right. You have my comments from the last meeting. Because I've been out of town I was unable to read the latest packet to see what changes, if any, have been made. Here is one part of the Code that may give you some guidance. At your last meeting I gave you several points that must be considered, but I think this section sums it up and asks good questions. LMC HR-1, 15-2.2-6. Development on Steep Slopes must be environmentally sensitive to hillside areas carefully planned to mitigate adverse effects on neighboring land and improvements and consistent with the Historic District Guidelines. Once a lot is platted you only have the conditional use permit process to work with, and one can always find a way to argue that they mitigate the impacts. In creating a lot of record, you establish rights for the property owner to have legal access and an approved location. Now is the time to consider these things and determine if these proposed lots work. The Commission should look at each lot for things like access, terracing and retaining, building location, cuts and fills, building form and scale and building height. It is especially important to look at these from the LMC specific vantage points, including the cross-canyon view. Also remember, in HR-1 the building pad is the lot area minus the setbacks. The Commission can reduce the lot sizes so they know exactly where the buildings will go. This is where a site visit will show you the impacts of this project on the hillsides, ridgelines, neighboring lands and neighbors, Old Town and Park City as a whole. You have the tools in the LMC, Historic District Guidelines, and the Street Master Plan to get the project Park City deserves. Thank you for your time and service. Charlie Wintzer”.

Linda Wright a resident on Daly stated that she had four issues regarding Alice Claim . The first was safety and she believed others had covered that issue. She was particularly concerned about emergency vehicles getting in and the residents getting out. The second issue was precedent because if this gets approved it will set a precedent for similar types of building on steep slopes in the area. This type of development in the surrounding areas of Old Town could also be disruptive and dangerous. The third issue was open space. It is beautiful up there all year around and she wanted to know why it could not be open space rather than platted lots. The fourth issue was wildlife. A lot of birds, deer, elk and moose travel that area development would disrupt their natural habitat.

Tom Bennett stated that he was an attorney representing Lee Gurnstein and Sherry Levington, the owners of a home at 135 Ridge Avenue. Mr. Bennett wanted to confirm for the record that Mr. Gurnstein has met with the developers about the possibility of working out an arrangement for what sounds like the preferred access to this property. He clarified that the parties have not been successful in coming to an agreement but there have been

discussions. On behalf of Mr. Gurnstein, Mr. Bennett stated that the objections and comments Mr. Gurnstein has made in the past are still in effect, and at this point nothing has changed his view of the project. Mr. Bennett noted that the issue of access came up and whether they could consider two possibilities at the same time in this approval. He stated that in looking at the conditions of approval that have been drafted, he believed a number of those conditions appear to be significant items. Mr. Bennett was interested in knowing how that would play out in the future if there was an approval this evening. He thought some of the conditions might result in the need to make significant modifications to the subdivision, which could leave Staff to determine whether it needed to come back to the Planning Commission or go straight to the City Council. Mr. Bennett suggested that the Commissioners consider the magnitude of some of the conditions and how they might impact changes in the future before a plat is ready to come before the City Council, and whether it is important to consider approval now or defer it until some of the issues in the conditions have been resolved in more detail.

Brooke Hontz, a resident on Daly Avenue and a former Planning Commissioner, handed out a letter that she requested to be included in the minutes as part of the record. Ms. Hontz summarized some of the points in her comments. The entire letter can be found at the end of the Alice Claim portion of the Minutes. Ms. Hontz requested that her letter and the eight letters received by Planner Alexander be attached to the record to demonstrate the full information that was provided moving forward.

Ms. Hontz mentioned a letter she submitted at the last meeting because she believed that good cause had still not been established. She commended the changes that were presented this evening; however, she felt there was still no substantial movement to meet the LMC or address the concerns voiced by the Planning Commission and the public. She pointed out that most of the changes benefit the development and the developer. They cost less and reduce impact, but it is a benefit for the project. Ms. Hontz reviewed an Exhibit to explain her comment. She believed there was very little reduction of anything, particularly density. Ms. Hontz requested that the Planning Commission continue the application to a date certain and direct Staff to create findings of denial to be finalized at the next meeting. Ms. Hontz read into the record the definition of good cause. "Providing positive benefits and mitigating negative impacts determined on a case by case basis to include such things as providing public amenities and benefits, resolving existing issues and non-conformities, address issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City, and furthering the health, safety and welfare of the Park City community." Ms. Hontz stated that the discussion points in her letter establish several reasons why good cause is not met in this case. The first is density. This is one metes and bounds parcel governed by two underlying land use zones. As Commissioner Joyce asked at the last meeting, how did they get to nine lots? Ms. Hontz stated that the

simple answer is that the applicant asked for nine lots. Ten lots triggers the MPD Code, which no one wants to go through unless they see a significant financial return and have the appropriate space to do so. She noted that the Planning Commission has never discussed whether or not nine was a reasonable number. However, public input has described many reasons why it was not an acceptable density. Ms. Hontz remarked that currently there is one lot and it needs to be proved via good cause and meeting the General Plan and the LMC that this nine lot subdivision actually works. She believed there has been ample testimony to show that it doesn't. Ms. Hontz thought they were forcing the design to fit the land. A second issue is creating lots that are unbuildable. Ms. Hontz noted that in order to make this work the frontages and setbacks have to be reduced. A third issue is geo-technical issues. She was pleased that some of the Commissioners were able to review the report. She had submitted a GRAMMA request so she could review it herself and respond. Her concern was that it may be too late. Another issue was water delivery. She noted that information contained in the Staff report and on page 2 of her letter, places the burden of the applicant to make the water system work for fire flows and the State required pressures as a condition of approval. Ms. Hontz pointed out that the City already wants to charge the residents living in Old Town and at higher elevations an additional charge to pump the water up to them. She could not see how or why there was good cause to place more uphill demand on a system that is currently not being paid for appropriately. By not dealing with this now they would be setting the City up for failure if the applicant cannot get the water service for the newly subdivided lots. Ms. Hontz stated that even if they agreed with the pressures proposed, the levels of service may still not be good enough for the end user. She remarked that water and sewer providers are not supposed to be telling developers "no". They are supposed to be providing the parameters for a "yes", which still might not make a good cause finding.

Mr. Hontz stated that the fifth issue was significant concern that still remains about the sewer as outlined in the Staff report. Issue number six was the road width. Ms. Hontz stated that the only reason King, Ridge or Daly should be widened would be for the public health, safety and welfare. These streets do not need to be widened unless density is added to what is already allowed. Nine lots under the scope of good cause negatively impacts the public. For example, widening Ridge to 25' it would cut into existing platted lots, triggering eminent domain and taking of the lots by the City. It would result in a huge cost to the citizens, lawsuits over the taking, and a massive and expansive retaining wall on the uphill side of Ridge. The seventh issue was the streets Master Plan. Ms. Hontz quoted from the Streets Master Plan, "It may be appropriate in the most critical areas to prohibit additional development until roadway improvements are assured." The question again is why they were making roads bigger just to allow an applicant to go from one lot to nine lots. She stated that the cumulative impacts of what this project would do to the surrounding lots are even greater than the negative impacts it provides. Issue eight was access. Ms. Hontz thought Commissioner Joyce's comments regarding traffic were

accurate. She was concerned as to who would pay for the modifications to the public roads that come together. Again, it would only need fixing if they put in the nine lots. Ms. Hontz thought it was ludicrous to develop a new driveway into a site, and she was thankful that the people represented by Tom Bennett were still holding out. Emergency was the ninth issue. Ms. Hontz read, "The requirements of emergency access while important for life, health, safety and welfare also demonstrate the unsuitable nature of development in this area where the home sites are placed." She questioned why they were developing in an area that creates a huge burden on emergency services, and making new roads to service development that does not meet the good cause standard. Mr. Hontz referred to Exhibit G and identified platted Ridge Avenue. It is a ridge by definition and she encouraged the Commissioners to walk it. Issue ten is clustering. Ms. Hontz agreed with the Staff analysis in the Staff report that details their significant concerns with the lack of clustering, and that the lot layout does not echo the surroundings nor the HR-1 purpose requirements. Ms. Hontz stated that this was the time to solve the issue by denying the lot layout and configuration. It does not fit the established zoning and the applicant should apply for a rezone if they wanted this configuration. Issue eleven is the restrictions due to the character of the land. Ms. Hontz believed the modifications shown in the presentation this evening address some of the issues. However, as verified in the Staff report, steep slopes, potentially toxic waste and ridgelines still remain as issues that cannot be resolved after the applicants receive a certificate of compliance. Issue twelve – Sensitive Lands. Ms. Hontz stated that the documents required for the Sensitive Lands Ordinance is an enormous amount of information. She had not yet reviewed the documents because she had GRAMA request it. She hoped the Commissioners had read the documents. Issue thirteen is traffic. Ms. Hontz stated that based on IT trip generation, nine lots generate 90 vehicle trips per day on King, Daly and Ridge. That number does not count home services, deliveries, cleaning services, garbage, etc. With the existing lots, Ms. Hontz estimated over 190 trips per day up King or Daly, and that amount is significant.

Ms. Hontz stated that her letter included conclusions of law that she would like the Planning Commission to support. She requested that the Planning Commission consider continuing the application with direction to Staff for denial. Ms. Hontz understood that there was a development right on the property, but it should not be this density or design.

Chair Strachan referred to Ms. Hontz's letter and asked how she came up with the basis for the sentence "It is feasible to assume 390 additional vehicle trips per day. Ms. Hontz replied that it was a crystal ball, but she counted the platted lots and made assumptions because the platted lots cannot be built right now because they are HR-1 size and not HRL. She had divided 390 by ten trips per day. Chair Strachan asked if the ten trips per day was based on her knowledge that people take ten trips per day. Ms. Hontz realized that it sounded ludicrous but she believed it was an acceptable number. She took her information from the Institute of Traffic Engineers Manual Chart of Trips Per Day. Chair

Strachan asked if Ms. Hontz had used any other resource besides the IT Manual. She replied that she just counted lot numbers on the plat. She also made assumptions on the number of lots that were previous applications that had not been approved. Ms. Hontz clarified that she was not trying to be excessive or conservative. She was only trying to make her best guess based on what has been done in the past.

Sanford Melville, an Old Town resident, commented on the Alice Mine shaft. Mr. Melville stated that last Fall he wrote a "way we were" column for the Park Record on the Alice Mine. When he saw this huge development being proposed for the area it spurred his curiosity. Ms. Melville shared some of the history of the Alice Mine based on his research. The claim was initially filed and work was started in the early 1890s. Work continued until 1912. No shipments were made from the property and no Ore in commercial quantities were found. The mine was abandoned and filled in at some later date. Mr. Melville stated that in the course of his research he came across an interesting landmark book on the Geology and Ore Deposits in the Park City District. He read language from 1912. "A shaft which descends immediately beside the road was reported to have reached a depth of 500 feet. From the bottom a drift was stated to have been driven northwest to a north south fisher which opened for 200 feet along its strike, and a drift pushed 400 feet beyond the fisher cutting a baron zone." Mr. Melville thought they could be reasonably certain that there was a substantial shaft there and significant underground work. Mr. Melville referred to page 322 of the Staff report, Finding of Fact #38, which states, "The existing mine shaft on the property is currently filled as stated on the site plan dated May 18th, 2015. Mr. Melville noted that the Staff report did not say when it was filled, who filled it, how it was filled, what materials were used, and what standards were used.

Mr. Melville referred to page 325 of the Staff report, Condition #30, "Any structures built near the existing mine shaft shall be set back at least 10' if the shaft is filled up to the ground surface with soil or gravel." He understood that the shaft is currently filled and there is a 10' setback from the shaft. Mr. Melville referred to page 384 of the Staff report, which is the October 2014 geo-tech engineering report. He read, "The shaft and adit represent a public safety hazard and a potential for property damage resulting from ground subsidence. In our opinion, the opening should be closed to prevent accidental entry and potential subsidence. Typically mine openings are closed by backfilling and capping with concrete. Closure should be performed in accordance with Utah Division of Oil & Gas and Mining Abandoned Mine Reclamation Program Guidelines. Structures should not be located over the closed shaft and adit." Mr. Melville noted that the engineer was very specific and he thought this should be a finding of fact and probably a condition of approval. Mr. Melville stated that a substantial subsidence was experienced in the open shaft at Daly West recently. There is a precedent in Park City for shafts that are backfilled to subside. In May 2011 the American Flag Mine was filled but subsided and the hole is very intimidating. He recalled ten years ago when the Silver King Consolidated Shaft

collapsed in the middle of the Claim Jumper run at PCMR. Skier had been skiing over the shaft for decades and it eventually collapsed. Mr. Melville did not believe they should take lightly the issue of a mine shaft and every effort should be made to cap it properly.

Mr. Melville could not think of any instances in the Park City area where residential housing has been built in such close proximity to a mine shaft. He is a retired engineer but he has no expertise in mining and geology. However, in his engineering experience he learned that when dealing with hazardous situations that can endanger the public, you have to look at what could possibly go wrong and how it could be mitigated.

Jim Doiling stated that he has been a Park City resident for 41 years and he has lived the last twelve years on Sampson Avenue next to Alice Claim. He commended Mr. Fiat and his team for their hard work, but stated that hard work does not grant entitlements. Mr. Doiling requested that the plan be revised to reduce the number of lots, limit homes sizes and cluster the homes per the HR-1 purpose statement, "encourage historically compatible structures that contribute to the character and scale of the historic district, and maintain existing residential neighborhoods." He saw nothing in the application that honors that point. Mr. Doiling stated that nine lots were granted to avoid MPD status. The non-MPD maximum should only be granted if there are compelling community benefits. He pointed out that no community benefits were being offered. Relative to the home size, Mr. Doiling stated that he only followed one number presented by the applicant, which was the square footage of the house at 50 Sampson Avenue, and it was wrong. His house as measured by the City is 3,000 square feet, not the 5,000 square feet that was stated. Mr. Doiling was unsure whether anything else the applicant presented was incorrect, and he was unsure whether the City had enough Staff to verify it. He stated that the average footprint in the Sampson/King/Daly areas was 1475 square feet, not 2500 square feet. In his opinion, 2500 square feet will not blend in with the neighborhood. His Sampson subdivision plat restricts homes to 3,000 square feet of living area. He could not understand why someone getting new entitlements on a newly created subdivision should be granted rights that he was not granted on his platted lot. Mr. Doiling stated that clustering homes must be required appropriate to the HR-1 zone and the neighborhood character. Mr. Doiling requested that the Planning Commission instruct the Staff to prepare a negative recommendation. He would not be opposed if the applicants came back with a reasonable plan that respects the historic HR-1 guidelines, but he could not support the current plan and it would never be approved in Summit County.

Carol Sletta a resident at 135 Sampson stated that she has lived in her house for 35 years. She supported the comments from her neighbors who spoke this evening and thought they did a wonderful job of expressing all the concerns regarding this project. Ms. Sletta hoped the Planning Commission would take a hard look at this project and what it would mean to Historic Park City.

Chair Strachan closed the public hearing.

Commissioner Thimm appreciated the passion expressed by the public not only this evening but dating back to October. He remarked that a lot of work has gone into developing this project. He went back and looked at the various plans that were submitted and became exhibits to the Staff report. Commissioner Thimm thought the plan had evolved in a positive way. It is better clustered than previously shown. Removing the southern extension of the ground and the bridge was a major improvement. He appreciated the idea of changing the configuration of the houses and creating a design where the houses define a street edge. It is an importance principle of planning that often gets neglected. Commissioner Thimm likes how the homes were situated to follow the contours rather than going against them. He liked the idea of using the buildings to take up grade rather than the long retaining walls. The walls between Lots 2 and 3 were evidence of a better design. Commissioner Thimm stated that limiting the building height to 25' was an important concession. As he walked up and stood on each of the building sites, it appeared that 25' was a logical response to the height. Commissioner Thimm was concerned about the size of the homes. He had looked at the footprints of these houses and compared them to the footprints on adjacent sites in the neighborhood. He was not convinced that 5,000 square feet was the proper size and suggested that a smaller size would work better on this site. He suggested that a 4,000 square foot maximum was more reasonable. Commissioner Thimm referenced his earlier question about whether the mine shaft was actually filled in accordance with the soils report, and he was unsure whether that finding was ever made. Commissioner Thimm did not like how the retaining walls at the entrance were in a straight line. He would prefer an organic form and possibly the northerly walls turned to follow the contours. He suggested reconfiguring the entrance walls for a better visual effect.

Commissioner Joyce appreciated the solution for Lot 7 since he was the most vocal about it at the last meeting. Relocating the lot was a definite improvement. Commissioner Joyce stated that as he reviewed the project beginning from October, he struggled with what he was looking at. This parcel is good for building at one house and developing the proposed plan would be adding density and adding development rights. He noted that Summit County was trying to stop adding density until they get a handle on growth. He understood that they are not bound by the County; however, the Planning Commission and the City Council have the responsibility to control and shape the growth. Commissioner Joyce stated that he stopped trying to nit-pick the plan and instead tried to determine what it was that was making him uncomfortable. He came to the realization that it was in the HR-1 District and this proposal should follow the requirements of the HR-1 zoning. He liked what they did in terms of clustering the lots, but the size and layout did not feel like HR-1.

Commissioner Joyce stated that if they were looking at a plan that comes off the existing road, that did not have 30' retaining walls with all the cuts, and the houses would have 1600 square foot footprints, he might be able to support it. He felt there were too many downsides to the current proposal and there were not enough benefits to meet good cause. Commissioner Joyce also questioned the proposed house size and he thought the City provided footprints were more reasonable. He pointed out that the proposal was 60% to 80% larger than what exists in the HR-1 District in the surrounding streets. Commissioner Joyce stated that if the Planning Commission reaches the point of refining the findings and conditions, as well as issues with the plan, he would like the opportunity to work through his list of nit-pick items. However, at this time he could not support a positive recommendation on the current proposal.

Commissioner Band stated that she also had several pages of notes and she did not believe she needed to go through them since most were addressed in public comment. She noticed how detailed all the public comment was this evening and how specific they were in their reasoning. Commissioner Band stated that the end result is that this parcel is in the HR-1 District but it did not meet the purpose statement for the HR-1 District. She did not like the configuration of the lots and health and safety are huge issues. Commissioner Band noted that there are design options for the site and she thought they needed to look carefully at how it could be developed appropriately. She agreed with Commissioner Joyce that there was no reason to nit-pick because the subdivision was not viable for many reasons.

Commissioner Campbell remarked that the developer had a vested right to build one dwelling. Park City is going to grow and he agreed that the Planning Commission has the responsibility to manage the growth. Commissioner Campbell could not support the proposal while it is in the HR-1 zone. In his opinion, the development should either look like HR-1 or the applicants should apply for a rezone. Short of those two options, the Planning Commission could not approve this project without setting a precedent.

Chair Strachan echoed Commissioners Joyce, Band and Campbell. Chair Strachan did not believe this application was ready for action because there were so many "ifs" that they were trying to draft conditions of approval for such as DEQ approvals, sewer lines, engineer and other issues. He pointed out that the Planning Commission had not done a site visit and they had not seen the SLO analysis. Many things still needed to be done over and above a simple CUP or a plat amendment or subdivision.

Commissioner Joyce commented on some of the specific plans and studies that still needed to be done. However, but he was hesitant to ask the applicant to proceed with those plans because this project was not compatible with the HR-1 zone and nothing would change. Chair Strachan pointed out that the SLO is an overlay zone and the Planning

Commission would have to see that analysis regardless. He agreed with Commissioner Joyce about tasking the applicant with information gathering at this point.

Commissioner Thimm stated that his earlier comments were the nit-picky issues, but he agreed with his fellow Commissioners that the project did not look and layout as HR-1.

Commissioner Campbell requested that the Planning Commission give the applicant some choices and direction as opposed to stalling their development. Chair Strachan believed the Commissioners were clear on their position and he suggested continuing to a date certain to allow the applicant time to revise the plan per their comments. Chair Strachan remarked that if it was continued to a date uncertain it would have to be re-noticed. Another option would be for the Staff to make findings for denial and the applicant could appeal that decision to the City Council.

Commissioner Joyce stated that the applicant had put a lot of work and money into this project and he did not want to have to deny it. He preferred that the applicant come back with a proposal that could actually work. Commissioner Joyce stated that the cut and fill needed to be minimized and the layout needed to be more compatible with the HR-1 zone. Another issue goes back to good cause. They are allowed to build one house and they were asking for nine. Commissioner Joyce noted that there needs to be good cause for the density, but the good cause could not be financial gain for the developer. Rather than deny the application he preferred a continuance to give the applicants the opportunity to come back with a more acceptable plan.

Brad Cahoon, Legal Counsel for the applicant, requested a short break to give the applicant time to consider the options. The request was granted.

The applicants returned and requested a continuance to a date certain to allow the applicant time to respond to the comments they heard this evening. The Commissioners agreed to a continuance.

Chair Strachan asked what the applicant intended to come back with at the next meeting. Mr. Cahoon replied that they would provide written response to the comments and concerns. At this point they had no intention of moving lots or reconfiguring the layout.

Assistant City Attorney McLean was unclear on why they were requesting a continuance if the applicant did not intend to change the design to meet the comments made by the Planning Commission. Chair Strachan stated that the reason would be to give the applicant a forum and the opportunity to respond, and to give the Commissioners the opportunity to review their response.

The decision was made to continue to the July 8th meeting to allow the applicant time to prepare their response and for the Staff to analyze the information.

Assistant City Attorney McLean suggested that the Staff also prepare findings for denial based on statements made this evening. If the Planning Commission decided to further consider the proposal, the findings would not be used. However, if there is no common ground and the Planning Commission chose to deny the application, the action could be taken on July 8th based on the prepared findings for denial.

MOTION: Commissioner Band moved to CONTINUE the Alice Claim King Road and Ridge Avenue Subdivision and Plat Amendment July 8, 2015. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Band moved to CONTINUE Alice Claim King Road and Ridge Avenue Conditional Use Permit for retaining walls until July 8, 2015. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

Letter submitted by Brooke Hontz

6/10/15

Alice Claim aka Alice Load Applications in front of the Park City Planning Commission Arguments for Denial.

On April 8, 2015 the first Planning Commission with public comment on this iteration of the Alice Claim project was held. There were numerous comments made by multiple individuals during the public input. Additionally, Planning Commissioners made comments regarding the site plan, layout, density and other concerns. During that meeting I asked specifically if my letter could be included into the minutes, so a record of what was said into the microphone and on paper was provided for historical reference. My recorded comments appear, but my letter does not appear as part of the minutes. I would be fine including submitted written public comment as part of the packet, but as we don't get to see what is submitted until the Friday before these meetings, it is too late to submit comments on the plan discussed here at the meeting. Public comment is important to the process and should be included into the record. I respectfully request that my letter tonight along with all of the written public correspondence submitted regarding the project since the last meeting and up through today be included in the meeting minutes so there is a true record regarding the issues with this project.

One of the reasons why I bring up the testimony provided at the last meeting is because none of it has been addressed in the staff report or by the applicant with changes to the subdivision plat; including the Planning Commission's comments regarding the large density on the site and the location of the lots. Good Cause has not been established.

Please consider tonight all of the concern expressed by the surrounding neighborhood and the facts presented at the last meeting that still haven't been addressed, plus new information provided to make a decision to continue the application to a date certain and direct staff to create findings of denial to be finalized at that next meeting.

There are multiple facets of this project that need to be considered for approval. One of the most important elements is that you need to make findings that say there is good cause to approve the subdivision. The definition of good cause from the Park City Land Management Code: 1.112 GOOD CAUSE. Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and nonconformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

Through the discussion points provided below, the Planning Commission cannot find Good Cause in this instance for the following reasons:

1) **Density** - "addressing issues related to density section of good cause. This is one metes and bounds parcel governed by two underlying land use zones. As Commissioner Joyce put it at the last meeting, "How did we get to 9 lots?" The simple answer is because the applicant asked for 9. At 10 lots, it triggers the MPD code which no developer wants to go through unless they get a significant financial return. There has never been a discussion by the Planning Commission if this is a reasonable number; although public input has described (for dozens of reasons to follow below) why it is not an acceptable density. There is one lot right now. It needs to be proved via good cause and meeting the general plan and land management code that this 9 lot subdivision actually works and there has been ample testimony provided that it does not.

2) **Creating Lots that are unbuildable:** Per the Staff report, it is still likely that through steep slopes, actual site geotech findings, and other details this 9 lot subdivisions creates lots that could not be built under current Land Management Code Standards; requiring each lot and home to come back to another City Board for a hardship or a variance.

3) **Geotechnical Issues:** Although the geotech report provides some information, in the Staff report is states that not all of the lots have been tested and each lot will need a study in order to develop. The geotechnical aspect of burdening the hillside with construction that

may or may not be correctly designed is a huge concern for this development, and people around it. The Commission in the past has believed a higher standard was warranted for this site and this standard was supported by the Utah office of the Ombudsman.

4) **Water Delivery:** The information in the Staff report regarding the water supply issues places the burden of the applicant to make the water system work for fire flows and state required water pressures as a condition of approval. We all heard last week that the City wants to charge those of us in Old Town and higher elevations an additional charge to pay to pump water "up" to us. While I have a problem with that concept as a separate issue, I also don't see how or why there is good cause to place more uphill demand on our system that currently isn't being paid for appropriately. I'll say it again, in some cases it seems logical to allow someone to sort out water delivery details post subdivision approval. In this case it is ludicrous. Before the subdivision and CUP can move forward a solution that works for the applicant and water provider needs to be determined, including costs. The effects of the design may impact where homes go, sizes, number of bathrooms, etc. By not dealing with this now you are setting the City up for failure if the applicant feels they cannot get water service they need to serve the newly subdivided lots. Do you agree with the pressures that are proposed - level of service they suggest may still not be good enough for the end user. As you know, the water and sewer providers are not supposed to tell a developer "NO", they are supposed to provide the parameters for a yes, which might not work as part of the "good cause" finding.

"Staff was previously informed by the Park City Water Department, that all of the Alice Claim property proposed for development may not be serviceable by the current City water system due to low water pressure. The low water pressure is due to the small elevation difference between the proposed development's elevation and the Woodside Tank's elevation. The Applicant was informed about this issue and is responsible for modeling the water service to the development and if it is still insufficient they will need to provide a remedy. The Applicant has prepared a water model addressing the limitations of the current water system on the proposed development (including factors such as the ability to meet: acceptable water system pressures and fire flow requirements to each home site (indoor and outdoor pressures are not adequate), the Fire Marshal's site specific requirements, and Division of Drinking Water regulations). Proposed Lots 1-4 and 8 as shown on the proposed plat are likely the lots most affected. The Applicant was to confirm the elevation of each of the proposed building sites to determine the affected sites and either redesign the project accordingly, or work with the Water Department to determine the best solution. At the time of this report, the Water Department, Fire, Building and Engineering have received a revised letter from the Applicant's engineer addressing the previously submitted Water Model that will meet the City's requirements. With the change of location of Lot 7, the Water Department believes this will make the situation better than before. Any revisions to the previously submitted

model will need to meet acceptable water pressure flows in order for the subdivision to meet water requirements. This is listed as a specific condition of approval. The Assistant Fire Chief also required that the Applicant provide water modeling to demonstrate the available pressure for the fire sprinkler system design for Lots #2 and 7 which the Applicant has demonstrated can be achieved." From Staff Report.

5) **Sewer:** There remain significant concerns about sewer that are contained in the staff report. Similar to water, the City should not approve this subdivision prior to the applicant working out a solution with SBWRD and the City Engineer. Some of the solutions proposed may require eminent domain, which SBWRD's board has said they will not consider. Other solutions may require elements of design which the City Engineer has said in the past that he will not approve. The complexities of this site are significant and deserve answers that the LMC and Subdivision regulations require the City to follow.

"Staff was informed by the Snyderville Basin Water Reclamation District that the Applicant has only met with them briefly prior to the April 8, 2015 meeting besides almost 10 years ago when the application was first submitted to discuss utility location and placement within the proposed roadways. The Sewer District has concerns regarding the placement of the sewers in relation to the retaining walls and in relations to other utilities. This will need to be remedied before the proposed plat can be signed by SBWRD prior to plat recordation and is listed as a specific condition of approval. The Applicant is aware of the Sewer Districts concerns and will work to obtain a Line Extension Agreement upon approval of the plat. The sewer design could affect the entire layout of the subdivision and if any changes are made to the layout of the subdivision upon SBWRD's approval, this approval shall be null and void and an application to amend the Ordinance and plat shall need to be submitted and be reviewed and go through the entire process including internal review, planning commission and city council review. Nothing has changed in respect to the Sewer District since the last meeting on April 8, 2A75." From the Staff Report.

6) **Discussion on Road Width:** A significant discussion should be held with the Planning Commission to discuss whether Ridge Avenue should remain a substandard quaint historic street, as is described in our the streets master plan, Visioning Documents, our General Plan, and the purpose statements of BOTH zones; or if it should be a wider, faster road simply to serve new development. The only reason King, Ridge or Daly should be widened would be for the public health safety and welfare - emergency situations serving NEW development – not existing. We don't need any of these streets widened unless you add density on top of what is allowed. 9 lots, under the good cause scope, negatively impacts the public. If that reason to not widen these roads is not enough, if Ridge Ave is widened to 25 feet, it would cut into the existing platted lots - triggering eminent domain and taking of

the lots by the City, a huge cost to the citizens of the City, likely lawsuits over the taking, and a massive and expensive retaining wall on the uphill side of Ridge.

7) **Streets Master Plan:** All roadways near the proposed subdivision are substandard streets. The Streets master plan says that "Roadways which are severely substandard pose real life and safety hazards, which should receive top priority. The most pressing problems exist in the old part of town. It may be appropriate in the most critical areas to prohibit additional development until roadway improvements are assured". Again, why are we making roads bigger simply to allow an applicant to go from L lot to 9. The cumulative impacts of what this project will do to the surrounding lots are even greater than the negative impacts it provides.

8) **Access:** Right-of-way - The proposed King Road r-o-w, versus the existing private driveway, is not a good solution to provide access to the site and is another reason why "good cause" cannot be supported. The city defines Right-of-way as:

1.222 RIGHT-OF-WAY. A strip of land, dedicated to public Use that is occupied or Intended to be occupied by a Street crosswalk, trail, stairway, ski lift, railroad, road, utilities, or for another special Use.

It does not mandate that it provide street access to a private property. The proposed layout creates a 5th point of convergence of 4 existing non-standard streets and creates the need for excavation, vegetation removal and a large retaining wall. Just because an agreement can't be made with the nearby Woodside Gulch private owner doesn't mean the City has to allow access to develop on very steep slopes from a road right-of-way.

Furthermore, the proposed project does not meet the purpose of the HRL zone, notably the first purpose as listed in LMC Section LS-2.L-L(A), which states: "Reduce density that is accessible only by substandard Streets so that Streets are not impacted beyond their reasonable carrying capacity..."

9) **Emergency:** The requirements of emergency access; while important for life, health, safety and welfare, also demonstrate the unsuitable nature of development in the area where the home sites are placed. Why are we developing in an area that is creating a HUGE burden on our emergency services and making new roads simply to service development that does not meet the good cause standard? The fire requirements further the impervious surface required, remove more vegetation and show a future secondary access that should never be approved as dictated by our existing Streets Master Plan. Please see the City Map showing the cumulative impacts of this development on Emergency services and Exhibit G.

Summary of Secondary Access - Ridge Avenue is the "secondary access" named in the staff report, and will be needed by all residents of the area during certain periods of the year for egress.

- Ridge Avenue is a road built outside its platted location.
- Ridge Avenue currently has one home that uses the road for primary access and is a substandard street that is extremely narrow and acts currently as a secondary access to King Road.
- Ridge Avenue is a narrow street that is often covered by debris and mud during the year, especially during runoff in the winter and spring.
- Snow removal on Ridge Avenue may be difficult or delayed during winter months.

- Hazardous vehicle and pedestrian conditions exist on Ridge Ave when snow and/or slippery conditions are present.
- The Streets Master Plan indicates that Ridge Avenue, in the section where the proposed subdivision is located, should be widened by 7.5 feet however the City does not own the land on either side of the road to enlarge it and would need to spend taxpayer money to support the private developers need to widen the road.
- Ridge Avenue should remain narrow to protect the pattern of development in Old Town while also protecting public health, safety and welfare by keeping traffic limited and speed low and as specified in the Streets Master Plan.
- Built Ridge Avenue is adjacent to a very steep cliff and the reasonably anticipated detrimental effects of more traffic on the road cannot be substantially mitigated by the application to achieve compliance with Public Safety and Welfare standards.

10) **Clustering:** I agree with Staffs analysis that details their significant concerns with the lack of clustering and that the lot layout does not echo the surroundings nor the HR-1 purpose requirements. Now is the time to solve this by denying this lot layout and configuration. This density and layout are not conforming to the code; and the density is more than the site can support. Per Good Cause, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City - the current layout does not work.

“A comparison of clustering of the surrounding neighborhoods had also been provided (Exhibit J from the April 8, 2015 staff report). This exhibit shows that the adjacent HR-L District and homes are clustered much more close together and the similar HR-7 District adjacent to that to have even smaller lot sizes, house sizes and are clustered even closer together than the adjacent HR-L District and the proposed plat which is also within the HR-

7 District. Instead of clustering the homes closer together, the Applicant proposes that the homes will be no more than two (2) stories with no limitation to the height other than the LMC limits and up to 5,000 sq. ft. (maximum total floor area) in size (including basement and garages) and up to 2,500 ft. in footprint; however very few homes within the Historic Districts compare to house size and lot size as is proposed by the Applicant. Staff's opinion is that the layout of the homes". From the Staff report.

11) Restrictions due to the Character of the Land: Land Management Code Section 15-7.3-1(D) shall apply, and states: "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." PG L88 of 4/8115 Staff Report.

No information has been provided by the applicant to address the concerns of the very steep and steep slopes; which are numerous and have been brought up by this planning commission and by at least the previous 2 Commissions. Please be sure to address these issues now so that you don't create a project that is not viable by LMC standards.

According to Brent Bateman (Utah's Office of the Property Rights Ombudsman), who I believe gave the Planning Commission some training recently, related to steep slope development there can be "a compelling countervailing public interest" if analysis deems the proposed development unsafe.

12) Sensitive Lands: Has the Commission reviewed all the documents required per the SLO requirements and if so, do you agree with their analysis? Are there other studies you would like to see completed? I have to GRAMA request that information to be able to even see if it was submitted; much less with appropriate responses. Part of what needs to be completed for the lot within the SLO zone is a Site Suitability Analysis.

As part of the site suitability analysis I would like to see more information on access. In 2006 the applicant was asked to move the location for access away from what appears to be the proposed access due to the creation of major retaining and steep grade. I agree with the Planning Commission's recommendation from 2006 which did not support creating

an alternative access at platted Sampson creating more cuts, fills and visual impacts. It is also unclear why the applicant would want, or PCMC would support an awkward access just a few feet from the existing drive. Would these nightmare roads become part of the City's snow removal and ongoing maintenance responsibility? We keep revisiting the limitations of our Old Town "sub-standard" roads such as King, Sampson, Daly, and Ridge; yet we seem to make no progress on mitigating the impacts of new (or existing) development.

This proposed subdivision will likely set precedent for all the remaining platted, yet undeveloped, lots throughout Old Town. I am very concerned with the prospect of the last pieces of the wildland interface going the way of development based on a map drawn without topography and sight unseen from the East Coast in the late 18@'s. I believe we can create better places and do better planning in Park City in 2009 than to rely on maps and codes that no longer fit the place we have become.

13) **Traffic:** Using Traffic Engineers traffic generator numbers from ITE trip generation manual 9th edition, 9 lots with one single-family residential home per lot will generate 10 trips per day. That means 90 more vehicle trips just from the occupants alone - not counting UPS/Fed Ex, Garbage, Home Services, Cleaning, etc. That's a lot of traffic for a one and a half lane substandard road with a long steep grade and no outlet. This traffic has to go to the end of a dead end and add additional traffic to our roads which residents of Park City found to have unsatisfactory levels of service this winter. Assuming this subdivision would open the door and access to other lots in the area; it is feasible to assume 390 additional vehicle trips a day up and down King, Ridge and Daly.

Conclusions of Law

1. There is no good cause for this plat amendment given the arguments raised and discussed above including that it does not meet the Subdivision Code 15-7-3 Policy (b) as discussed above. Policy B states: Land to be subdivided or resubdivided, or Lot lines that shall be adjusted therein, shall be of such character that it can be used safely for Building purposes without danger to health or peril from fire, flood, landslide, mine subsidence, geologic hazards, or other menace, and land shall not be subdivided, re-subdivided, or adjusted until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements.

2. It is unknown at this time whether appropriate sewer service or adequate water service can be provided to the proposed lots.

3. Per specific reasons stated above, the plat amendment is not consistent with the Park City Land Management Code, the General Plan, and the Streets Master Plan. See LMC

15-7-3. Policy (c) the proposed public improvements shall conform and be properly related to the proposals shown in the General Plan, Streets Master Plan, Official Zoning Map, and the capital budget and program of Park City.

4. The Subdivision Plat does not meet the purpose statements of the Subdivision regulations, including:

(A) To protect and provide for the public health, safety, and general welfare of Park City.

(B) To guide the future growth and Development of Park City, in accordance with the General Plan.

(C) To provide for adequate light, air, and privacy, to secure safety from fire, flood, landslides and other geologic hazards, mine subsidence, mine tunnels, shafts, adits and dump Areas, and other danger, and to prevent overcrowding of the land and undue congestion of population.

(D) To protect the character and the social and economic stability of all parts of Park City and to encourage the orderly and beneficial Development of all parts of the municipality.

(E) To protect and conserve the value of land throughout the municipality and the value of Buildings and improvements upon the land, and to minimize the conflicts among the Uses of land and Buildings.

(F) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

(G) To provide the most beneficial relationship between the Uses of land and Buildings and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the Streets and highways, and the pedestrian traffic movements appropriate to the various Uses of land and Buildings, and to provide for the proper location and width of Streets and Building lines.

(H) To establish reasonable standards of design and procedures for Subdivisions, Resubdivisions, and Lot Line Adjustments, in order to further the orderly layout and Use of land; and to insure proper legal descriptions and monumenting of subdivided land.

(I) To insure that public facilities are available and will have a sufficient capacity to serve the proposed Subdivision, Resubdivision, or Lot Line Adjustment,

(J) To prevent the pollution or degradation of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; to minimize Site disturbance, removal of native vegetation, and soil erosion; and to encourage the wise Use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land,

(K) To preserve the natural beauty and topography of Park City and to insure appropriate Development with regard to these natural features, and

(L) To provide for open spaces through the most efficient design and layout of the land, including the Use of flexible Density or cluster-type zoning in providing for minimum width

and Area of Lots, while preserving the Density of land as established in the Land Management Code of Park City.

5. Land Management Code Amendments regarding applicability of Master Planned Developments, Chapter 6. (Application PL-15-02803)

Commissioner Phillips returned to the meeting.

Chair Strachan thought the Planning Commission should discuss the over-arching issue of whether it is a good or bad idea to look at height exceptions outside of the MPD context before hearing the Staff presentation. He believed the policy needed to be addressed before moving forward. Assistant City Attorney McLean understood how the MPD discussion could morph into that discussion, but that specific piece was not noticed on the agenda. Ms. McLean recommended that the Planning Commission discuss the MPD and direct the Staff to come back with amendments regarding that particular policy. Chair Strachan did not believe the policy discussion was outside of the agenda because the two were connected.

Commissioner Joyce stated that he was absent from the meeting where one project had applied for an MPD and a height exception. It was determined that a mistake had been made and that an MPD was not allowed, but no one had caught the mistake until that evening. He understood that this LMC amendment came about as a solution for that project. Commissioner Joyce understood that the root problem was that the applicant designed a good project that was supported by everyone. The requested height exception affected a portion of the building and the only way the height exception could be granted was through the MPD process. He stated that there are times when the Planning Commission sees value in providing a height exception within a limited set of restrictions. Commissioner Joyce felt they were about to throw away the entire MPD process, which is designed for large projects such as Park City Heights and the Hospital.

Commissioner Campbell thought Commissioner Joyce was making it more complicated. He pointed out that the threshold got bigger not smaller over the past few years and the intent is to turn it back. He clarified that they were not forcing anyone into an MPD.

Commissioner Joyce asked if they wanted to create a hurdle where if someone wanted a height exception, the only solution would be to go through the entire MPD process with all the associated requirements. Commissioner Campbell believed the amendment would give the Planning Commission more flexibility. Commissioner Joyce was concerned about the hurdle for the small developer, and the project that started this discussion was a perfect example. He was also concerned about creating a solution for one project. Commissioner Campbell suggested that they solve the problem for one project this evening, and ask the

Staff to bring it back for a broader discussion at another meeting. He noted that it was too late tonight to do what Commissioner Joyce was suggesting, and it was unfair to ask the applicant who was waiting for this decision to wait any longer. Commissioner Campbell agreed with the need for a larger sweeping change, but he did not think it could be accomplished tonight.

Commissioner Joyce was uncomfortable making a Land Management Code change for one applicant. Commissioner Campbell pointed out that the City had made the mistake and for months the applicant went through the MPD process. The applicant should have been advised by the City that they did not qualify for an MPD but the mistake was not caught until the last meeting.

Commissioner Joyce asked the Commissioners if they had the flexibility to give a height exception through the normal non-MPD process, whether they would think the MPD amendment was the right thing to do. All of the Commissioners answered yes. Commissioner Campbell reiterated that they were not forcing people to go through the MPD process, but this amendment would make it available for more people if they chose to do it. Commissioner Joyce wanted to make sure that the end result was not solving a problem for one applicant and not for everyone else. Commissioner Campbell agreed with Commissioner Joyce, but he thought that was a broader discussion for another time and another LMC amendment.

Commissioner Band did not believe what Commissioner Joyce was suggesting was contrary to what would occur with this amendment. They were changing the LMC so someone could do an MPD but it did not mean they had to. If they make another change later on it would be another option.

Commissioner Joyce understood that there was agreement from the rest of the Commissioners that this amendment would be good for everyone and he was comfortable with that decision. However, if they forward a recommendation to the City Council they needed to be clear that this amendment would not forever solve the problem. He did not want the City Council to think they already resolved the problem if another amendment comes before as another option.

Chair Strachan remarked that height exceptions are not tied to requirements such as affordable housing and open space. He would not be in a favor of a streamlined height exception route through the LMC because it could set a precedent.

Commissioner Thimm was in favor of the amendment because it was a benefit to the LMC and not just one project. He initially shared Commissioner Joyce's concern about making a

change for one project; however, after reading through the amendment it made complete sense.

Chair Strachan opened the public hearing.

Ehlias Louis supported the recommendation to the City Council to change the LMC as it pertains to the MPD. He disclosed that he would directly benefit from the change, but he also believed it was a benefit to the community. Having gone through the MPD process, Mr. Louis believed it was a great tool that allows more scrutiny to come through the Planning Commission to give design flexibility to future projects in town. He stated that design diversity can inspire and enrich the community, which is why he publicly supported this amendment.

Chair Strachan closed the public hearing.

Assistant City Attorney McLean stated that when she read through the progression of the Code it was silent on the issue and it had never been included as part of the MPD. It was interesting that it was never caught in all the years of doing MPDs. Planner Whetstone pointed out that ten years ago an MPD was 50 units or more. Affordable housing was tied to MPDs and Annexations, which is why larger projects did not provide affordable housing. The MPD was later reduced to ten units but another change made it ten unit equivalents.

Planner Whetstone noted that the Staff report asked if there were other Districts the Planning Commission wanted to consider. This amendment was specific to the GC and LI Districts. She also asked if there were other uses in the applicability that they would like to see added to the list or deleted off the list. She noted that mixed-use was on the list.

Chair Strachan believed those were questions for the future broader MPD discussion.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the LMC Amendments regarding applicability of Master Planned Developments, Chapter 6, based on the Findings of Fact and Conclusions of Law found in the draft ordinance. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

6. **Land Management Code Amendments regarding 1) Setbacks for patios and hot tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16; 2) Annexations procedure and review in Chapter 8; 3) Nonconforming uses and non-complying structures in Chapter 9; 4)**

Definitions of carports, essential municipal and public utilities, facilities, and uses and others in Chapter 15; 5) Applicability of Steep Slope Conditional Use Permits in HRL, HR-1, and HR-2; 6) Conditional Use Permit review and site requirements in HRM Section 15-2.; 7) Board of Adjustment standard of review and appeals in Chapter 1 and Chapter 10; and 8) Combination of condominium units procedure in Chapter 7. (Application PL-14-02595)

Due to the late hour this item was continued to the next meeting.

Chair Strachan opened the public hearing. There were no comments. Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE the Legislative LMC Amendments to June 24, 2015. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 10:15 p.m.

Approved by Planning Commission: _____

Planning Commission Staff Report



Subject: Sign Code Amendment Discussion
Author: Christy Alexander, AICP, Planner II
Date: June 24, 2015
Type of Item: Work Session – Legislative, Sign Code Amendments

Summary Recommendation

Staff recommends that the Planning Commission provide feedback and input to the proposed amendments to the Sign Code for Municipal Code Section 12-9-1(G) as described in this report. This is not a Land Management Code (LMC) issue, but rather a Municipal Code issue that is addressed by the City Council. Planning Staff requests input from the Commission prior to taking the issue to the City Council.

Description

Project Name: Sign Code Amendments Discussion
Applicant: Planning Department
Proposal: Revisions to the Sign Code

Background

As it is currently written, the height limit, number limit, and setback limitations of free-standing signs of Section 12-9-1(G) may result in the effective visibility of a resort way-finding sign being materially impaired by existing topography, other buildings or signs, landscaping, or other visual impairment. In order to accommodate better resort signage that would create a more legible built environment and provide better way-finding staff recommends that the Planning Commission provide feedback and input to the following proposed Sign Code amendments that came about with our partnership with Deer Valley and addressing signage as we are completing improvements with the ROW along Deer Valley Drive.

Analysis

The proposed changes to Section 12-9-1(G) would allow for the Planning Director to grant an exception to the height, number, and setback limitations described in Subsections (2), (3), and (4) for resort signage best attract passersby and provide wayfinding without violating other Sign Code regulations or being obstructed by other visual obstacles. This would be limited and available solely for resorts located within the municipal boundaries and signage must be located on the resort's property or as part of a City Engineer approved ROW improvement project within 300 feet of the resort's property. The proposed signage must still adhere to the size (maximum square footage in area), orientation, zoning restrictions, design and illumination requirements set forth in Subsections 12-9-1 (G)(1), (4), (5), (6), and (7). The location of adjacent buildings, site topography, landscaping, other signs, or other visual impairment, however, should be taken into account when determining a sign's location on a site.

For ski resorts, Section 12-9-1 (G), which states, “Free-standing signs may not exceed a height of seven feet (7’) measured from final grade and in the GC District signs must be set back ten feet (10’) from the property line and allowed only one sign for directional purposes only” prevents resort signage from being optimally visible and visitors from finding their way to and around the resorts. The proposed changes would grant an exception, at the Planning Director’s discretion, so that such resorts would not need to adhere to the restriction of signs as stated above and would be allowed signs up to fourteen feet (14’), up to two signs setback at a minimum 100 feet from each other, and setback only five feet (5’) from the property line in the GC, RD and RC zones only or as part of a City Engineer approved ROW improvement project within 300 feet of the resort’s property with the criteria that these exceptions help resort signage best attract passersby and provide wayfinding without violating other Sign Code regulations or being obstructed by other visual obstacles. The current Deer Valley and PCMR signs are up to eleven feet (11’) in height and are shown as Exhibit C. These signs were approved before the current sign code was amended to the current 7 feet height restriction and therefore are legal non-conforming signs. Seeing as Park City’s economy is based on the ski resort industry, these amendments are appropriate for the ski resorts but not appropriate for other large entities.

Community Ideals

Staff finds that the proposed changes do not detract from the four (4) community ideals: Sense of Community, Natural Setting, Small Town, and Historic Character. Due to the resort aspect of our town, wayfinding for visitors to the town is important and vital to help alleviate traffic congestion when people don’t know where they need to go.

Deer Valley Resort

Staff does disclose that these changes will indeed affect the signage for the entry corridor (within 300 feet of the resort’s property) to Deer Valley Resort in the City ROW as the City is finishing improvements to Deer Valley Drive. These proposed Municipal Code changes came from the resort as well as internal discussions within the Park City Planning Department. Deer Valley Resort asked the City to consider amending the ordinance because of issues at its location and there is no provision for a variance or exception to the sign code. Exhibit B illustrates an example of signage that would be placed within the Deer Valley Resort entry corridor. Deer Valley Resort proposed a height of 20 feet and the City Engineer prefers a height of 16 feet, but planning staff recommends limiting the height to a maximum of 14 feet.

Staff also discloses that PCMR has initiated discussions with staff regarding updating their entrance signage as well.

Summary Recommendation

Staff recommends that the Planning Commission provide feedback and input to the proposed amendment to the Sign Code for Municipal Code Section 12-9-1(G) as described in this report. Planning Staff will ultimately make a recommendation to the City Council regarding a change to the Sign code language as contained within the Municipal Code.

Exhibits

Exhibit A –The entirety of section 12-9-1(G) of the Municipal Code as proposed

Exhibit B – Renderings of proposed Deer Valley Resort free-standing sign placed within the entry corridor

Exhibit C – Photos of existing Park City Mountain Resort and Deer Valley Resort signage

EXHIBIT A

12-9-1. TYPES OF SIGNS ALLOWED.

(G) FREE-STANDING SIGN.

- (1) **SIZE.** Free-standing signs shall be limited to a maximum of twenty square feet (20 sq. ft.) in area.
- (2) **HEIGHT LIMIT.** Free-standing signs may not exceed a height of seven feet (7') measured from final grade.
- (3) **NUMBER OF SIGNS.** Buildings, projects, parcels or Master Planned Developments less than 100,000 square feet of building space are limited to one (1) free-standing sign. If the property has more than one (1) entrance and frontage on more than one (1) street, one (1) additional sign may be permitted for directional purposes only. The combined square footage of all free-standing signs shall not exceed the maximum square footage allowed.

Master Planned Developments of greater than 100,000 square feet of building space are allowed one (1) additional free-standing sign per additional 100,000 square feet of building area to a maximum of five (5) free-standing signs within the development provided they are used specifically to identify the development, provide way finding within the development and to identify an amenity within the development. All other requirements of this Code shall apply.

- (4) **SETBACK AND ORIENTATION.** Free-standing signs shall not be placed in the setback area as defined for the zone in which the sign is located. However, in the General Commercial (GC) District, signs must be set back ten feet (10') from the property line.

Free-standing signs may be aligned either perpendicular or parallel to the road provided that signs perpendicular to the road are finished on both sides. With the exception of those in the Frontage Protection Zone (FPZ), the Planning Director may decrease this setback if it is determined that a particular road alignment or traffic conditions would facilitate inadequate visibility of the sign for street or pedestrian traffic.

- (5) **ZONING RESTRICTIONS.** Free-standing signs are allowed in the commercial districts GC, RM, RDM, RC, RCO, LI, HRC, HCB, and RD. Free-standing signs located in the Frontage Protection Zone require a Conditional Use Permit (CUP).
- (6) **DESIGN.** Free-standing signs with a solid or enclosed base are permitted. Signs must be compatible with the architecture of the building to which they are associated. Signs supported by at least two (2) poles without enclosed bases are also permitted provided that the exposed pole's height does not constitute more than fifty percent (50%) of the sign's overall height, i.e., the height of the open area beneath a sign cannot exceed fifty percent (50%) of the sign's total height.

(7) **ILLUMINATION.** Lighting of free-standing signs is permitted, provided that the lighting complies with Section 12-4-9. However, internally illuminated pan-channel letters are not permitted on free-standing signs. Any exterior lighting proposed for the signs shall be included in the sign application.

(8) SPECIAL EXCEPTIONS.

Within the RC (Recreation Commercial) and RD (Residential Development) and GC (General Commercial) zoning districts only, the Planning Director may grant a special exception as set forth herein, as long as it is found that:

(A) The proposed free-standing sign shall be for ski resorts within the Park City Municipal boundaries only, provided they are used specifically to identify the resort, provide way-finding, and are located within the entry/exit corridors to the resorts (within 300 feet of the resort's property).

(B) The proposed size, design, and illumination of the free-standing sign satisfies the requirements of Subsections 12-9-1 (G) (1), (6), and (7) above.

(C) No more than two additional free-standing signs are permitted and must be setback at a minimum of 100 feet from any other free-standing signs.

(D) The height of the free-standing sign may not exceed a height of fourteen feet (14') measured from final grade.

(E) Free-standing signs must be set back five feet (5') from the property line or as part of a City Engineer approved ROW improvement project within 300 feet of the resort's property. Free-standing signs may be aligned either perpendicular or parallel to the road provided that signs perpendicular to the road are finished on both sides. With the exception of those in the Frontage Protection Zone (FPZ), the Planning Director may decrease this setback if it is determined that a particular road alignment or traffic conditions would facilitate inadequate visibility of the sign for street or pedestrian traffic.

(F) Free-standing signs are allowed in the commercial districts GC, RC, and RD only. Free-standing signs located in the Frontage Protection Zone require a Conditional Use Permit (CUP).

(G) The Planning Department and applicant shall be responsible for posting notice to the property and to adjacent property owners ten (10) days prior to the Planning Director making an official determination in the same manner that an Administrative Conditional Use Permit application is handled as per the Land Management Code Section 15-1-11(D).

The decision of the Planning Director to deny a requested special exception, as provided herein, may be appealed to the Planning Commission within ten (10) business days following the issuance of a written decision by the Planning Director, in accordance with

the provisions of Section 12-15-1.



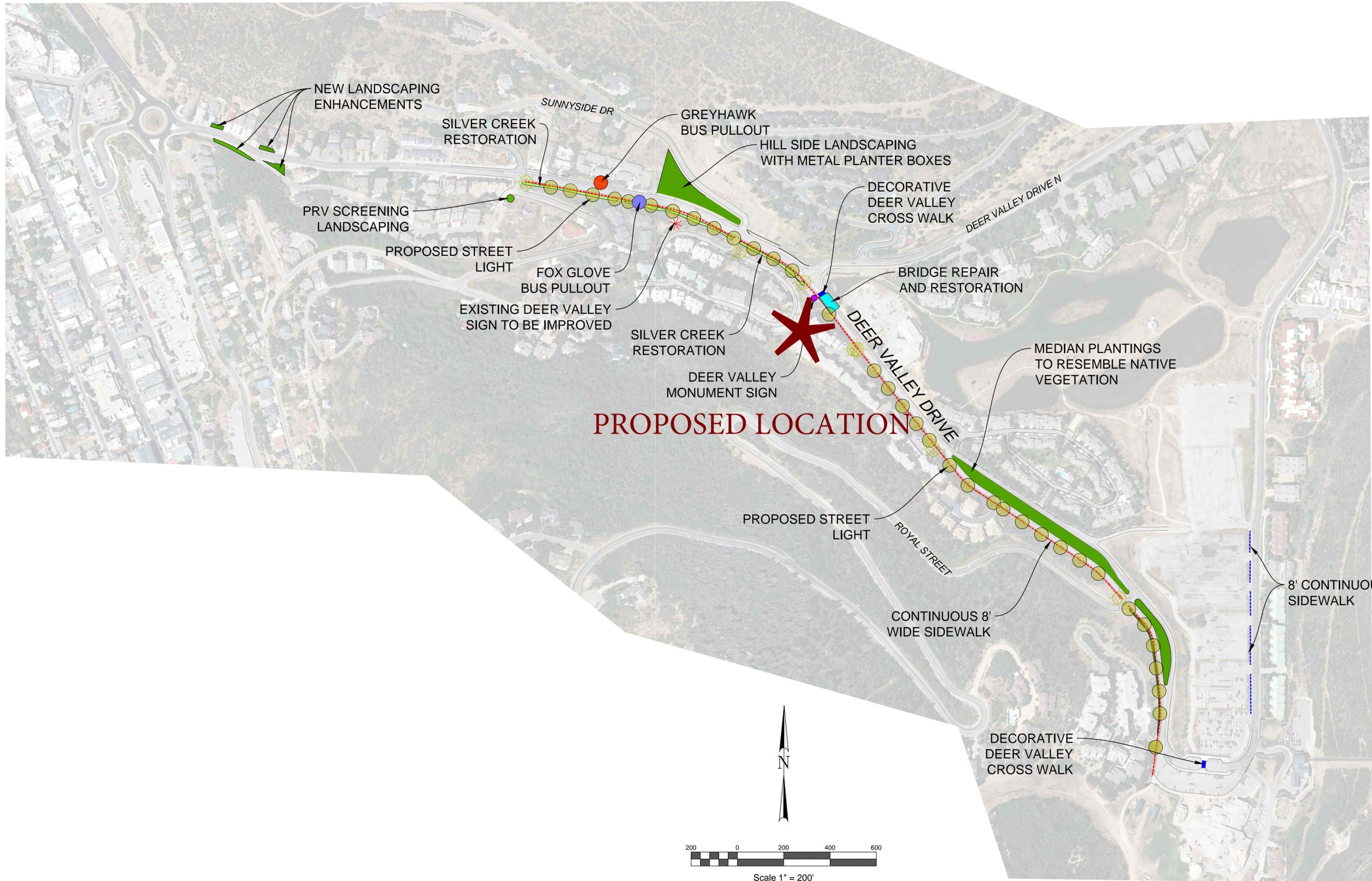
Park City.
Street Scape | Resort Entrance Feature

7th April 2014



Park City.
Street Scape | Resort Entrance Feature

7th April 2014



**DEER VALLEY DRIVE PHASE 2
 IMPROVEMENTS
 PARK CITY, UT
 DEER VALLEY PH 2 IMPROVEMENTS**

231 West 800 South Suite A Salt Lake City, Utah 84101
Ward Engineering Group
 Planning Engineering Surveying
 PH: 801.487.8040 FX: 801.487.8668



CLIENT: PARK CITY
 DIV: _____
 JOB NO: PC003
 PROJECT: DEER VALLEY DRIVE PHASE 2 IMPROVEMENTS
 DATE: 04/14/2014

DRAWN BY: JEW
 DESIGN BY: JEW
 CHECKED BY: BHT
 DATE: 04/14/2014

REVISIONS

SHEET

EXHIBIT C

11' HEIGHT



DEER VALLEY DRIVE

11' HEIGHT



DEER VALLEY DRIVE



11' HEIGHT

9' HEIGHT

COLE SPORT/PARK AVE

↑
 PARK CITY
 MOUNTAIN
 RESORT
 SHOPS
 LODGING
 RESTAURANTS

→
 PARK CITY
 MOUNTAIN
 RESORT
 SHOPS
 LODGING
 RESTAURANTS

PARK CITY
 1884



PARK CITY 1984 Shadow Ridge

Lowell Ave. PARK CITY 1984

STOP

PCMR PARKING LOT

10' HEIGHT

PARK CITY
PARK CITY MOUNTAIN RESORT

Planning Commission Staff Report



Subject: LMC Amendments
Author: Francisco Astorga, Planner
Date: June 24, 2015
Type of Item: Legislative – LMC Amendments
Nightly Rental in the HRL East District
Green Roofs in the Historic Residential and the RC Districts

Summary Recommendations

Staff recommends the Planning Commission conduct a public hearing and continue the Land Management Code Amendment regarding Nightly Rentals use in the HR-L Chapter 2.1 and possible amendments to the Green Roof definition and application in HR-L Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15 to July 22, 2015, to allow Staff additional time to work through the applications.

Description

Project Name: LMC Amendment regarding Nightly Rental use in the HR-L Chapter 2.1. Review of the Green Roof definition and its application in HR-L Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15.

Applicant: Planning Department
Proposal: Possible revisions to the Land Management Code

Background

For several years the Planning Department has been having discussions with residents in the HR-L District, east of Main Street, regarding the Conditional Use of Nightly Rentals in this part of town. In 2009 the City added a provision regarding Green Roofs being allowed in the HR-L, HR-1, HR-2, and RC Districts. An initial discussion was conducted with the Planning commission on May 13, 2015, See Exhibit A.

Exhibits

Exhibit A – May 13, 2015 Staff Report
Sub-Exhibit A – Proposed Ordinance
Sub-Exhibit B – HRL East Area

Planning Commission Staff Report



Subject: LMC Amendments
Author: Francisco Astorga, Planner
Date: May 13, 2015
Type of Item: Legislative – LMC Amendments
Nightly Rental in the HRL East District
Green Roofs in the Historic Residential and the RC Districts.

Summary Recommendations

Staff recommends that the Planning Commission review the Land Management Code Amendment regarding Nightly Rentals use in the HR-L Chapter 2.1 and possible amendments to the Green Roof definition and application in HR-L Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15. Staff recommends that the Planning Commission review the staff report, open and continue the public hearing, and consider continuing this item to the June 24, 2015 Planning Commission meeting as noticed. Staff does not recommend action at this time, but requests that the Commission provide input and direction regarding these two (2) topics.

Description

Project Name: LMC Amendment regarding Nightly Rental use in the HR-L Chapter 2.1. Review of the Green Roof definition and its application in HR-L Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15.

Applicant: Planning Department

Proposal: Possible revisions to the Land Management Code

Background

For a several years the Planning Department has been having discussions with residents in the HR-L District, east of Main Street, regarding the Conditional Use of Nightly Rentals in this part of town. Exhibit B is a map of this area. Staff requests to initiate the discussion and pending ordinance with the Planning Commission regarding possible amendments in this area of the HR-L District. The Land Management Code defines a nightly rental as the following:

Nightly Rental. The rental of a Dwelling Unit or any portion thereof, including a Lockout Unit for less than thirty (30) days to a single entity or Person. Nightly Rental does not include the Use of Dwelling Units for Commercial Uses.

Nightly Rental Analysis

The LMC indicates that the City shall not issue a Conditional Use permit unless the Planning Commission concludes that:

1. the Application complies with all requirements of this LMC;

2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;
3. the Use is consistent with the Park City General Plan, as amended; and
4. the effects of any differences in Use or scale have been mitigated through careful planning.

The LMC indicates that the Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:

1. size and location of the Site;
2. traffic considerations including capacity of the existing Streets in the Area;
3. utility capacity, including Storm Water run-off;
4. emergency vehicle Access;
5. location and amount of off-Street parking;
6. internal vehicular and pedestrian circulation system;
7. Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;
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. 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 and recycling pickup Areas;
14. expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities; and
15. within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site.

According to LMC § 15-3-6(A), the residential parking ratio requirements of a nightly rental use are the following:

Parking for the first six (6) bedrooms is based on the parking requirement for the dwelling. An additional space is required for every additional two (2) bedrooms utilized by the Nightly Rental Use. Parking for Historic Structures may be allowed on the Street adjacent to the Property, if approved by the Planning, Engineering, and Building Departments.

Staff would like to provide this information above to the Planning Commission for discussion and analysis to examine if the City should further review this District to disallow the use. Staff requests to come back to the Planning Commission with the

following studies:

- Neighborhood survey of the Nightly Rental use
- Number of current approved Nightly Rental conditional use permits

Discussion requested: Does the Planning Commission agree that this needs to be reviewed? If so, does the Planning Commission recommend other studies need to be prepared? Staff has prepared a pending ordinance for this possible amendment to avoid a rush of applications since the Code is currently being reviewed.

Green Roof Analysis

In 2009 the City added a provision regarding Green Roofs being allowed in the HR-L, HR-1, HR-2, and RC Districts. A Green Roof is currently defined as the following:

Green Roof. 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.

The LMC indicates the following regarding Green Roofs and how it applies to Building Height:

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

(1) A Structure containing a flat roof shall have a maximum height of thirty-five feet (35') measured from the lowest floor plan to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the green roof, including the parapets, railing, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

Staff would like to present this information for review and to survey the Planning Commission to see if they find that this portion of the Lang Management Code needs to be amended/clarified or if it needs to be left as is. The Land Management Code does not dictate the use of the green roof, active vs. passive, accessible vs. non-accessible, etc.

Regarding the green roof discussion the Planning Department has not drafted a pending ordinance as staff would like to treat this as a work session discussion.

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.

Exhibits

Exhibit A – Proposed Ordinance

Exhibit B – HR-L East Area

Exhibit A – Proposed Ordinance

Draft Ordinance 15-XX

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTION 15-2.1-2 USES IN THE HISTORIC RESIDENTIAL-LOW DENSITY (HRL) EAST DISTRICT.

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 and identifies necessary amendments to address planning and zoning issues that have come up in the past years, and to address specific LMC issues raised by the public, Staff, and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; implementing the General Plan; 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, Chapters 2.1, Historic Residential-Low Density District (HRL) provides a description of requirements, provisions and procedures specific to this zoning district that the City desires to revise. These revisions concern the conditional use of Nightly Rental in the District; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meeting on _____, 2015; and forwarded a recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on _____, 2015; 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, 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 15-2.1-2. The recitals above are incorporated herein as findings of fact. Section 15-2.1-2 of the Land Management Code of Park City is hereby amended as redlined (see Attachment 1).

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

PASSED AND ADOPTED this ____ day of _____, 2015

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, Mayor

Attest:

Marcy Heil, City Recorder

Approved as to form:

Mark Harrington, City Attorney

Attachment 1

15-2.1-2. USES.

(A) ALLOWED USES.

- (1) Single Family Dwelling
- (2) Home Occupation
- (3) Child Care, In-Home Babysitting
- (4) Child Care, Family¹
- (5) Child Care, Family Group¹
- (6) Accessory Building and Use
- (7) Conservation Activity
- (8) Agriculture
- (9) Residential Parking Area or Structure with four (4) or fewer spaces

(B) CONDITIONAL USES.

- ~~(1)~~ ~~Nightly Rentals~~
- ~~(21)~~ Lockout Unit
- ~~(32)~~ Accessory Apartment²
- ~~(43)~~ Child Care Center¹
- ~~(54)~~ Essential Municipal and Public Utility Use, facility, service, and Building
- ~~(65)~~ Telecommunication Antenna³
- ~~(76)~~ Satellite dish greater than thirty-nine inches (39") in diameter⁴
- ~~(87)~~ Residential Parking Area or Structure five (5) or more spaces
- ~~(98)~~ Temporary Improvement⁵
- ~~(409)~~ Passenger Tramway Station and Ski Base Facility⁶
- ~~(4410)~~ Ski Tow Rope, Ski Lift, Ski Run, and Ski Bridge⁶
- ~~(4211)~~ Recreation Facility, Private
- ~~(4312)~~ Fences greater than six feet (6') in height from Final Grade^{5,7}

(C) PROHIBITED USES. Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

(Amended by Ord. Nos. 06-56; 09-10; ~~15-XX~~)

¹See LMC Chapter 15-4-9 for Child Care Regulations

²See LMC Chapter 15-4-7, Supplemental Regulations for Accessory Apartments

³See LMC Chapter 15-4-14, Telecommunications Facilities

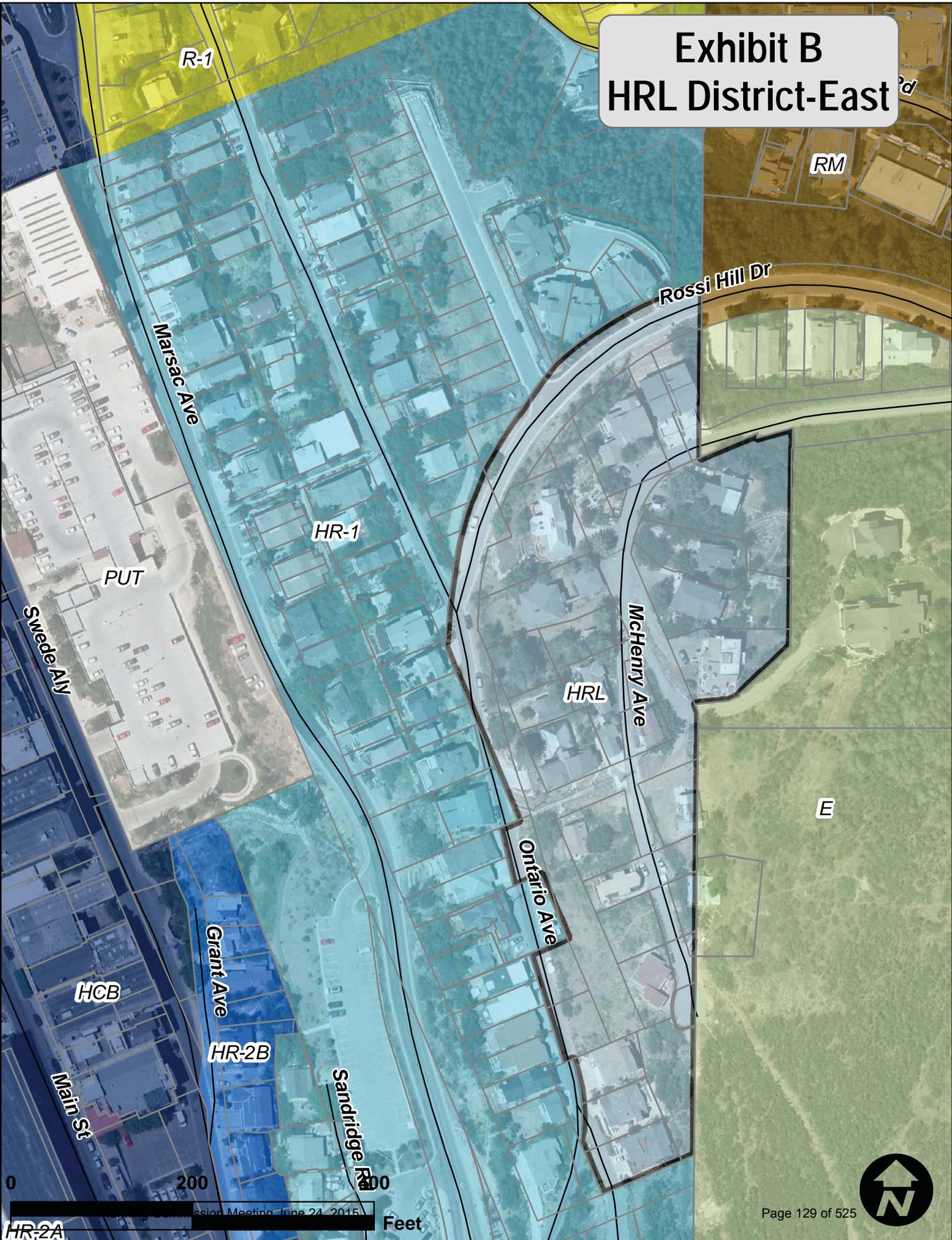
⁴See LMC Chapter 15-4-13, Satellite Receiving Antennas

⁵Subject to Administrative or Administrative Conditional Use permit, see LMC Chapter 15-4.

⁶ See LMC Chapter 15-4-18, Passenger Tramways and Ski-Base Facilities

⁷ See LMC Chapter 15-4-2, Fences and Walls

Exhibit B HRL District-East





Planning Commission Staff Report

Subject: Hewtex Subdivision, 125 Norfolk Avenue
Author: Hannah Turpen, Planner
Project Number: PL-15-02720
Date: June 24, 2015
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the Hewtex Subdivision Plat Amendment located at 125 Norfolk Avenue 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.

Staff reports reflect the professional recommendation of the Planning Department. The Planning Commission, as an independent body, may consider the recommendation but should make its decisions independently.

Description

Applicant: Cheryl Hewett (represented by Jeff Schindewolf, Architect)
Location: 125 Norfolk Avenue
Zoning: Historic Residential-Low Density (HR-L) District
Adjacent Land Uses: Residential
Reason for Review: Plat Amendments require Planning Commission review and City Council review and action

Proposal

Portions of Lots 7, 8, 11 and all of Lots 9 and 10 in Block 78 of the Millsite Reservation are owned by the same entity. The property owner desires to unify the three (3) partial and two (2) full lots into one (1) lot of record by removing the interior lot lines which separate the lots.

Background

On March 19, 2015, the City received a Plat Amendment application for 125 Norfolk Avenue; the application was deemed complete on April 22, 2015. The property is located at 125 Norfolk Avenue. The property is in the Historic Residential-Low Density (HR-L) District. The subject property consists of portions of Lots 7, 8, 11 and all of Lots 9 and 10 in Block 78 of the Millsite Reservation

Currently the site contains a non-historic single-family dwelling on Lots 9, 10, and 11 which was constructed in 1973. A non-historic detached garage constructed at an unknown date is located on Lot 9 and Lot 10. The building footprint of the single-family dwelling is approximately 672 square feet. The building footprint of the non-historic detached garage is approximately 304.5 square feet. An asphalt driveway is located on

Lots 7, 8, 9, and 10.

In 1997, a remodel included interior improvements and replaced the exterior windows on the south elevation. In 2006, a Plat Amendment was received with the intent to combine 125 Norfolk Avenue and 115 Sampson Avenue and create a four (4) lot subdivision. The plat amendment application expired on November 27, 2008. In 2012, there was a deck replacement. In 2014, a concrete slab and hot tub was installed.

The applicant submitted a Historic District Design Review (HDDR) Pre-application on October 21, 2014 to construct an addition to the non-historic structure and demolish the existing non-historic detached garage. A Design Review Team meeting occurred on October 29. A second Design Review Team meeting occurred on April 1. Currently, there are no additional active applications under review.

Purpose

The purpose of the Historic Residential Low-Density (HRL) District is to:

- (A) reduce density that is accessible only by substandard Streets so these Streets are not impacted beyond their reasonable carrying capacity,
- (B) provide an Area of lower density Residential Use within the old portion of Park City,
- (C) preserve the character of Historic residential Development in Park City,
- (D) encourage the preservation of Historic Structures,
- (E) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods.
- (F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment, and
- (G) define Development parameters that are consistent with the General Plan policies for the Historic core.

Analysis

The proposed plat amendment creates one (1) lot of record from the existing three (3) partial lots and two (2) full lots equaling 7,417 square feet. A single-family dwelling is an allowed use in the Historic Residential-Low Density (HR-L) District. The minimum lot area for a single-family dwelling is 3,750 square feet. The proposed lot meets the minimum lot area for a single-family dwelling. The minimum lot width allowed in the HR-L District is thirty-five feet (35'). The proposed lot is one hundred twelve feet six inches (112'6") wide. The proposed lot meets the minimum lot width requirement. Table 1 shows applicable development parameters for the combined lot in the Historic Residential-Low Density (HR-L) District:

Table 1:

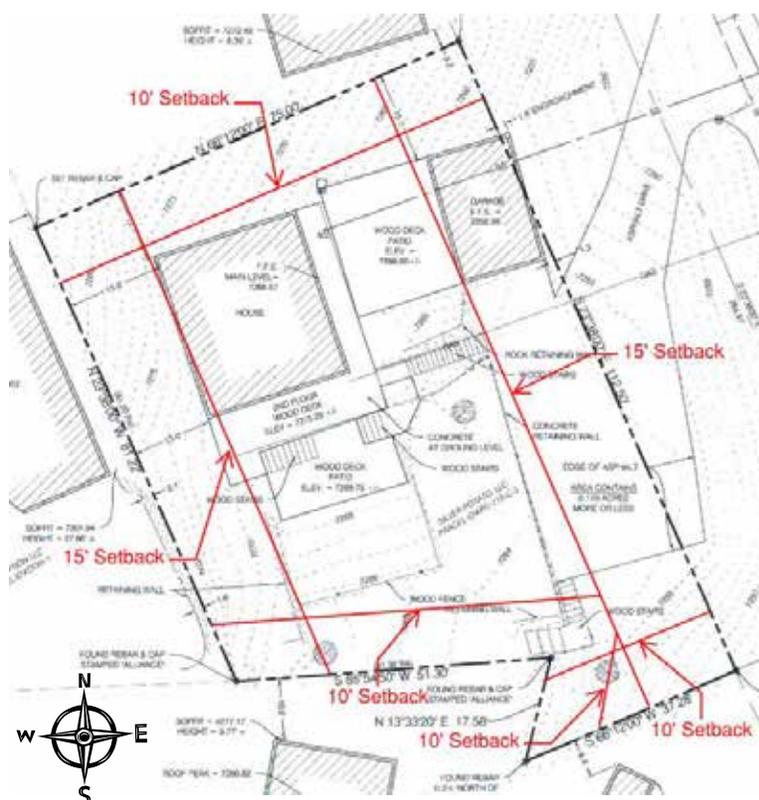
LMC Regulation	Requirements
Building Footprint	2,444.5 square feet, maximum based on lot size.
Front/Rear Yard Setbacks	15 feet minimum, 30 feet total.
Side Yard Setbacks	10 feet minimum, 30 feet total.

Building (Zone) Height	No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade.
Final Grade	Final Grade must be within four vertical feet (4') of Existing Grade around the periphery [...].
Lowest Finish Floor Plane to Highest Wall Top Plate	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 [...].
Vertical Articulation	A ten foot (10') minimum horizontal step in the downhill façade is required [...].
Roof Pitch	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.

Setback Determinations

Per Land Management Code 15-4-17(B) lots with more than four (4) sides shall have a Side Yard on either side of the Front Yard. The third Side Yard and Rear Yard may be specified by the Planning Director. See Exhibit E – LMC § 15-4-17 Setback Requirements for Unusual Lot Configurations.

The proposed lot contains six (6) sides. The Planning Director has determined that the east property line will be the Front Yard. The west property line will be the Rear Yard. All property lines located on the south side will be Side Yards. The north property line will be a Side Yard. See Exhibit F – Planning Director Setback Determination Site Plan. Because of the unusual lot configuration, the survey below shows the setbacks determined by the Planning Director for clarification:



Given the setbacks determined by the Planning Director, the overall building pad of the site will be approximately 3,344 square feet. Based on the building footprint formula, the allowable footprint will be 2,444.5 square feet. Given the 672 square foot footprint of the existing single-family dwelling, the lot could accommodate an addition of 1,772.5 square feet if the existing single-family dwelling were to remain. If the existing single-family dwelling were to be demolished, a new structure with a maximum footprint of 2,444.5 square feet would be allowed.

The average lot size of the adjacent properties, including those on Sampson Avenue and within 300 feet (north and south) on Norfolk Avenue is 5,603 square feet. The largest lot size is 16,552.8 square feet at 205 Norfolk Avenue, and the smallest are 1,742 square feet at 164 and 152 Norfolk Avenue. The average footprint for structures on Sampson Avenue and within 300 feet (north and south) on Norfolk Avenue is 1,985 square feet. The largest allowable footprint is 3,500 square feet at 205 Norfolk Avenue and 40 Sampson Avenue. The smallest allowable footprints are 789.7 square feet at 164 and 152 Norfolk Avenue.

At 7,417 square feet, 125 Norfolk Avenue is larger than the average lot size; however, many of the adjacent properties within 300 feet (north and south) on Norfolk Avenue are in the Historic Residential-1 (HR-1) District which have a minimum lot size of 1,875 square feet. Compared to adjacent properties on Sampson Avenue within the HR-L zone, the average lot size is 6,237.5 square feet. The average building footprint of those properties on Sampson Avenue within the HR-L zone is 2,162.29 square feet.

On March 6, 2014, City Council approved a plat amendment for 115 Sampson Avenue, which abuts the south property lines of 125 Norfolk Avenue. The plat amendment created a lot of 7,840.8 square feet with an allowable footprint of 2,523 square feet. The allowable footprint for 125 Norfolk Avenue will be 2,444.5 square feet.

Front and Rear Yard Setbacks

Existing Lots 9, 10, and 11 contain a single-family dwelling built in 1973 and a non-historic detached garage constructed at an unknown date. The minimum front and rear yard setbacks for a lot seventy-five feet (75') in depth are fifteen feet (15') and thirty feet (30') total. The existing single-family dwelling is thirteen feet (13') from the rear property line on its southwest corner. The existing non-historic detached garage encroaches into the Public Right-of-Way over the east property line approximately one foot seven inches (1'7") on the northeast corner. The existing non-historic detached garage is approximately one foot three inches (1'3") from the east property line on the southeast corner. The property owner intends to demolish the non-historic detached garage prior to plat recordation, which will eliminate the front yard encroachment. The existing single-family dwelling is a legal non-complying as the structure does not meet the rear yard setbacks. Table 2 below illustrates the discrepancy:

Table 2:

	Minimum Requirements	Existing Single-Family Dwelling Conditions
<i>Lot Size (as proposed)</i>	7,417 sf.	7,417 sf.
<i>Setbacks</i>		
Front (East)	15 ft.	35 ft. - 38 ft. (from north to south)
Rear (West) <i>(non-complying)</i>	15 ft.	15'7" ft. – 13 ft. (from north to south)
Side (North)	10 ft.	14'6" ft. – 12'1" ft. (from east to west)
Side (North)	10 ft.	51 ft. – 45 ft. (from east to west)
<i>Allowed Footprint</i>	2,444.5 sf.	672 sf.

Staff finds that the rear setback discrepancy is an existing non-complying situation. Specific codes are written and adopted in the Land Management Code to address these types of situations. The Building Department does not keep Building Permits prior to 1979. It is unknown whether or not a Building Permit was obtained to construct the single-family dwelling in 1973. See Exhibit G – LMC § 15-9-6 Non-Complying Structures. Any new construction is required to meet the LMC requirements for rear setback requirements that are applicable at the time of construction.

Table 15-2.1a in the Land Management Code indicates that the front and rear yard setbacks of a lot seventy five feet (75') in depth are fifteen feet (15') minimum, and thirty feet (30') total. The combined front and rear yards are to be thirty feet (30'). From the west property line, the single-family dwelling was designed between fifteen feet seven inches (15'7") and thirteen feet (13') from the west property line. Any new development will be required to meet all minimum setbacks that are applicable according to the LMC at the time of construction.

In terms of the existing non-complying structures (single-family dwelling and non-historic detached garage), the front and rear setbacks are the only discrepancies found as other standards have been reviewed, and staff has not found any other issues with the built structures, including other minimum setbacks, building footprint, building height, etc. The existing non-historic detached garage will be demolished prior to plat recordation, which will eliminate the non-complying front setback.

Encroachments

Prior to recording the plat amendment, the applicant will also be required to resolve any encroachments that currently exist on the site. At this time, the detached garage encroaches approximately one foot seven inches (1'7") over the east property line on the northeast corner into the Public Right-of-Way. The detached garage will be demolished by the property owner prior to plat recordation, as dictated by Condition of Approval #4.

To develop or redevelop the lot(s), a Historic District Design Review (HDDR) application and a Steep Slope Conditional Use Permit application shall be reviewed and approved by the Planning Staff.

Good Cause

Planning Staff finds that there is good cause for this plat amendment as Staff finds that the plat amendment will not cause undo harm to adjacent property owners and all requirements of the Land Management Code for any future development can be met. Combining the Lots will allow the property owner to move forward with site improvements. The proposed lot area of 7,417 square feet is a compatible lot combination as the entire Historic Residential-Low Density District has abundant sites with comparable dimensions. Furthermore, the plat amendment will resolve the existing building encroachments over interior lot lines and the encroachment into the Public Right-of-Way.

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 further issues were brought up at that time.

Notice

On June 10 the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record on June 6, according to requirements of the Land Management Code.

Public Input

No public input has been received by the time of this report. A public hearing is noticed for both the Planning Commission and City Council meetings.

Alternatives

- The Planning Commission may forward positive recommendation to the City Council for the Hewtex Subdivision Plat Amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the Hewtex Subdivision Plat Amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on Hewtex Subdivision Plat Amendment.
- There is not a null alternative for plat amendments.

Significant Impacts

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

Consequences of not taking the Planning Department's Recommendation

The site would remain as is. The site would contain one (1) non-historic single-family dwelling on Lots 9, 10, and 11, one (1) non-historic detached garage on Lot 9 and Lot

10, and an asphalt driveway located on Lots 7, 8, 9, and 10.

Summary Recommendation

Staff recommends the Planning Commission hold a public hearing for the Hewtex Subdivision Plat Amendment located at 125 Norfolk Avenue 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 Survey

Exhibit C – Aerial Photograph

Exhibit D – Site Photographs

Exhibit E – LMC § 15-4-17 Setback Requirements for Unusual Lot Configurations

Exhibit F – Planning Director Setback Determination Site Plan

Exhibit G – LMC § 15-9-6 Non-Complying Structures.

Exhibit A: Draft Ordinance

Ordinance No. 15-XX

**AN ORDINANCE APPROVING THE HEWTEX SUBDIVISION PLAT AMENDMENT
LOCATED AT 125 NORFOLK AVENUE, PARK CITY, UTAH.**

WHEREAS, the owner of the property located at 125 Norfolk Avenue has petitioned the City Council for approval of the Plat Amendment; and

WHEREAS, on June 10, 2015, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, on June 10, 2015, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on June 24, 2015, to receive input on plat amendment; and

WHEREAS, the Planning Commission, on June 24, 2015, forwarded a recommendation to the City Council; and,

WHEREAS, on July 9, 2015 the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, there is good cause and it is in the best interest of Park City, Utah to approve the Hewtex Subdivision Plat Amendment.

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

SECTION 1. APPROVAL. Hewtex 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 125 Norfolk Avenue.
2. The property is in the Historic Residential-Low Density (HR-L) Zoning District.
3. The subject property consists of Portions of Lots 7, 8, 11 and all of Lots 9 and 10 in Block 78 of the Millsite Reservation.
4. Existing Lots 8, 9, and 10 contain a single-family dwelling built in 1973 and a non-historic detached garage constructed at an unknown date. The building footprint of the single-family dwelling is approximately 672 square feet. The building footprint of the non-historic detached garage is approximately 304.5 square feet.
5. An asphalt driveway is located on Lots 7, 8, 9, and 10.

6. The proposed plat amendment creates one (1) lot of record from the existing three (3) partial lots and two (2) full lots equaling 7,417 square feet.
7. A single-family dwelling is an allowed use in the Historic Residential-Low Density (HR-L) District.
8. The minimum lot area for a single-family dwelling is 3,750 square feet; the lot at 125 Norfolk Avenue will be 7,417 square feet. The proposed lot meets the minimum lot area for a single-family dwelling.
9. The maximum building footprint for a lot this size, 7,417 square feet, is 2,444.5 square feet. Compared to adjacent properties on Sampson Avenue within the HR-L zone, the average lot size is 6,237.5 square feet. The average building footprint of those properties on Sampson Avenue within the HR-L zone is 2,162.29 square feet.
- 10.
11. The minimum lot width allowed in the HR-L District is thirty-five feet (35'). The proposed lot is one hundred twelve feet six inches (112'6") wide. The proposed lot meets the minimum lot width requirement.
12. The minimum side yard setbacks for a one hundred twelve feet six inch (112'6") wide lot are fifteen feet (15').
13. The minimum front and rear yard setbacks for a lot seventy-five feet (75') in depth are fifteen feet (15') and thirty feet (30') total per Table 15-2.1a in the Land Management Code.
14. The existing non-historic single-family dwelling is thirteen feet (13') from the rear property line on its southwest corner.
15. The existing non-historic detached garage encroaches into the Public Right-of-Way over the east property line approximately one foot seven inches (1'7") on the northeast corner. The existing non-historic detached garage is approximately one foot three inches (1'3") from the east property line on the southeast corner. The property owner will demolish the non-historic detached garage prior to plat recordation which will eliminate the encroachment.
16. The existing single-family dwelling is a legal non-complying as the structure and does not meet the rear yard setbacks. The Building Department does not keep Building Permits prior to 1979. It is unknown whether or not a Building Permit was obtained to construct the single-family dwelling.
17. The combined side yards setbacks are to be thirty feet (30') per Table 15-2.1 in the Land Management Code.
18. The proposed plat amendment will not cause undo harm to adjacent property owners.
19. The proposed lot area of 7,417 square feet is a compatible lot combination as the entire Historic Residential-Low Density District has abundant sites with comparable dimensions.
20. The applicant submitted a Historic District Design Review (HDDR) Pre-application on October 21, 2014 to construct an addition to the non-historic structure and demolish the existing non-historic detached garage. A Design Review Team meeting occurred on October 29. A second Design Review Team meeting occurred on April 1. Currently, there are no active applications under review.

21. The applicant applied for a Plat Amendment application on March 19, 2015. The Plat Amendment application was deemed complete on April 22, 2015.
22. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

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.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If the final signed mylar has not been presented to the City for City signatures for recordation within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date of July 9, 2016, and an extension is granted by the City Council.
3. A ten feet (10') wide public snow storage easement will be required along the Norfolk Avenue frontage of the property and shall be shown on the plat prior to recordation.
4. The property owner must demolish the existing non-historic detached garage which encroaches into the Public Right-of-Way on the east side of the property prior to plat recordation.
5. 13-D sprinklers are required for any new construction or significant renovation of existing.

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

PASSED AND ADOPTED this 9th day of July, 2015.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

ATTEST:

Marci Heil, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment 1 – Proposed Plat

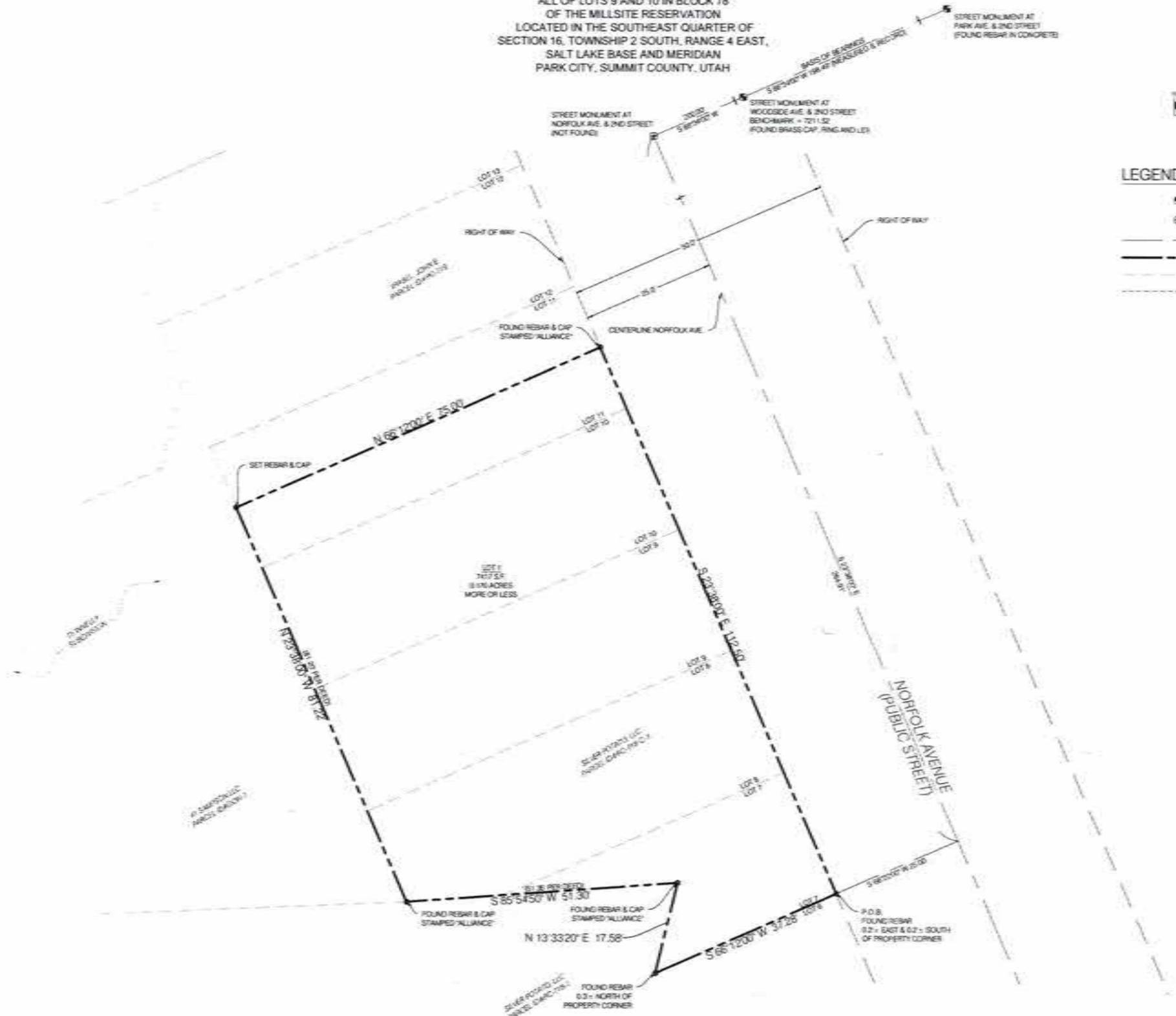
HEWTEX SUBDIVISION

AMENDING A PORTION OF LOTS 7, 8, 11 AND ALL OF LOTS 9 AND 10 IN BLOCK 78 OF THE MILLSITE RESERVATION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH



LEGEND

- EXISTING STREET MONUMENT
- STREET MONUMENT (NOT FOUND)
- CENTER LINE
- BOUNDARY LINE
- ADJACENT PROPERTY
- RIGHT OF WAY



NOTE: PLAT PREPARED FROM A RECORD OF SURVEY ON FILE AT THE SUMMIT COUNTY RECORDERS OFFICE AS ENTRY NO. S880024

SURVEYORS CERTIFICATE

I, BRANKA LINNAWICZ, HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 724857, AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND WILL HEREAFTER TO BE KNOWN AS:

HEWTEX SUBDIVISION

AND THAT THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT.

BOUNDARY DESCRIPTION

BEGINNING AT THE SOUTHEAST CORNER OF LOT 7, BLOCK 78, MILLSITE RESERVATION, PARK CITY, UTAH, AND RUNNING THENCE SOUTH 89° 12' WEST 37.26 FEET; THENCE NORTH 12° 55' 27\"/>

CONTAINS: 74.11 SQ. FT. 0.175 ACRES, MORE OR LESS 1 LOT

OWNERS DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED ARE THE OWNERS OF THE ABOVE DESCRIBED TRACT OF LAND, AND HEREBY CAUSE THE SAME TO BE COMBINED INTO 1 LOT, AS SET FORTH TO BE HEREAFTER KNOWN AS:

HEWTEX SUBDIVISION

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE ON THIS _____ DAY OF _____ A.D. 2015.

LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

State of Utah }
County of Salt Lake } S.S.

ON THE _____ DAY OF _____ A.D. 2015, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF SALT LAKE IN SAID STATE OF UTAH, _____ WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE _____ OF _____ A LIMITED LIABILITY COMPANY, AND THAT HE/SHE SIGNED THE OWNERS DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED AND ACKNOWLEDGED TO ME THAT SAID LIABILITY COMPANY EXECUTED THE SAME.

MY COMMISSION EXPIRES _____ (DATE) COMMISSION NUMBER: _____

NOTARY PUBLIC SIGNATURE _____ RESIDING IN _____ COUNTY

PRINT NAME _____

HEWTEX SUBDIVISION

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH

RECORDED

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED FOR REQUEST OF _____

DATE: _____ TIME: _____

BOOK: _____ PAGE: _____ ENTRY NO.: _____

FEE: _____ RECORDER: _____

RECEIVED MAR 19 2015

BENCHMARK ENGINEERING & LAND SURVEYING

1616 SOUTH STATE STREET, SUITE 100
SANDY, UTAH 84070
TEL: 801-278-1111
WWW.BENCHMARKSURVEYING.COM

PARK CITY PLANNING COMMISSION

APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS _____ DAY OF _____ 2015 A.D.

CERTIFICATE OF ATTEST

I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL ON THIS _____ DAY OF _____ 2015 A.D.

BY _____
PARK CITY RECORDER

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT

REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____ 2015 A.D.

BY _____
S.E.W.R.D.

ENGINEERS CERTIFICATE

I FIND THIS PLAT TO BE IN ACCORDANCE WITH THE INFORMATION ON FILE IN MY OFFICE ON THIS _____ DAY OF _____ 2015 A.D.

BY _____
PARK CITY ENGINEER

APPROVAL AS TO FORM

APPROVED AS TO FORM ON THIS _____ DAY OF _____ 2015 A.D.

BY _____
PARK CITY ATTORNEY

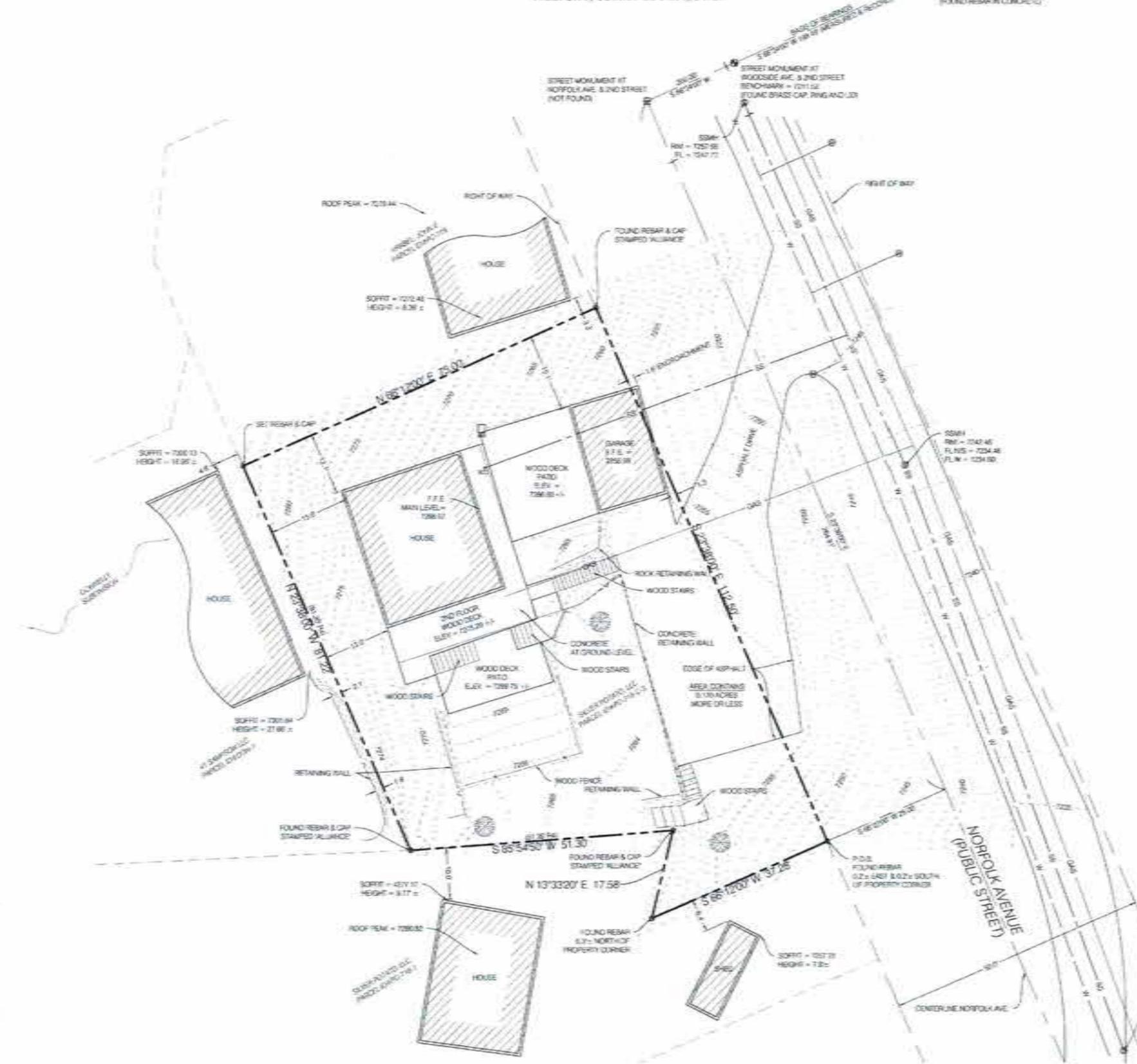
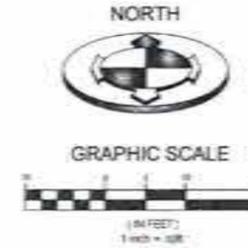
COUNCIL APPROVAL AND ACCEPTANCE

APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL ON THIS _____ DAY OF _____ 2015 A.D.

BY _____
MAYOR

BOUNDARY AND TOPOGRAPHIC SURVEY

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH



SURVEYOR'S CERTIFICATE

I, BRYAN A. LUNAM, SALT LAKE CITY, UTAH, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AND THAT I HOLD LICENSE NO. 104920 AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH. THAT I HAVE MADE A SURVEY OF THE FOLLOWING DESCRIBED PROPERTY, THAT THE PLAT CORRECTLY SHOWS THE TRUE DIMENSIONS OF THE BOUNDARIES SURVEYED AND OF THE VISIBLE IMPROVEMENTS AFFECTING THE BOUNDARIES AND THEIR POSITION IN RELATIONSHIP TO SAID BOUNDARIES.



DATE	DESCRIPTION
08/20/10	14091206
08/20/10	14091206

DEED DESCRIPTIONS:

BEGINNING AT THE SOUTH-EAST CORNER OF LOT 7, BLOCK 78, WILLSIDE RESERVATION, PARK CITY, UTAH, AND RUNNING THENCE SOUTH 66°12' WEST 27.28 FEET, THENCE NORTH 11°02'07" EAST 17.58 FEET, THENCE SOUTH 81°54'52" WEST 31.26 FEET, THENCE NORTH 27°18' WEST 39.26 FEET, THENCE NORTH 86°12' EAST 75.86 FEET, THENCE SOUTH 12°30' WEST 112.35 TO THE POINT OF BEGINNING.

NARRATIVE OF BOUNDARY:

SCOPE
BENCHMARK ENGINEERING & LAND SURVEYING, LLC WAS RETAINED BY JEFF SCHNEIDERLITZ OF JSARC TO PERFORM A BOUNDARY AND TOPOGRAPHIC SURVEY OF SUBJECT PROPERTY AS SHOWN HEREON.

BASIS OF BEARINGS
THE BASIS OF BEARINGS FOR THIS SURVEY IS SOUTH BEARINGS WEST, BETWEEN THE MONUMENT FOUND MARKING THE INTERSECTION OF PARK AVENUE AND 2ND STREET AND THE MONUMENT FOUND MARKING THE INTERSECTION OF WOODSIDE AVENUE AND 2ND STREET.

- LIST OF REFERENCED DOCUMENTS**
- R01 RECORD OF SURVEY, FILED ON RECORD AT THE SUMMIT COUNTY RECORDERS OFFICE AS FILE NO. S-2882
 - R02 RECORD OF SURVEY, FILED ON RECORD AT THE SUMMIT COUNTY RECORDERS OFFICE AS FILE NO. S-2882
 - R03 PARK CITY LOT 14 MONUMENT CONTROL MAP, ON RECORD AT THE SUMMIT COUNTY RECORDERS OFFICE AS ENTRY NO. 178897, SHEETS 2 OF 3
 - R04 WARRANTY DEED, ON RECORD AT THE SUMMIT COUNTY RECORDERS OFFICE AS ENTRY NO. 081841 IN BOOK 1122 AT PAGE 488

LEGEND:

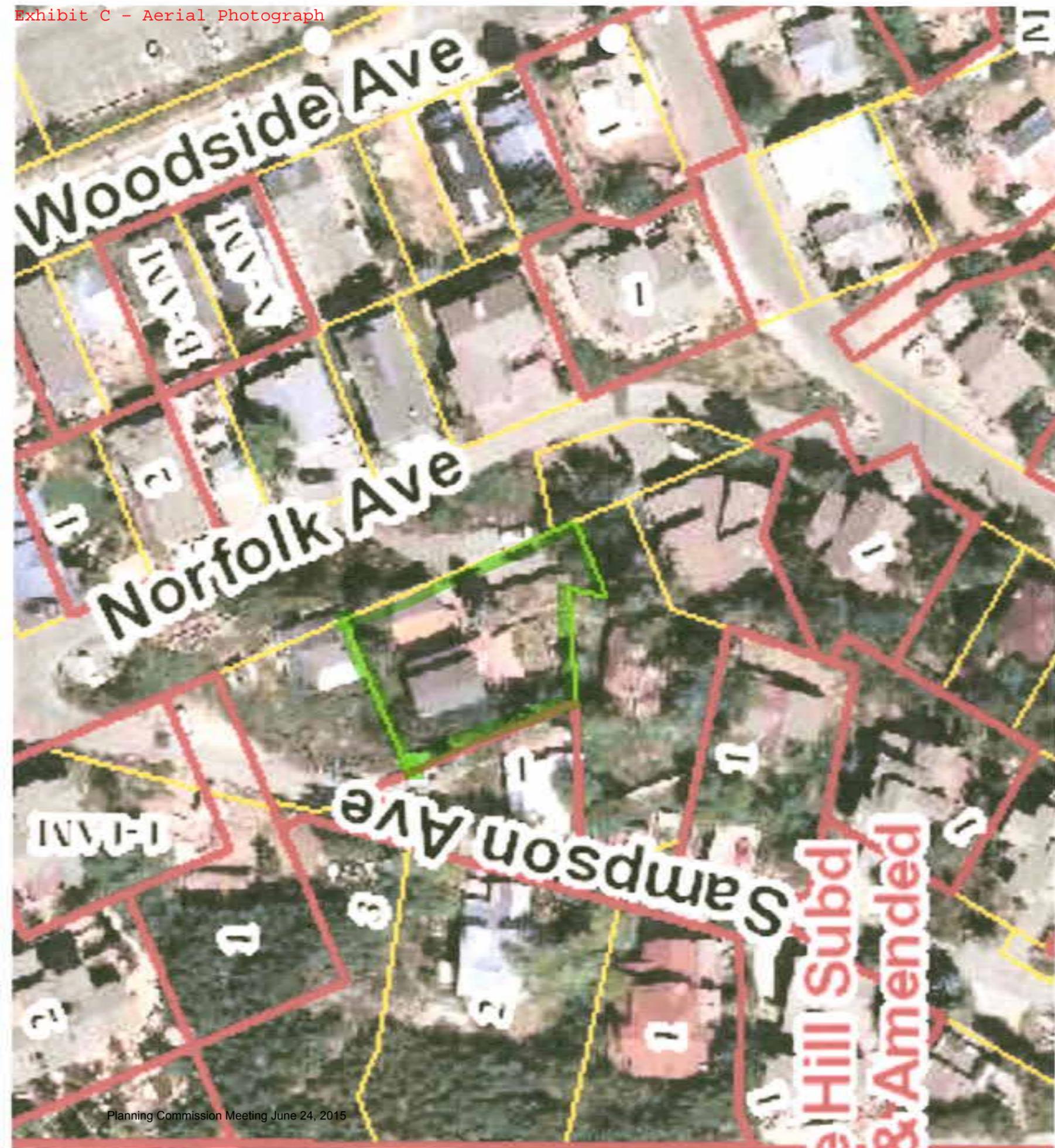
STREET MONUMENT FOUND	PROPERTY LINE
STREET MONUMENT NOT FOUND	CONCRETE CURB
RIGHT-OF-WAY LINE	PROPERTY CORNER PLUMBED
REAR OF HOUSE	TREE
EDGE OF EXISTING ASPHALT	W/STREET
EDGE OF EXISTING ASPHALT	SEWER CONDUIT
WOOD CHIMNEY	FRONT YARD
INTERMITTENT CONTINUOUS	
STREET MONUMENT FOUND	
CONCRETE CURB	
PROPERTY CORNER PLUMBED	
TREE	
W/STREET	
SEWER CONDUIT	
FRONT YARD	

APR 07 2015

BENCHMARK ENGINEERING & LAND SURVEYING
915 SOUTH STATE STREET SUITE 100
PARK CITY, UTAH 84302
PHONE: (435) 633-7700
WWW.BENCHMARKCIVIL.COM

CHERYL HEWETT
125 NORFOLK AVENUE
PARK CITY, SUMMIT COUNTY, UTAH

1409125
BOUNDARY AND TOPOGRAPHIC SURVEY
SVBT.01
1051



RECEIVED
MAR 19 2015
CITY OF WASHINGTON
PLANNING DEPT.











loss of parking shall be mitigated in the Applicant's plan.

(3) The proposed Use shall not impede pedestrian circulation, emergency Access, or any other public safety measure.

(4) The Use shall not violate the City Noise Ordinance.

(5) The Use and all signing shall comply with the Municipal Sign and Lighting Codes.

(6) The Use shall not violate the Summit County Health Code, the Fire Code, or State Regulations on mass gathering.

(7) The Use shall not violate the International Building Code (IBC).

(8) The Applicant shall adhere to all applicable City and State licensing ordinances.

(Amended by Ord. Nos. 06-22; 09-10; 12-37)

15-4 -17. SETBACK REQUIREMENTS FOR UNUSUAL LOT CONFIGURATIONS.

All Lots shall have a front, two (2) sides and a rear Setback with the following exceptions and clarifications.

(A) Development on Corner Lots shall have two (2) front Setbacks, unless otherwise an exception by this Code. The

Rear Yard will be the side of the Property opposite the driveway Access from the Street. If it is not clear which boundary should border the Rear Yard, the Planning Director may specify which is the Rear Yard.

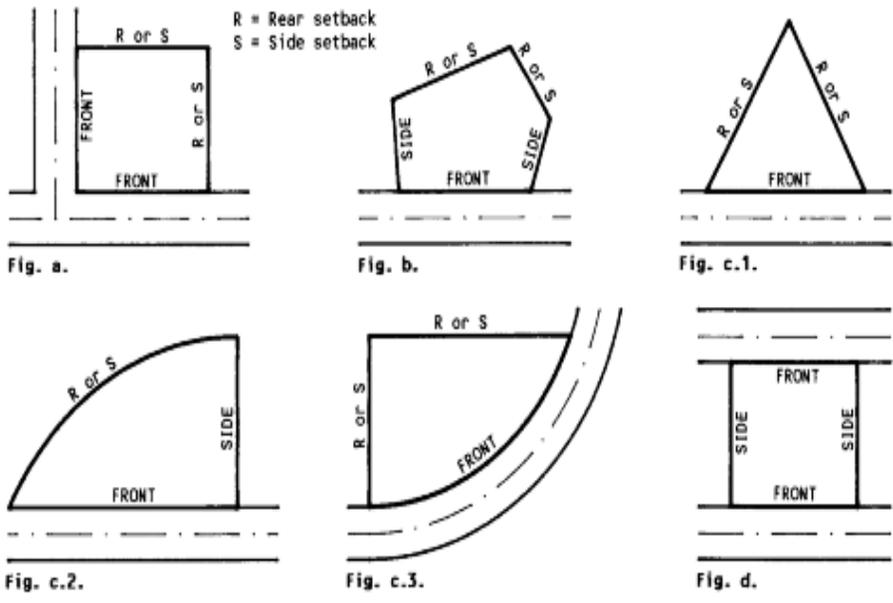
(B) Lots with more than four (4) sides shall have a Side Yard on either side of the Front Yard. The third Side Yard and Rear Yard may be specified by the Planning Director.

(C) Lots with three (3) sides will have a front Setback, side Setback and rear Setback. In those cases where one (1) side is clearly opposite the front, the rear Setback must be opposite the front Setback. If it is not clear where side and rear Setbacks should be, the Planning Director may choose which is a Side Yard and which is a Rear Yard.

(D) On those Lots, which border a Street on both the back and front, both sides must have a front Setback, unless otherwise an exception by this Code.

(E) Any Lots, which are not specified in this section, shall have Setbacks determined by the Planning Director.

See the following illustrations:



(Amended by Ord. No. 06-22)

15-4 -18. PASSENGER TRAMWAYS AND SKI BASE FACILITIES.

(A) **CONDITIONAL USE.** The location and Use of a Passenger Tramway, including a ski tow or ski lift, is a Conditional Use. The location of base and terminal facilities for the Passenger Tramway is a Conditional Use in all zones where the Use may be considered.

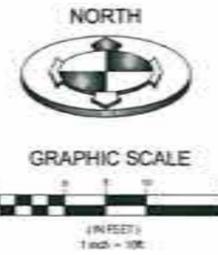
(B) **CONDITIONAL USE REVIEW.** Conditional Use permits under this section shall be issued only after public hearing before the Planning Commission, and upon the Planning Commission finding that all the following conditions can be met:

(1) **OWNERSHIP OF LIFTWAY.** The Applicant owns or controls the Liftway necessary to construct and operate the Passenger Tramway. For the purpose of this section, ownership or control is established if the Applicant can demonstrate that he has title to the Property being crossed by the Liftway, or an easement over that Property, or options to acquire the Property or an easement or a leasehold interest in the Property, or an option to acquire a leasehold, of at least fifteen (15) years duration. Ownership or control of portions of the Liftway, which cross over Public Streets may be demonstrated by a written permit or license to cross the Street, signed by the governmental entity, which has jurisdiction over

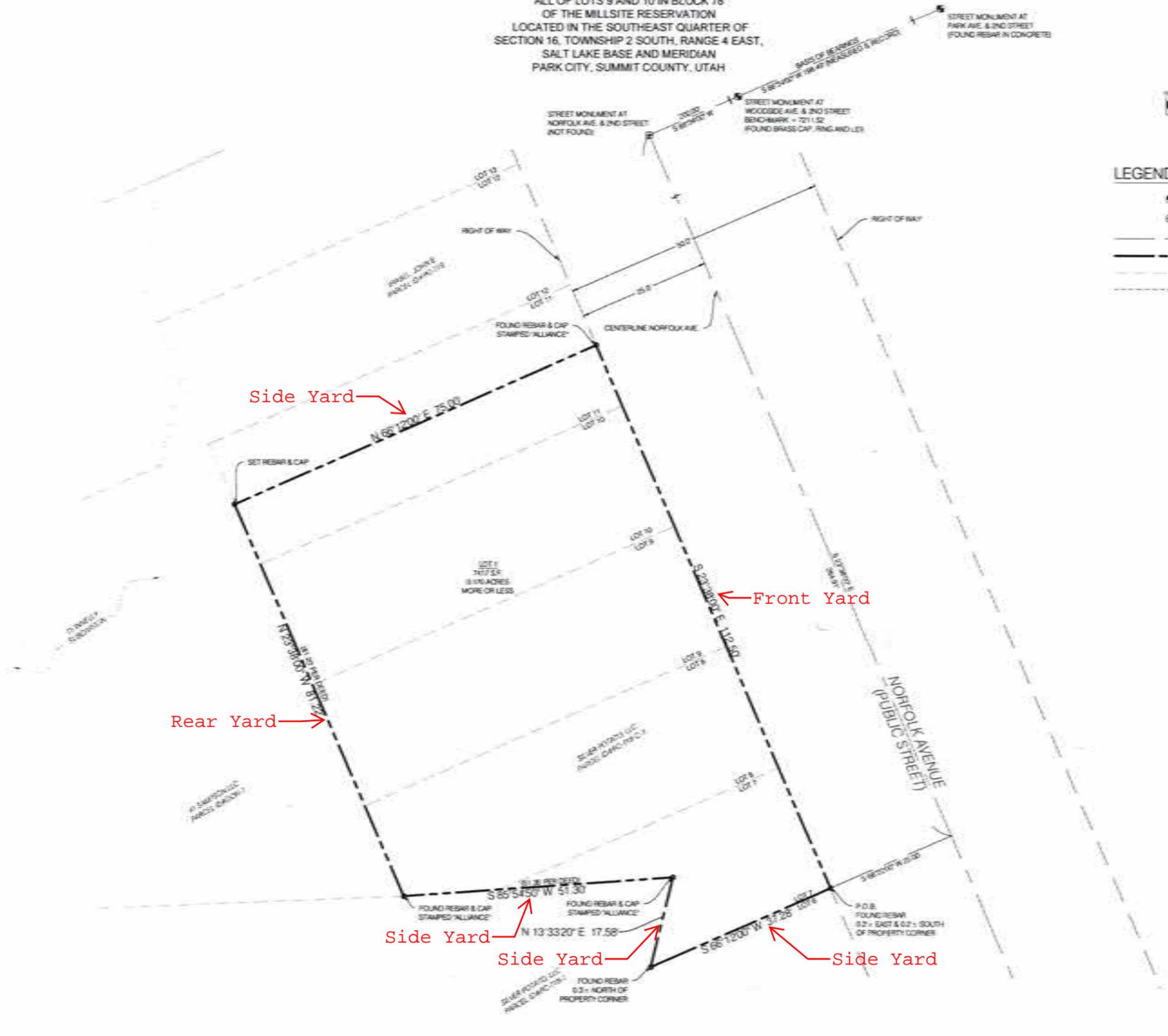
Exhibit F - Planning Director Setback Determination Site Plan

HEWTEX SUBDIVISION

AMENDING A PORTION OF LOTS 7, 8, 11 AND ALL OF LOTS 9 AND 10 IN BLOCK 78 OF THE MILLSITE RESERVATION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH



- LEGEND**
- EXISTING STREET MONUMENT
 - STREET MONUMENT (NOT FOUND)
 - CENTER LINE
 - BOUNDARY LINE
 - ADJACENT PROPERTY
 - RIGHT OF WAY



SURVEYORS CERTIFICATE
I, BRANA L. LAMM, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. 724857, AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND WILL HEREAFTER TO BE KNOWN AS:

HEWTEX SUBDIVISION

AND THAT THE SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN ON THIS PLAT.
BOUNDARY DESCRIPTION
BEGINNING AT THE SOUTHEAST CORNER OF LOT 7, BLOCK 78, MILLSITE RESERVATION, PARK CITY, UTAH, AND RUNNING THENCE SOUTH 87°12' WEST 37.26 FEET; THENCE NORTH 12°55'00" EAST 17.58 FEET; THENCE SOUTH 86°54'59" WEST 51.35 FEET (SURVEYED DISTANCE 51.35 FEET); THENCE NORTH 22°30' WEST 61.26 FEET (SURVEYED DISTANCE 61.26 FEET); THENCE NORTH 87°12' EAST 75.08 FEET; THENCE SOUTH 22°30' WEST 112.50 TO THE POINT OF BEGINNING.

CONTAINS 7411 SQ. FT. OR LESS
0.170 ACRES, MORE OR LESS
1 LOT



OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED ARE THE OWNERS OF THE ABOVE DESCRIBED TRACT OF LAND, AND HEREBY CAUSE THE SAME TO BE COMBINED INTO 1 LOT, AS SET FORTH TO BE HEREAFTER KNOWN AS:

HEWTEX SUBDIVISION

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE ON THIS _____ DAY OF _____ A.D. 2015.

LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

State of Utah }
County of Salt Lake } S.S.
ON THE _____ DAY OF _____ A.D. 2015, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF SALT LAKE IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE _____ OF _____ A LIMITED LIABILITY COMPANY, AND THAT HE/SHE SIGNED THE OWNERS DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED AND ACKNOWLEDGED TO ME THAT SAID LIABILITY COMPANY EXECUTED THE SAME.

MY COMMISSION EXPIRES _____ (DATE) COMMISSION NUMBER _____
RESIDING IN _____ COUNTY
NOTARY PUBLIC SIGNATURE _____
PRINT NAME _____

HEWTEX SUBDIVISION

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH



BENCHMARK ENGINEERING & LAND SURVEYING
1616 SOUTH STATE STREET, SUITE 100
SANDY, UTAH 84070
PLANNING COMMISSION MEETING JUNE 24, 2015

PARK CITY PLANNING COMMISSION
APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS _____ DAY OF _____ 2015 A.D.

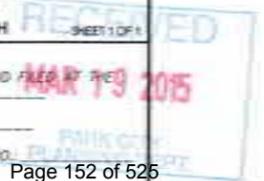
CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL ON THIS _____ DAY OF _____ 2015 A.D.
BY _____ PARK CITY RECORDER

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____ 2015 A.D.
BY _____ S.E.W.R.D.

ENGINEERS CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH THE INFORMATION ON FILE IN MY OFFICE ON THIS _____ DAY OF _____ 2015 A.D.
BY _____ PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM ON THIS _____ DAY OF _____ 2015 A.D.
BY _____ PARK CITY ATTORNEY

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL ON THIS _____ DAY OF _____ 2015 A.D.
BY _____ MAYOR



PARK CITY MUNICIPAL CODE - TITLE 15 LMC, Chapter 9 - Non-Conforming Uses and Non-Conforming Structures **15-9-5**

15-9-6. NON-COMPLYING STRUCTURES.

No Non-Complying Structure may be moved, enlarged, or altered, except in the manner provided in this Section or unless required by law.

(A) REPAIR, MAINTENANCE, ALTERATION, AND ENLARGEMENT.

Any Non-Complying Structure may be repaired, maintained, altered, or enlarged, provided that such repair, maintenance, alteration, or enlargement shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such Structure.

(B) MOVING. A Non-Complying Structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire Structure shall thereafter conform to the regulations of the zone in which it will be located.

(C) DAMAGE OR DESTRUCTION OF NON-COMPLYING STRUCTURE.

If a Non-Complying Structure is allowed to deteriorate to a condition that the Structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the Property Owner that the Structure is uninhabitable and that the Non-Complying Structure or the Building that houses a Non-Complying Structure, is voluntarily razed or is required by law to be razed, the Structure shall not be restored unless it is restored to comply with the regulations of the zone in which it is located.

If a Non-Complying Structure is

involuntarily destroyed in whole or in part due to fire or other calamity and the Structure or Use has not been abandoned, the Structure may be restored to its original condition, provided such work is started within six months of such calamity, completed within eighteen (18) months of work commencement, and the intensity of Use is not increased.

(Amended by Ord. No. 06-35)

15-9-7. ORDINARY REPAIR AND MAINTENANCE AND STRUCTURAL SAFETY.

The Owner may complete normal maintenance and incidental repair on a complying Structure that contains a Non-Conforming Use or on a Non-Complying Structure. This Section shall not be construed to authorize any violations of law nor to prevent the strengthening or restoration to a safe condition of a Structure in accordance with an order of the Building Official who declares a Structure to be unsafe and orders its restoration to a safe condition.

15-9-8. APPEALS.

Appeal from a Board of Adjustment decision made pursuant to this Chapter shall be made to the district court and not to City Council. Any Person applying to the district court for review of any decision made under the terms of this Chapter shall apply for review within thirty (30) days after the date the decision is filed with the City Recorder as prescribed by state statute.

Planning Commission Staff Report

Subject: 543 Park Avenue, Washington School House Bed & Breakfast
Project Number: PL-15-02759
Author: Anya Grahn, Historic Preservation Planner II
Date: June 24, 2015
Type of Item: Administrative – Conditional Use Permit Modification

Summary Recommendation

Staff recommends the Planning Commission hold a public hearing and consider approving the Conditional Use Permit (CUP) Modification for 543 Park Avenue to build laundry facilities in the accessory building (garage) based on the findings of fact, conclusions of law, and conditions of approval.

Staff reports reflect the professional recommendation of the Planning Department. The Planning Commission, as an independent body, may consider the recommendation but should make its decisions independently.

Description

Applicant: P.C.E., represented by Architect F.H. Bennett
Location: 543 Park Avenue, Washington School House
Zoning: HR-1 Historic Residential
Adjacent Land Uses: Single Family, Multi Family, and Commercial
Reason for Review: The laundry is an auxiliary use of the bed and breakfast and its location in the garage was not contemplated by the original 1983 CUP. A Request for Modification of Approval of a Conditional Use Permit must be approved by the Planning Commission.

Proposal

The applicant submitted a Request for Modification of Approval of the September 1983 Conditional Use Permit (CUP) approval of the bed and breakfast. The proposed modification is a change to the site to extend the use beyond the historic Washington School House to the non-historic garage on the property. The lot in which the garage was located was obtained by the Washington School House in 2000 and a plat amendment was recorded in 2001 to include it in the expanded lot of record. The modification of the CUP would allow for the bed and breakfast to upgrade an existing laundry room by installing commercial grade laundry in the accessory garage structure.

Background

On May 6, 2015, the City received a completed Request for Modification of Approval application for the Washington School House Bed & Breakfast. The property is

located at 543 Park Avenue in the Historic Residential (HR-1) zoning district and is currently used as a bed and breakfast. On September 21, 1983, the Historic District Commission granted a conditional use permit for the site to be rehabilitated and adaptively reused as a bed and breakfast. The site continues to be used as a bed and breakfast. Because the garage was not part of the site in 1983, the Conditional Use Permit (CUP) limited the bed and breakfast use to the historic building only.

The Washington School House acquired the lot containing the non-historic garage as part of a land swap with neighbor John Plunkett in December 2000. On June 7, 2001, City Council approved a plat amendment to combine seven Old Town lots into one lot of record that included the historic building and garage. Following the plat amendment, the owners submitted a Historic District Design Review (HDDR) application for the renovation of the existing, non-historic detached two (2) car garage located adjacent (to the north of) the Washington School House Inn. During the application review, the Community Development Director made a finding that the Washington School Inn's two (2) car garage was an allowed use as an Accessory Building to the 1983 CUP approval. This determination was appealed by neighboring resident, John Plunkett. The Planning Commission reviewed the appeal on December 21, 2001, and affirmed the Community Development Director's application of the LMC.

Today, the applicant is requesting a modification of approval to relocate the existing laundry room from the basement of the historic structure to the adjacent non-historic garage on the property. Staff finds that the relocation of the laundry room is a modification of the original the 1983 CUP approval.

Historic Background

The Washington School House bed and breakfast is a landmark structure listed on the Park City Historic Sites Inventory (HSI) and National Register of Historic Places (listed 1978). The structure also has a recorded Façade Easement with the State of Utah. The stone building was constructed in 1889. According to the HSI, the building was vacant and in disrepair at the time of its National Register nomination in 1978. On September 21, 1983, the Historic District Commission granted a Conditional Use Permit (CUP) for the historic building to be rehabilitated and adaptively reused as a bed and breakfast.

During the 1983 approval of the CUP for a bed and breakfast, two conditions of approval were placed on the permit:

1. That an agreement acceptable to the City Attorney that commits the developer to provide 11 parking stalls for the Washington School House be recorded.
2. If the land to the north of the Sun Classics building is under City ownership, that the developer reach an acceptable agreement with the City for the use of the land for stairways and parking access. The agreement should protect the possibility of closing the driveway to Main Street if necessary.

Both conditions were satisfied in 1984. On March 22, 1984, Park City Municipal Corporation entered into a non-exclusive easement agreement for the parking access and use of the staircase located on the north 21.5 feet of Lot 11 and all of Lot 36, Block 9 of the amended plat of Park City Survey. The Washington School Inn procured a private easement (entry #225977) for 11 automobile parking spaces on October 9, 1984.

On November 10, 2010, the Planning Commission reviewed and approved a second CUP application for the site in order to accommodate a 'private recreation facility', a private lap pool for bed and breakfast guests only. A Modification of Approval was approved by the Planning Commission on September 22, 2012, to include Lot 34, Block 9 of the Park City Survey, as part of the private recreation facility.

The site continues to be used as a bed and breakfast. There are currently twelve (12) guest rooms at the Washington School House, and the bed and breakfast provides breakfasts, snacks, and other light meals (as needed) to their guests.

Analysis

The site is within the HR-1 zoning district, which permits Bed and Breakfast Inns in historic structures only. The bed and breakfast is a conditional use in the primary residential zone, and any expansion of this use has impacts on the surrounding neighborhood. The applicant is requesting a modification of approval to relocate the existing laundry room from the basement of the historic structure to the adjacent non-historic garage on the property

The purpose of this conditional use permit is *to mitigate the impacts of the expanded use of the bed and breakfast into the garage*. The applicant is proposing to construct a commercial-grade laundry facility in the garage to replace the bed and breakfast's existing laundry room inside the historic structure.

Setbacks are based on the lot size. The garage has a side yard setback of four feet (4') along the north property line; the required side yard setback is three feet (3'). The garage is not historic. The garage measures approximately 21 feet by 23 feet, or approximately 483 square feet. It is currently used as a storage room to support the bed and breakfast use only; it is not currently being used for parking. The 1983 CUP approval did not include the garage as part of the site's parking requirement, thus any current use of the garage for private guest parking was an addition, but not required, benefit to the bed and breakfast.

The applicant is proposing to install a commercial size washing machine, ironing board, and small utility sink in the current garage. A heating/cooling unit will also be required for this upgrade. The exterior work is limited to revising the design and operation of the existing overhead garage door; however, the appearance of a garage door will remain along Park Avenue. Any necessary exhaust vents will be located opposite of the common side yard with the adjacent neighbor, on the south

elevation of the garage, and out of view from the public right-of-way. The needed compressor will be relocated so as to comply with LMC 15-2.2-3(I) which requires screened mechanical equipment and similar structures to be located a minimum of 5 feet from the side lot line.

Currently, the bed and breakfast's laundry is small and located in the basement of the historic structure. The purpose of the facility was intended for some incidental cleaning, and will likely remain as such. The majority of the bed and breakfast's laundry is outsourced; however, this has prevented the Washington School House Bed & Breakfast to provide the level of care that they wish to provide their guests. For this reason, the applicants wish to keep laundry on site. Only the laundry for the bed and breakfast will be done on site.

The property is currently over footprint for the lot configuration (existing, non-conforming) with the existing historic structure and non-historic garage located to the north. No addition could be added to either existing structure, and no new enclosed building could be placed on the site.

The exterior work is limited to revising the design and operation of the existing overhead garage door and installation of new intake vents and flues on the south elevation; the applicant does not propose to alter the footprint of the garage. Staff finds that the proposed exterior work to the non-historic garage is minor routine construction work and minor alterations having little or no negative impact on the historic character of the surrounding neighborhood or the Historic District per Land Management Code 15-11-12(A) and would be approved by the Planning Director through a Historic District Design Review (HDDR) waiver letter. Building permits will be required for the interior and exterior work.

To approve a CUP, the Planning Commission must make findings of compliance with the CUP Standards for Review of LMC 15-1-10(D) as follows:

- (1) The Application complies with all requirements of this LMC;
- (2) The Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;
- (3) The Use is consistent with the Park City General Plan, as amended; and
- (4) The effects of any differences in Use or scale have been mitigated through careful planning.

Per LMC 15-1-10(E), the Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:

1. Size and location of the Site:
No unmitigated impacts.

The laundry room will be relocated to the existing garage structure to the north of the historic Washington School House Bed and breakfast. The garage measures

approximately 21 feet wide by 23 feet long. Because the property is currently over footprint for the lot configuration with the existing historic structure and non-historic garage, no addition could be added to either existing structure, and no new enclosed building could be placed on the site.

2. Traffic considerations including capacity of the existing Streets in the Area;
No unmitigated impacts.

The proposed use is not expected to increase the existing traffic in the area. The proposed laundry room does not require additional parking per the requirements of the Land Management Code. The relocation of the laundry room to the accessory structure will not displace any existing parking. Adherence to previously approved associated parking with the original bed and breakfast CUP will be followed. Guests and employees will continue to not be permitted to park on Woodside Avenue. Deliveries and servicing of the bed and breakfast as well as its pool will continue to occur off of Park Avenue, per the existing CUP applications. Because the bed and breakfast will no longer be outsourcing their laundry, there will be a reduction to trucks servicing the site to fulfill the bed and breakfast's laundry needs. No additional staff is needed for the laundry facility upgrade.

3. Utility capacity, including Storm Water run-off;
Applies as conditioned.

Additional utility usage will occur with the upgraded laundry facility being relocated to the accessory structure. The Building Department will review the applicant's equipment list to determine the level of utility upgrade and the Water Department will calculate any required indoor water impact fees. Fire sprinklers are required for the structure. It currently is not sprinklered.

4. Emergency vehicle Access;
No unmitigated impacts.

The laundry facility in the garage will not interfere with existing access routes for emergency vehicles. The most direct emergency access to the laundry room will be from Park Avenue.

5. Location and amount of off-Street parking;
No unmitigated impacts

The proposed laundry room will not require any additional off-street parking. As previously mentioned in Criteria #2, the 1983 CUP for the bed and breakfast specifically stated that the Washington School House Bed and breakfast was required to provide eleven parking spaces. These parking spaces exist across the street from the bed and breakfast. On October 9, 1984, an easement agreement (Entry #225977) granted the Washington School Inn a private easement for the automobile parking spaces within the existing parking structure. Any current use of the garage for private guest parking was an additional, but not required, benefit to the bed and breakfast.

6. Internal vehicular and pedestrian circulation system;

No unmitigated impacts.

The Washington School House Bed and breakfast is not proposing any modifications to the existing pedestrian circulation, though the laundry room will generate additional pedestrian use. The applicant intends for bed and breakfast employees to use the right-of-way in order to access the garage's laundry facilities. The applicants predict that during peak seasons, the most the laundry room will be used is four hours per day. The applicants have agreed to Condition of Approval #6 which limits the hours of use from 7am to 10pm. No additional staff are required due to the laundry facility upgrade.

7. Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
Discussion Requested

The new laundry facility will be located in the existing garage. Any new exhaust vents will be located away from the common side yard with the adjacent neighbor and away from the public view. New flues and vents are proposed on the south side of the garage, facing the historic Washington School House. The new compressor is proposed to be located on the west side of the garage and at least five feet (5') from the property line shared by the neighbor to the north.

Staff has added Condition of Approval #4 stating, the needed compressor will comply with LMC 15-2.2-3(l) which requires screened mechanical equipment and similar structures to be located a minimum of 5 feet from the side lot line. Any new exterior exhaust vents and similar equipment shall be screened with vegetation.

8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

No unmitigated impacts.

Minor exterior changes to the non-historic garage will include revising the design and operation of the existing overhead door. No changes will be made to the accessory building's mass, bulk, orientation, or location.

9. Usable Open Space;

Not applicable.

Any new exhaust vents will not impact the site's existing open space.

10. Signs and lighting;

No unmitigated impacts.

Building signage modifications have not been proposed. Any new exterior signs must be approved by the Planning Department prior to installation. Condition of Approval #8 has been added to address signage modifications.

No new exterior lighting is proposed at this time. Should any new lighting be required, it shall be reviewed and approved by the Planning Department prior to installation per Condition of Approval #9.

11. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

No unmitigated impacts.

The proposed modifications to the existing operable garage door will maintain the look of traditional barn doors on the exterior of the non-historic garage. Staff finds that the proposal meets the Design Guidelines for Historic Sites and Structures.

12. Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

Discussion requested.

The current laundry room is located inside the historic Washington School House bed & breakfast (basement level) and will be relocated to the garage. The expansion into the garage will allow the laundry facilities to be upgraded to commercial equipment that permit the owners to improve the level of service to their guests and stop outsourcing their laundry needs. Only the laundry for the bed and breakfast will be done on site.

Neighbors have expressed concern about the odors and noise that will be generated by the upgrade laundry facility. Staff finds that there will be some increase to noise with the relocation of the laundry from the basement of the historic structure to the garage; however, staff finds that by placing the new compressor on the west elevation and screening the vents on the south elevation with additional vegetation, much of the noise and odor should be mitigated from the public right-of-way and common property line. Staff has added Condition of Approval #5, which states that the laundry room shall only be used between the hours of 7am and 10pm.

13. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;

No unmitigated impacts.

Delivery and service vehicles will continue to service the Washington School House bed and breakfast from Park Avenue in accordance with previous CUP applications. The applicant predicts that there will be fewer service vehicles as they will no longer be outsourcing their laundry.

14. Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;

No unmitigated impacts.

Ownership of the current business license will not change. The use is limited to owners and guests of the property.

15. Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site.

No unmitigated impacts.

The use is proposed to be contained within the existing accessory structure—the garage, and no new structures are proposed at this time. The garage is not located on a Steep Slope, nor is the property located in the Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance.

Department Review

This project has gone through an interdepartmental review. Issues pertaining to the proposed extension of the CUP—permitting the bed and breakfast use to extend into the non-historic garage—were discussed and have been highlighted as discussion items within the CUP. Staff has suggested conditions of approval to mitigate issues, as outlined above and in the Conditions of Approval.

Notice

The property was posted and notice was mailed to property owners within 300 feet on June 2, 2015, and Legal notice was also published in the Park Record on June 6, 2015 and on the public notice website in accordance with the requirements of the LMC on June 10, 2015.

Public Input

Staff received public input at the time of the Pre-Historic District Design Review application (Pre-HDDR). Neighbors have expressed concern about the odors and noise that will be generated by the upgrade laundry facility. The neighbors did not have concerns about the HDDR.

Staff has not received any public input on the proposed CUP (other than what was indicated at the Pre-HDDR) at this time. Any public comment received prior to the meeting will be forwarded to the Planning Commission.

Process

The Planning Commission takes final action on Conditional Use permit applications. Approval or denial of a conditional use permit may be appealed to the City Council according to LMC Section 1-18. Prior to building permit issuance, approval of a Historic District Design Review application is required and any conditions of approval of the CUP, if approval is granted, must be met.

Alternatives

- The Planning Commission may approve the Modification of the Conditional Use Permit, or
- The Planning Commission may deny the Modification of the Conditional Use Permit as amended, or

- The Planning Commission may continue the discussion on the Modification of the Conditional Use Permit to a date certain and provide direction to the applicant and/or staff to provide additional information necessary to make a decision on this item.

Significant Impacts

There are no immediate significant fiscal or environmental impacts to the City from this application.

Consequences of not taking the Suggested Recommendation

The Washington School House bed and breakfast would not be permitted to relocate their laundry facility to the garage and would continue to send out laundry as they have been to date.

Recommendation

Staff recommends the Planning Commission hold a public hearing and consider approving the Conditional Use Permit (CUP) Modification for 543 Park Avenue to build laundry facilities in the accessory building (garage) based on the findings of fact, conclusions of law, and conditions of approval.

Findings of Fact

1. The property is located at 543 Park Avenue, and is currently the home of the Washington School House bed and breakfast.
2. The zoning is Historic Residential (HR-1).
3. The proposed Modification to Conditional Use Permit is to permit the construction of commercial laundry facilities, an auxiliary use of the bed and breakfast, in the non-historic accessory garage structure. The garage is north of and adjacent to the Washington School House building and is located within the same lot of record.
4. The Washington School House bed and breakfast is a landmark structure listed on the Park City Historic Sites Inventory (HSI) and the National Register of Historic Places (listed in 1978). The stone building was constructed in 1889. According to the HSI, the building was vacant and in disrepair at the time of its listing on the National Register in 1978.
5. On September 21, 1983, the Historic District Commission granted a conditional use permit for the site to be rehabilitated and adaptively reused as a bed and breakfast. The site continues to be used as such, and it has twelve (12) guest rooms. The Washington School House provides breakfast, snacks, and other light meals as needed to its guests.
6. On March 22, 1984, Park City Municipal Corporation entered a non-exclusive easement agreement for the parking access and use of the staircase located as the north 21.5 feet of Lot 11 and all of Lot 36, Block 9 of the amended plat of Park City Survey.
7. On October 9, 1984, an easement agreement (entry #225977) granted the Washington School Inn a private easement for the 11 automobile parking spaces.

8. On June 7, 2001, the Park City Council approved a plat amendment to combine seven Old Town lots into one lot of record on the site where the Inn is located.
9. On November 10, 2010, the Planning Commission approved a Conditional Use Permit for a private recreation facility, which included a year-round heated lap pool with connected hot tub and spa located behind the Washington School Inn. bed and breakfast
10. Use of the garage as an accessory structure is an allowed use in the HR-1 zone.
11. The garage has a side yard setback of four feet (4') along the north property line; the required side yard setback is three feet (3'). The garage is not historic.
12. The garage measures approximately 21 feet by 23 feet, or approximately 483 square feet. It is currently used as a storage room to support the bed and breakfast use only; it is not currently being used for parking.
13. The property is currently over footprint for the lot configuration with the existing historic structure and non-historic garage, thus no addition could be added to either existing structure, and no new enclosed building could be placed on the site.
14. Additional parking requirements for the site are not affected by this application. Parking by guests or employees shall only occur in designated parking associated with the original Conditional Use Permit for the bed and breakfast. The 1983 CUP approval did not include the garage as part of the site's parking requirement, thus any current use of the garage for private guest parking was an additional, but not required, benefit to the bed and breakfast.
15. The proposed laundry room does not require additional parking per the requirements of the Land Management Code. The relocation of the laundry room to the accessory structure will not displace any existing parking.
16. Adherence to previously approved associated parking with the original bed and breakfast CUP will be followed. Guests and employees will continue to not be permitted to park on Woodside Avenue. Deliveries and servicing of the bed and breakfast as well as its pool will continue to occur off of Park Avenue, per the existing CUP applications. Because the bed and breakfast will no longer be outsourcing their laundry, there will be a reduction to trucks servicing the site to fulfill the bed and breakfast's laundry needs.
17. The laundry facility in the garage will not interfere with existing access routes for emergency vehicles. The most direct emergency access to the laundry room will be from Park Avenue.
18. Minor exterior changes to the non-historic garage will include revising the design and operation of the existing overhead door, as well as new vents and flues on the south elevation of the structure. Laundry facilities are an auxiliary use to the bed and breakfast. Only laundry for the bed and breakfast will be done on site. Any new exhaust vents will not impact the site's existing open space.
19. Ownership of the current business license will not change. The use is limited to owners and guests of the property.
20. The use is proposed to be contained within the existing accessory structure—the garage, and no new structures are proposed at this time. The garage is not located on a Steep Slope, nor is the property located in the Environmentally

Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance.

21. Staff findings in the Analysis section are incorporated herein.

Conclusions of Law

1. The CUP, as proposed, is not consistent with all requirements of the Park City Land Management Code.
2. The CUP, as proposed, is consistent with the Park City General Plan.
3. Neither the public nor any person will be materially injured by the proposed CUP.
4. Approval of the CUP is subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The applicant shall apply for a building permit from the City within one (1) year from the date of Planning Commission approval. If a building permit has not been granted within one year's time, this Conditional Use Permit will be void.
2. An approved Historic District Design Review will be required prior to building permit issuance for any exterior work.
3. Fire sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal.
4. Any improvements in the City right-of-way will require an Encroachment Agreement with the City prior to building permit issuance.
5. The needed compressor will comply with LMC 15-2.2-3(I) which requires screened mechanical equipment and similar structures to be located a minimum of 5 feet from the side lot line. Any new exterior exhaust vents and similar equipment shall be screened with vegetation.
6. The laundry room shall only be used between the hours of 7am and 10pm.
7. The approval is for the laundry room use only. Any additional uses would require additional CUP modification and are outside the scope of the 1983 bed and breakfast conditional use permit, the 2010 private recreation facility conditional use permit, and this 2015 modification to CUP.
8. No guest or employee parking shall occur on Woodside Avenue or Park Avenue. Guest and employee parking shall adhere to the 1983 conditional use permit approval. Service and deliveries for the Washington School House Bed and breakfast shall continue along Park Avenue.
9. Any new signage will require a new sign permit.
10. No new lighting is proposed at this time. Any new lighting shall be reviewed and approved by the Planning Department prior to installation.
11. Noise levels shall comply with 6-3-9 of the Park City Municipal Code.

Exhibits

Exhibit A – Site plan

Exhibit B – Proposed plans

Exhibit C – 1983 Conditional Use Permit

Exhibit D – 2010 Conditional Use Permit Action Letter

April 28, 2015

Park City Municipal Corporation
Planning Department
455 Marsac Ave. P.O. Box 1480
Park City, Utah 84060

**HISTORIC DISTRICT DESIGN REVIEW
REQUEST FOR MODIFICATION OF C.U.P.**

PROJECT DESCRIPTION

1. Scope of project is:

- To install 1 (one) commercial size washing machine in current Garage/Storage Room.
- To install 1 (one) commercial ironing board in current Garage/Storage Room.
- To install 1 (one) small utility sink in current Garage/Storage Room.
- To install 1(one) Heating/cooling unit in current Garage/Storage Room.

Exterior work is limited to:

- A minor revision in the design and operation of the existing overhead door, with in same opening.
- Minor exhaust vent penetrations, located away from common side yard with adjacent neighbor and away from public view.

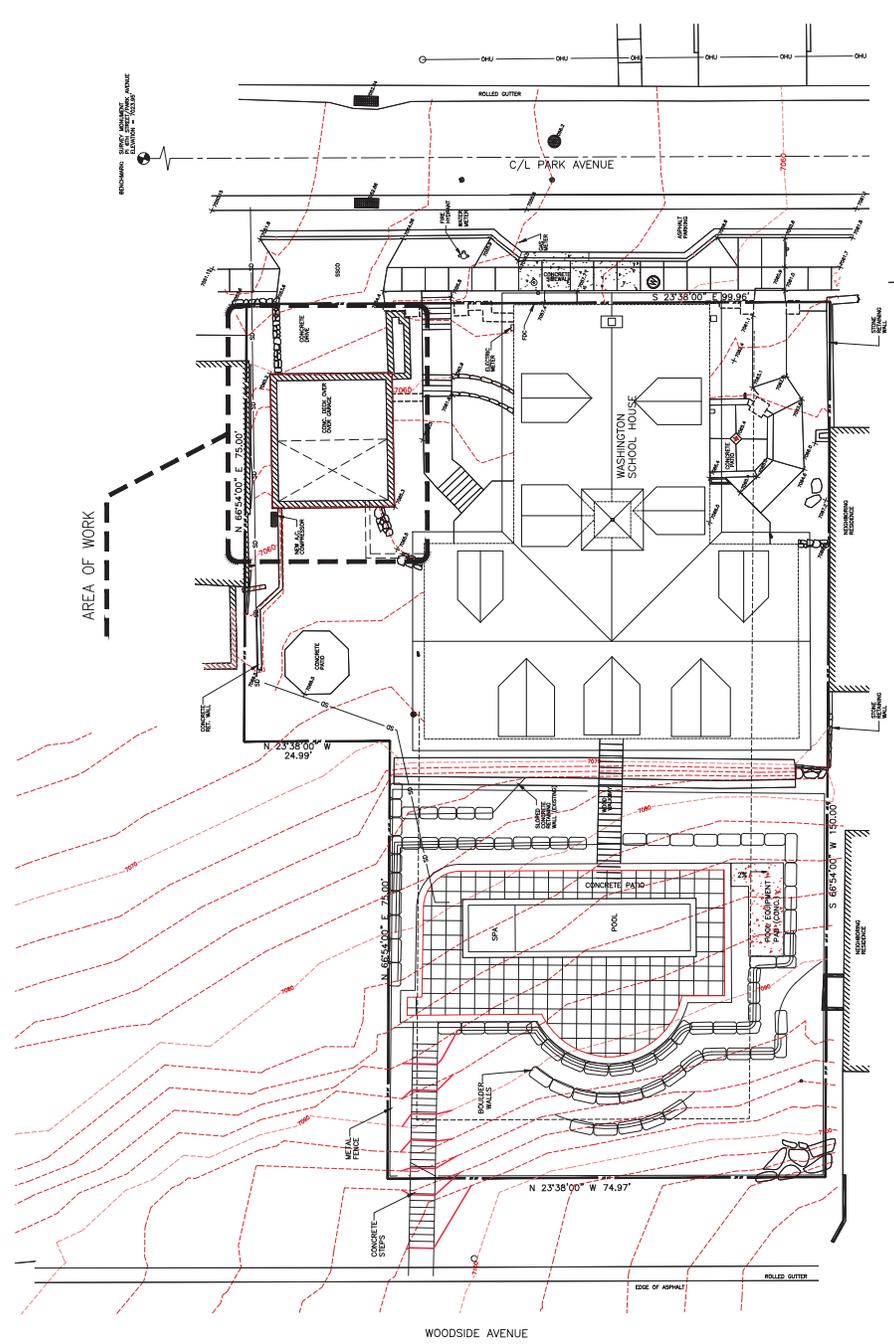
2. All required parking is permanently secured directly across street and the Garage is NOT factored in parking requirement.

3. The current use of the existing Garage/Storage Room is to only support the bed and breakfast facility. The use of the added appliances is only support the bed and breakfast facility.



ISSUE DATES	06-01-2015
REVISION DATES	

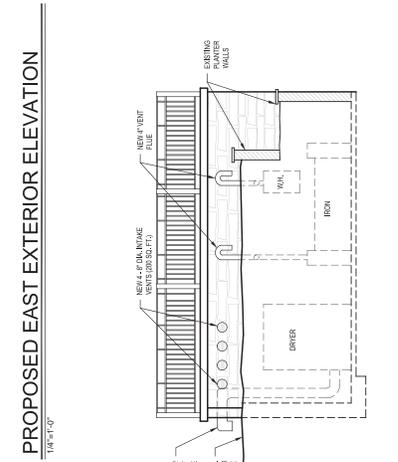
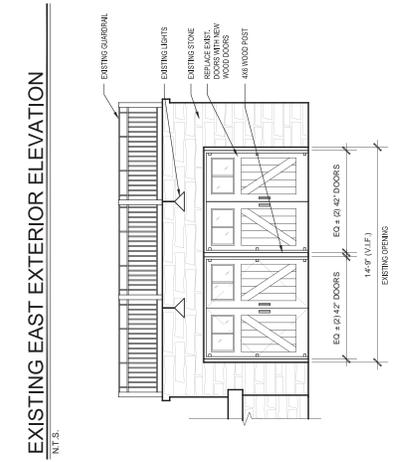
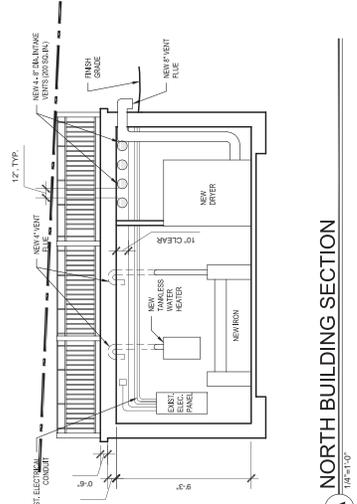
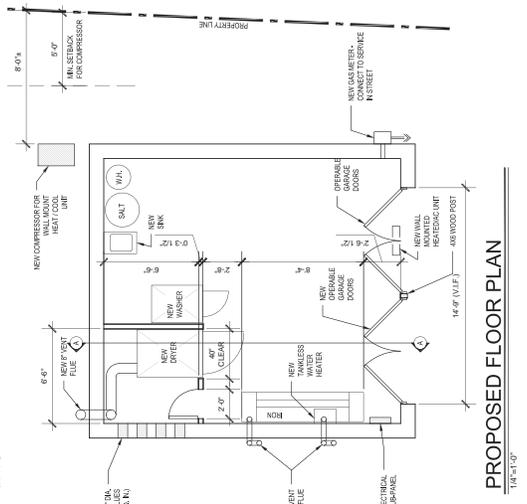
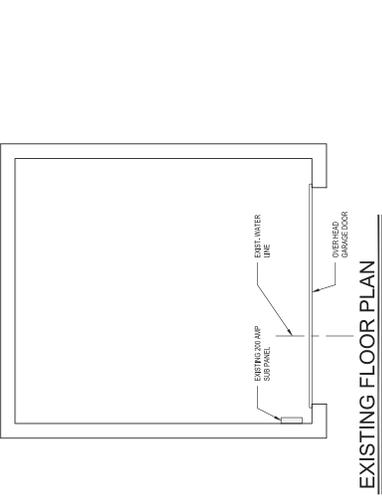
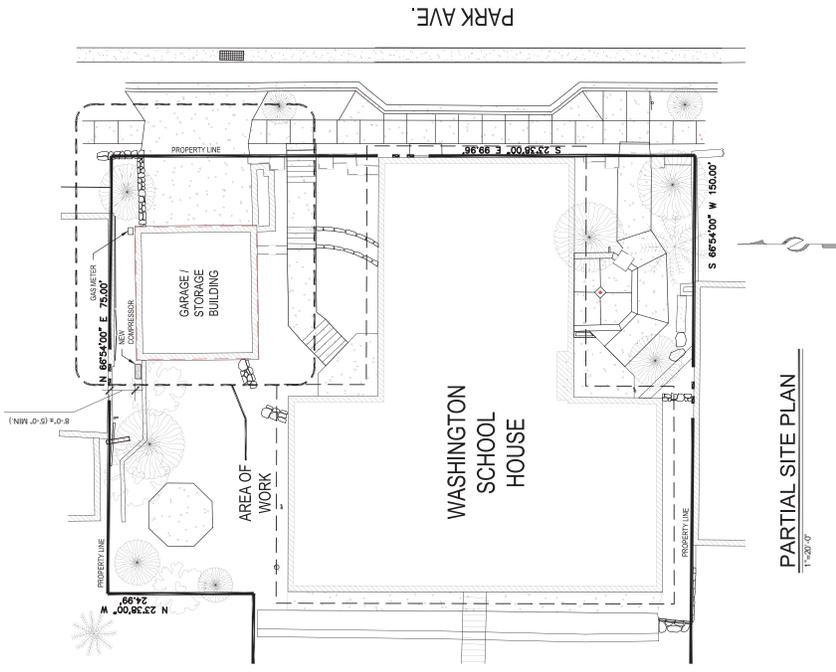
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	06/02/2014
SHEET TITLE	
SITE PLAN	
SHEET NUMBER	
A-1	
SHEET	OF
	01



SITE PLAN
 1"=10'-0"

ISSUE DATES	06-03-2015
REVISION DATES	

PROJECT:	DATE:	06/26/2014
SHEET TITLE:		
SHEET NUMBER:	A-2	
SHEET	OF	





Community Development/Engineering
Building and Planning Departments

September 26, 1983

The Mac Quoid Company
P.O. Box 1825
Park City, Utah 84060
Attn: Mr. Malcolm S. Mac Quoid

RE: WASHINGTON SCHOOL
545 Park Avenue

Dear Mac:

The Park City Historic District Commission approved your conditional use application for a Bed and Breakfast Inn to be located at 545 Park Avenue at their regularly scheduled September 21, 1983 meeting. The Commission stressed that they approved the use because by doing so, a significant, Nationally Registered Historic Building would be restored. The approval was granted on the following two conditions:

1. That an agreement acceptable to the City Attorney that commits the developer to provide 11 parking stalls for the Washington School be recorded.
2. That if the land to the north of the Sun Classics building is under City ownership, that the developer reach an acceptable agreement with the City for use of the land for stairways and parking access. The agreement should protect the possibility of closing the driveway to Main Street if necessary.

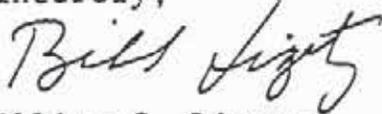
Please keep in mind that the Commission approved only the use of the building, the Staff will review the final drawings for the project. Besides the standard submittal requirements, the Staff is particularly interested in reviewing the landscape plans, the elevations of the parking structure, stairway locations and details, alteration of rock walls, fencing details, details for the decorative iron railings and signage. Modifications to the Sun Classics building will be considered as a separate application.

The Staff is satisfied with the drawings for the school. However, while we would approve the building with the additional dormers, we caution you that the Federal Government may question the approval of the building for the tax

credits with such modifications.

We look forward to continue working with you toward the completion of a successful project. If you have any questions, please don't hesitate to contact either Alison Child or me at 649-6714.

Sincerely,



William C. Ligety
Planning Director

WCL:ew

When recorded return to:

Old Towne Associates
P.O. Box 1825
Park City, Utah 84060

Entry No	225977
REQUEST OF	The McQuoid Company
FEE	ALAN SPRIGGS, SUMMIT CO RECORDER
\$ 12.00	By Susan Liberman
RECORDED	10-9-84 at 3:45 M

EASEMENT AGREEMENT

This Agreement is made and entered into by and between Old Towne Associates, a Utah general partnership ("Old Towne"), and Sierra Pacific Financial, a California general partnership ("Sierra Pacific").

Recitals:

A. Old Towne is the owner of certain real property located in Park City, Utah and more particularly described in Exhibit "A" attached to this Agreement and incorporated by this reference.

B. Sierra Pacific is the owner of certain real property located at 543 Park Avenue, Park City, Utah known as the Washington School and more particularly described in Exhibit "B" attached to this Agreement and incorporated by this reference.

C. By this Agreement the parties intend to provide an easement for parking purposes whereby the property described in Exhibit "A" will be subject to an easement in favor of the property described in Exhibit "B" for motor vehicle parking purposes, as provided in this Agreement.

Now, therefore, the parties hereto agree as follows:

1. Old Towne hereby grants to Sierra Pacific a private easement for parking purposes, sufficient to allow Sierra Pacific to park 11 automobiles or comparably sized motor vehicles on the property described in Exhibit "A". Such easement shall be a benefit appurtenant to the property described in Exhibit "B" and shall run with title to such property.

2. Old Towne shall improve and maintain the property described in Exhibit "A" sufficient to allow compliance with the easement for parking purposes described herein.

3. This Agreement and the rights and duties provided herein shall be binding on, and shall inure to the benefit of, the successors and assigns of Old Towne and Sierra Pacific, respectively.

316-696

In witness whereof, the parties have entered into this Agreement as of the date first written above.

Old Towne Associates,
a Utah general partnership

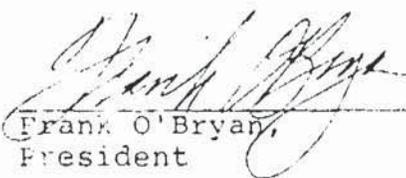
By The MacQuoid Company,
a Utah corporation

By: 

Malcolm S. MacQuoid,
President

Sierra Pacific Financial,
a California general partnership

By Spring Mountain Enterprises,
a California corporation

By: 

Frank O'Bryan,
President

State of Utah)
) ss.
County of Summit)

On the 4th day of October, 1984, personally appeared before me Malcolm S. MacQuoid, who being by me duly sworn did say that he is the president of The MacQuoid Company, a Utah corporation, a general partner of Old Towne Associates, a Utah general partnership, and that said instrument was signed in behalf of said corporation and said partnership by authority, and said Malcolm S. MacQuoid acknowledged to me that said corporation and said partnership executed the same.

Laura Ann Lawson
Notary Public

My Commission Expires:

February 10, 1986

Residing at:

Salt City Utah

State of California)
) ss.
County of Orange)

On the 3rd day of October, 1984, personally appeared before me Frank O'Bryan, who being by me duly sworn did say that he is the president of Spring Mountain Enterprises, a California corporation, a general partner of Sierra Pacific Financial, a California general partnership, and that said instrument was signed in behalf of said corporation by authority, and said Frank O'Bryan acknowledged to me that said corporation and said partnership executed the same.

Lorraine Bellovich
Notary Public

My Commission Expires:

11-11-87

Residing at:

Huntington Beach, Ca.



All of Lots 37, 38 and 39 in Block 9, Park City Survey, except the following:

Beginning at a point on the Easterly line of Park Avenue, said point being South 23°38' East along said Park Avenue 12.90 feet from the Northwest Corner of Lot No. 37, Block 9, Park City Survey and running thence North 66°22' East 20.00 feet; thence South 23°38' East 30.00 feet; thence South 66°22' West 20.00 feet to the Easterly line of said Park Avenue, thence North 23°38' West along said Easterly line 30.00 feet to the point of beginning.

Subject to the general property taxes for the year 1983, and thereafter, and any special assessments now due or to become payable.

Subject to easements and restrictions of record or enforceable in law and equity.

Exhibit "A"

All of Lots 10, 11 and 12, Block 5, Amended Plat of Park City Survey, according to the plat of record and on file in the office of the County Recorder, Summit County, Utah.

Subject to easements and restrictions of record or enforceable in law and equity.

Excepting all oil, gas and/or other minerals which were previously reserved.

Exhibit "B"

NON-EXCLUSIVE EASEMENT AGREEMENT

This Agreement is entered into by and among Park City Municipal Corporation ("City"), Old Towne Associates, a Utah general partnership ("Old Towne"), and Sierra Pacific Financial, a California general partnership ("Sierra Pacific"), as of March __, 1984.

Recitals:

A. Old Towne is the owner of certain real property located at 537 Main Street, Park City, Utah presently known as the Old Towne Shoppes and more particularly described in Exhibit "A" attached to this Agreement and incorporated by this reference.

B. Sierra Pacific is the owner of certain real property located at 543 Park Avenue, Park City, Utah known as the Washington School and more particularly described in Exhibit "B" attached to this Agreement and incorporated by this reference.

C. Old Towne and Sierra Pacific have entered into a parking agreement which necessitates the improvement of an existing right-of-way connecting Park Avenue and Main Street and more particularly described as the North 21.5 feet of Lot 11, and all of Lot 36, Block 9, of the amended plat of Park City Survey ("the Right-of-Way").

D. It is in the best interests of the public health, safety and welfare to improve the Right-of-Way described above and to grant non-exclusive easements to Old Towne and Sierra Pacific appurtenant to each of the properties described in Exhibits "A" and "B", as provided in this Agreement.

Now, therefore, the parties hereto agree as follows:

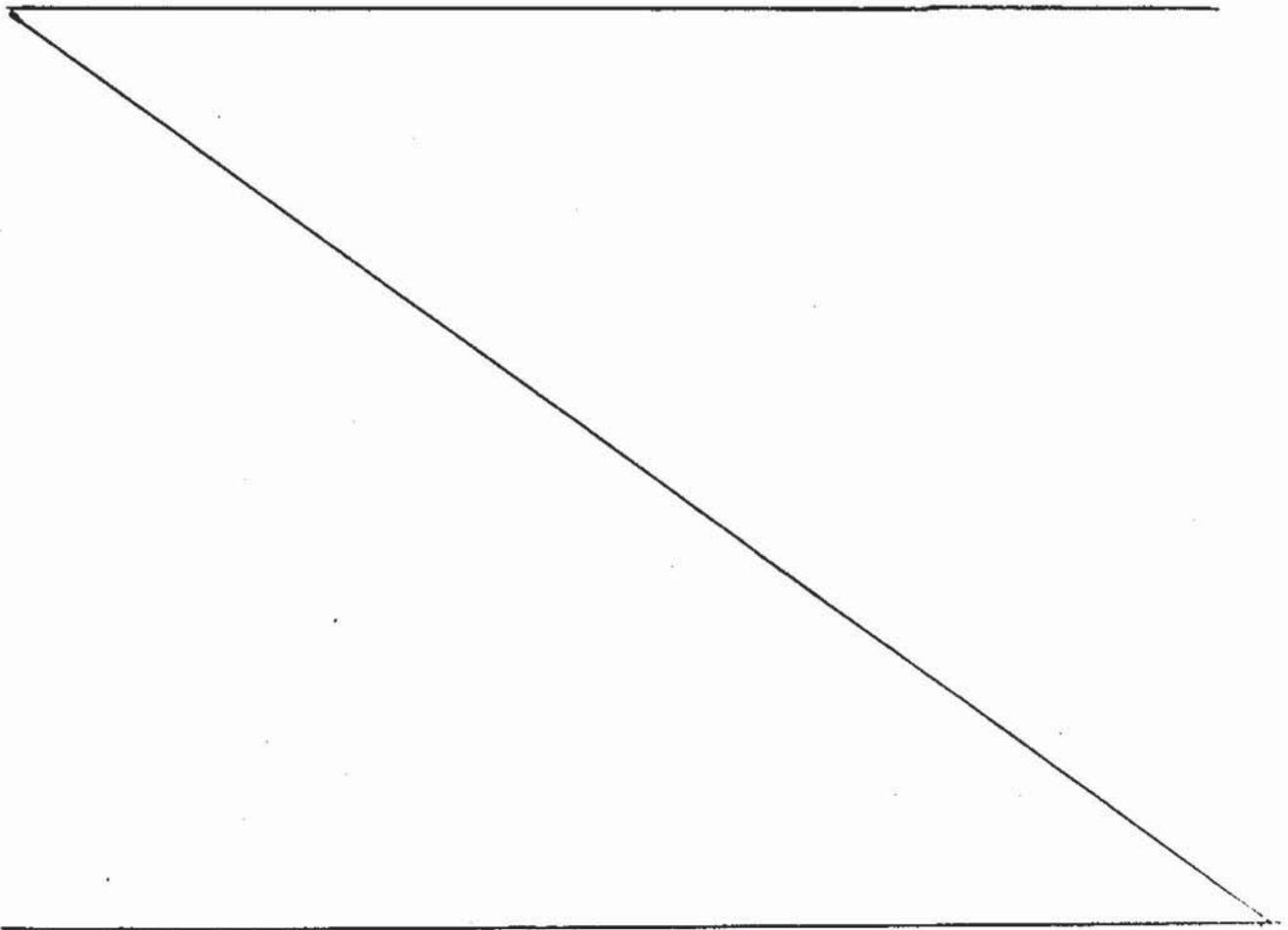
1. City hereby grants to Old Towne a private non-exclusive pedestrian and vehicular right-of-way easement over the Right-of-Way as described above. Such easement shall be appurtenant to the property described in Exhibit "A" and shall run with such property.

2. City hereby grants to Sierra Pacific a private non-exclusive pedestrian and vehicular right-of-way easement over the Right-of-Way as described above. Such easement shall be appurtenant to the property described in Exhibit "B" and shall run with such property.

3. Old Towne and Sierra Pacific shall improve the Right-of-Way by, among other things, rebuilding the existing stairs and installing lights to light the stairs. Such lights shall be hooked into the City's lighting system. All improvements to the Right-of-Way shall be subject to City's prior approval.

4. City shall maintain the Right-of-Way as required for safe pedestrian access, but Old Towne and Sierra Pacific may supplement the City's maintenance as they deem necessary or appropriate.

5. The easement granted hereby shall create no implication or duty by City to provide or allow vehicular access to the Right-of-Way from Main Street. At such time, if any, that motor vehicles are prohibited or restricted from access to the Right-of-Way from Main Street, City shall permit the Right-of-Way to be used in a manner that will permit vehicular access from Park Avenue to the lower level of parking at the rear of the property described in Exhibit "A".



6. This Agreement shall be binding on, and shall inure to the benefit of, the successors and assigns of Old Towne and Sierra Pacific, respectively.

In witness whereof, the parties have entered into this Agreement as of the date first written above.

Old Towne Associates,
a Utah general partnership

By The MacQuoid Company,
a Utah corporation

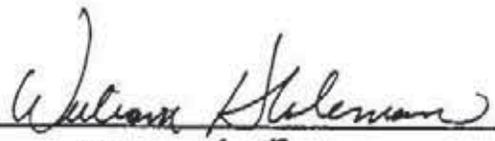
By: 
Malcolm S. MacQuoid,
President

Sierra Pacific Financial,
a California general partnership

By Spring Mountain Enterprises,
a California corporation

By: 
Frank O'Bryan,
President

Park City Municipal Corporation

By: 
Maya Pro Tempore

State of Utah)
) ss
County of Summit)

On the 16th day of March, 1984, personally appeared before me Malcolm S. MacQuoid, who being by me duly sworn did say that he is the president of The MacQuoid Company, a Utah corporation, a general partner of Old Towne Associates, a Utah general partnership, and that said instrument was signed in behalf of said corporation and said partnership by authority, and said Malcolm S. MacQuoid acknowledged to me that said corporation and said partnership executed the same.

Janis Ann Lawson
Notary Public

My Commission Expires:
February 10, 1986

Residing at:
Park City Utah

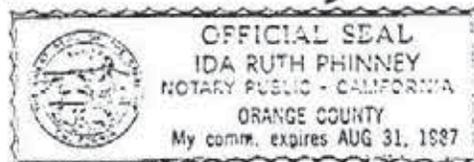
State of California)
) ss.
County of Orange)

On the 20th day of March, 1984, personally appeared before me Frank O'Bryan, who being by me duly sworn did say that he is the president of Spring Mountain Enterprises, a California corporation, a general partner of Sierra Pacific Financial, a California general partnership, and that said instrument was signed in behalf of said corporation by authority, and said Frank O'Bryan acknowledged to me that said corporation and said partnership executed the same.

Ida Ruth Phinney
Notary Public

My Commission Expires:
August 31, 1987

Residing at:
Newport Beach, California



State of Utah)
) ss.
County of Summit)

On the 22nd day of March, 1984, personally appeared before me William H. Coleman, who being by me duly sworn did say that he is the Mayor Pro-Tempore of Park City Municipal Corporation, a municipal corporation organized and existing under the laws of the State of Utah, and that said instrument was signed in behalf of said Park City Municipal Corporation by authority of a resolution of its City Council, and said William H. Coleman acknowledged to me that said Park City Municipal Corporation executed the same.

William R. Gathrum
Notary Public

My Commission Expires:

May 13, 1987

Residing at:

Salt Lake City, Utah

The North 3.50 feet of Lot No. 8, all of Lot Nos. 9 and 10, the South 3.50 feet of Lot No. 11, and all of Lot Nos. 37, 38 and 39, in Block 9, Park City Survey; Except the following:

Beginning at a point on the Easterly line of Park Avenue, said point being South 23°38' East along said Park Avenue 12.90 feet from the Northwest Corner of Lot No. 37, Block 9, Park City Survey and running thence North 66°22' East 20.00 feet; thence South 23°38' East 30.00 feet; thence South 66°22' West 20.00 feet to the Easterly line of said Park Avenue, thence North 23°38' West along said Easterly line 30.00 feet to the point of beginning.

Subject to the general property taxes for the year 1983, and thereafter, and any special assessments now due or to become payable.

Subject to easements and restrictions of record or enforceable in law and equity.

Exhibit "A"

Lots 10, 11, 12, 32, 33, 34, 35, 36, and 37, Block 5, Amended Plat of PARK CITY SURVEY, according to the plat of record and on file in the office of the County Recorder, Summit County, Utah.

Subject to the general property taxes for the year 1983 and thereafter, and any special assessments now due or to become due.

Subject to easements and restrictions of record or enforceable in law and equity.

Excepting all oil, gas and/or other minerals which were previously reserved.

Exhibit "B"



Washington School House
Subject Site

543 Park Ave

On October 9, 1984 an easement (entry# 225977) granted to Washington School Inn, a private easement for 11 automobile parking spaces on this property.

Parking Easement for Washington School House



**THE PLANNING COMMISSION
PARK CITY, SUMMIT COUNTY, UTAH**

**RE: CONDITIONAL USE PERMIT FOR A 'RECREATION FACILITY, PRIVATE'
IN THE (HR-1) HISTORIC RESIDENTIAL ZONE**

The Planning Commission of Park City, Utah met on Wednesday, November 10, 2010 for a regularly scheduled and duly noticed meeting. After determining that a quorum was present, the Commission conducted its scheduled business. Among the items heard by the Commission was the 543 Park Avenue Conditional Use Permit application.

NOTICE OF PLANNING COMMISSION ACTION:

Project Address: 543 Park Avenue
Project Number: PL-10-01066
Type of Hearing: Conditional Use Permit – Recreation Facility, Private (swimming pool) for Bed & Breakfast
Hearing Date: November 10, 2010

Commission Action: **APPROVED** the request pursuant to the findings of fact, conclusions of law and conditions of approval as written below.

Findings of Fact - 543 Park Avenue

1. The property is located at 543 Park Avenue.
2. The zoning is Historic Residential (HR-1).
3. The proposed Conditional Use Permit is for a private recreation facility (lap pool).
4. The Washington School Inn is a landmark structure listed on the Park City Historic Sites Inventory, when the site was nominated to the National Register in 1978, the building was vacant and in disrepair.
5. On September 21, 2983, the Historic District Commission granted a conditional use permit for the site to rehabilitated and adaptively reused as a bed and breakfast. The site continues to be used as a bed and breakfast.
6. On March 22, 1984, Park City Municipal Corporation entered a non-exclusive easement agreement for the parking access and use of the staircase located as the north 21.5 feet of Lot 11 and all of Lot 36, Block 9 of the amended plat of Park City Survey.
7. On October 9, 1984 an easement agreement (entry #225977) granted the Washington School Inn a private easement for the 11 automobile parking spaces.

8. On June 7, 2001, the City Council approved a plat amendment to combine seven old town lots into one lot of record on the site where the Inn is located.
9. The dimensions of the proposed lap pool are ten feet wide by forty feet long.
10. Retaining walls are necessary due to the steepness of the existing grade in the rear yard. The proposed retaining walls exceed six feet in height in some locations within the building pad area. Six foot high retaining walls and fences within the side yard setbacks and four foot high retaining walls and fences within the front setbacks are permitted by the Code. 15-4-2(1) allows an increase to six foot high retaining walls and fences in the front yard setback.
11. Additional parking requirements for the site are not affected by this application. Parking by guests or employees shall only occur in designated parking associated with the original Conditional Use Permit for the bed and breakfast.
12. The lap pool is for the use of the Washington School Inn guests. No additional traffic will be produced by the addition of a lap pool on the property.
13. The heated lap pool will not be enclosed. No enclosed structures are included within this application. The pool will be fenced.
14. The application includes an open shade structure and landscape improvements. Approval for compliance with the historic district design guidelines is required prior to issuance of a building permit.
15. Passive use of the Washington School Inn garden and grounds by patrons of the Inn are a permitted use in the HR1 zone and consistent with the 1983 conditional use permit approval. Organized events for the Washington School Inn patrons and/or the general public including parties, weddings, or other public assemblies, are not permitted in the HR1 zone and are outside the scope of the 1983 conditional use permit.
16. The Washington School Inn is identified as a Landmark Structure on the Historic Sites Inventory with a recorded Facade Easement with the State of Utah.
17. The stone walkway and landscape improvements through adjacent lot have been removed and are reflected in the drawings dated November 10, 2010.

Conclusions of Law - 543 Park Avenue

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

Conditions of Approval - 543 Park Avenue

1. New retaining walls and fences proposed within the private recreation facility conditional use permit may not exceed six feet (6') in height.
2. The outdoor pool and spa shall be restricted to use between the hours of 7 am to 10 pm. A sign must be posted by the pool area stating the operating hours of the pool.
3. This approval is for a private recreation facility. Any additional uses, including public assemblies, must be reviewed independently and are outside the scope of the 1983 bed and breakfast conditional use permit and the present private recreation facility conditional use permit.
4. No guest or employee parking shall occur on Woodside Avenue or Park Avenue. Guest and employee parking shall adhere to the 1983 Bed & Breakfast conditional use permit approval.
5. The applicant will apply for a building permit from the City within one year from the date of Planning Commission approval. If a building permit has not been granted within one year's time, this Conditional Use Permit will be void.
6. Any modifications to signs shall be reviewed under separate application.
7. An approved Historic District Design review is required prior to building permit issuance.
8. Lighting of the proposed pool and deck will be restricted to hours of pool operation, 7 am to 10 pm.
9. Delivery and service vehicles to the Washington School Inn and related pool area will occur off of Park Avenue. Woodside Avenue may be used by maintenance vehicles to service pool only. Two or more complaints will require Planning Commission review. An administrative review will be conducted by Staff one year from the date of approval.
10. Noise levels will comply with 6-3-9 of the Park City Municipal Code.
11. Retaining walls and fences up to six feet (6') in height will be allowed in the front yard setback and side yard setbacks.
12. Improvements in the City right-of-way will require an Encroachment Agreement.
13. Mechanical equipment pad shall have roof structure shielding the mechanical equipment from view above.

Best Regards,



Kayla Sintz
Planning Department

PARK CITY MUNICIPAL CORPORATION
STANDARD PROJECT CONDITIONS

1. The applicant is responsible for compliance with all conditions of approval.
2. The proposed project is approved as indicated on the final approved plans, except as modified by additional conditions imposed by the Planning Commission at the time of the hearing. The proposed project shall be in accordance with all adopted codes and ordinances; including, but not necessarily limited to: the Land Management Code (including Chapter 5, Architectural Review); International Building, Fire and related Codes (including ADA compliance); the Park City Design Standards, Construction Specifications, and Standard Drawings (including any required snow storage easements); and any other standards and regulations adopted by the City Engineer and all boards, commissions, agencies, and officials of the City of Park City.
3. A building permit shall be secured for any new construction or modifications to structures, including interior modifications, authorized by this permit.
4. All construction shall be completed according to the approved plans on which building permits are issued. Approved plans include all site improvements shown on the approved site plan. Site improvements shall include all roads, sidewalks, curbs, gutters, drains, drainage works, grading, walls, landscaping, lighting, planting, paving, paths, trails, public necessity signs (such as required stop signs), and similar improvements, as shown on the set of plans on which final approval and building permits are based.
5. All modifications to plans as specified by conditions of approval and all final design details, such as materials, colors, windows, doors, trim dimensions, and exterior lighting shall be submitted to and approved by the Planning Department, Planning Commission, or Historic Preservation Board prior to issuance of any building permits. Any modifications to approved plans after the issuance of a building permit, must be specifically requested and approved by the Planning Department, Planning Commission and/or Historic Preservation Board in writing prior to execution.
6. Final grading, drainage, utility, erosion control and re-vegetation plans shall be reviewed and approved by the City Engineer prior to commencing construction. Limits of disturbance boundaries and fencing shall be reviewed and approved by the Planning, Building, and Engineering Departments. Limits of disturbance fencing shall be installed, inspected, and approved prior to building permit issuance.
7. An existing conditions survey identifying existing grade shall be conducted by the applicant and submitted to the Planning and Building Departments prior to issuance of a footing and foundation permit. This survey shall be used to assist the Planning Department in determining existing grade for measurement of building heights, as defined by the Land Management Code.
8. A Construction Mitigation Plan (CMP), submitted to and approved by the Planning, Building, and Engineering Departments, is required prior to any construction. A CMP shall address the following, including but not necessarily limited to: construction staging, phasing, storage of materials, circulation, parking, lights, signs, dust, noise, hours of operation, re-vegetation of disturbed areas, service and delivery, trash pick-up, re-use of construction materials, and disposal of excavated materials. Construction staging areas shall be clearly defined and placed so as to minimize site disturbance. The CMP shall include a landscape plan for re-vegetation of all areas disturbed during construction, including but not limited to: identification of existing vegetation and replacement of significant vegetation or trees removed during construction.

9. Any removal of existing building materials or features on historic buildings, shall be approved and coordinated by the Planning Department according to the LMC, prior to removal.
10. The applicant and/or contractor shall field verify all existing conditions on historic buildings and match replacement elements and materials according to the approved plans. Any discrepancies found between approved plans, replacement features and existing elements must be reported to the Planning Department for further direction, prior to construction.
11. Final landscape plans, when required, shall be reviewed and approved by the Planning Department prior to issuance of building permits. Landscaping shall be completely installed prior to occupancy, or an acceptable guarantee, in accordance with the Land Management Code, shall be posted in lieu thereof. A landscaping agreement or covenant may be required to ensure landscaping is maintained as per the approved plans.
12. All proposed public improvements, such as streets, curb and gutter, sidewalks, utilities, lighting, trails, etc. are subject to review and approval by the City Engineer in accordance with current Park City Design Standards, Construction Specifications and Standard Drawings. All improvements shall be installed or sufficient guarantees, as determined by the City Engineer, posted prior to occupancy.
13. The Snyderville Basin Water Reclamation District shall review and approve the sewer plans, prior to issuance of any building plans. A Line Extension Agreement with the Snyderville Basin Water Reclamation District shall be signed and executed prior to building permit issuance. Evidence of compliance with the District's fee requirements shall be presented at the time of building permit issuance.
14. The planning and infrastructure review and approval is transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
15. When applicable, access on state highways shall be reviewed and approved by the State Highway Permits Officer. This does not imply that project access locations can be changed without Planning Commission approval.
16. Vesting of all permits and approvals terminates upon the expiration of the approval as defined in the Land Management Code, or upon termination of the permit.
17. No signs, permanent or temporary, may be constructed on a site or building without a sign permit, approved by the Planning and Building Departments. All multi-tenant buildings require an approved Master Sign Plan prior to submitting individual sign permits.

April 2007

Planning Commission Staff Report



Application No: PL-15-02665
Subject: 259, 261, 263 Norfolk Avenue
Upper Norfolk Subdivision Plat
Author: Francisco J. Astorga, Senior Planner
Date: June 24, 2015
Type of Item: Administrative – Amending Conditions of Approval on
Ordinance No. 06-55

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for Upper Norfolk Subdivision Plat Amendment, located at 259, 261, 263 Norfolk Avenue, to amend conditions of approval on Ordinance No. 06-55 adopted in 2006 and forward 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.

This Staff report reflects the professional recommendation of the Planning Department. The Planning Commission, as an independent body, may consider the recommendation but should make its decisions independently.

Description

Applicants: 259 Upper Norfolk, LLC, Amos Fiat, member
261 Upper Norfolk, LLC, Amos Fiat, member
263 Upper Norfolk LLC, John Pellouchoud, member
Represented by Jerry Fiat
Location: 259/261/263 Norfolk Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Proposal

This is a request to remove two (2) conditions of approval on executed Ordinance No. 06-55 adopted in 2006 which approved the Upper Norfolk Subdivision Plat. One of the conditions of approval in the Ordinance called for construction access to take place from King Road rather than Upper Norfolk Avenue. Construction access was made possible through temporary access agreements with adjacent property owners with access from King Road. The agreement was executed and recorded in October 2006, with a stipulation that it would become void December 2009. The Upper Norfolk Subdivision received approval in July 2006 and the plat was recorded in June 2007.

Background

On January 21, 2015, the City received a request for the Upper Norfolk Subdivision Plat

Amendment located at 259/261/263 Norfolk Avenue in the Historic Residential-1 District. The request is to remove two (2) conditions of approvals required in the executed ordinance. The access and layout of the lots are not being amended with this application. The subdivision is comprised of Lots 1, 2, and 3. The lots are accessed from Upper Norfolk Avenue. There is a single shared drive from the northern section of the lots. The property owners of Lots 1, 2 and 3 are currently listed as co-applicants in this plat amendment request to remove two (2) conditions of approval. The applicants are represented by Jerry Fiat.

In July 2006, the City Council approved the Upper Norfolk Subdivision Plat Amendment request in Ordinance No. 06-55. In 2006 the applicant addressed neighborhood concerns, such as designing the driveway to retain the landscape berm, and proposing the construction phasing and staging on King Road, etc. The proposal included a request to demolish a three (3) unit non-historic condominium structure (the triplex had lockout units, therefore the reference in the minutes is a six (6) unit building), vacate the existing condominium plat, and establish three (3) lots of record with the intention of building three (3) single-family dwellings, one (1) on each lot. The plat was recorded at Summit County on June 1, 2007. The Upper Norfolk Avenue Condominiums Plat (prior triplex) was retired by Summit County on June 13, 2007. The triplex was demolished in February 2010.

The plat amendment approval contained the following conditions of approval outlined in the executed ordinance:

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.
3. The lots are to be used for the construction of single family houses.
4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
5. The construction easement agreements must be finalized and submitted to the City prior to receiving building permits.
6. A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issue of a building permit.
7. A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

These conditions above were not added as notes on the plat with the exception of condition no. 7 regarding prohibiting accessory apartments. Conditions of approval 4 and 5 stipulated that construction access would be from King Road via a construction access that would cross separately owned adjacent property through the finalization of construction easement agreements prior to receiving building permits.

When the plat amendment was originally approved in 2006, the three (3) lots in the subdivision were owned by the same entity and construction of all three (3) structures was anticipated to occur at the same time. Since that time the three (3) lots have been transferred to different entities.

The reason for the requirement of the access agreement was to reduce the construction impact of building three (3) structures all at the same time on the neighborhood. This access was made possible through an agreement that had a specific time frame before it became void. In 2006, Jerry Fiat, had control of the three (3) lots as well as the adjacent property with the access easement directly from King Road. The time period has since lapsed making the construction access from King Road no longer an option for the applicant. The easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.

The 2006 Ordinance had findings of fact stating that due to the steepness of the lots, a steep slope conditional use permit would be required. Since that time, the triplex building was demolished and a more detailed analysis of the slope was evaluated by the Planning Department. Based upon more detailed analysis, the Planning Director determined that the lots do not meet the 30% slope threshold and therefore Steep Slope Conditional Use Permits will not be required.

The Planning Commission reviewed this application during their March 25, 2015, meeting. The Planning Commission reviewed the findings of fact, conclusions of law, and conditions of approval of ordinance No. 06-55. The Planning Commission also reviewed the July 26, 2006 Planning Commission minutes and the July 27, 2006 minutes which indicated the following:

Planning Commission (July 26, 2006) meeting

- *Planner Maloney stated that the proposed access is from the north side of the lot. He presented a conceptual site plan that was submitted to the Planning Department for the purpose of verifying that it is reasonable to access the three lots. Through Staff discussion and meetings with the applicant, the Staff has determined that the plat amendment proposed is reasonable and can be accessed from the north side of the lot.*
- *Planner Maloney commented on concerns raised at the last public hearing about preserving the existing landscaping along the front of the site. In addition, the driveway being proposed on the conceptual site plan is 19 feet wide and issues were raised regarding the excessive width.*
- *The Staff recommended approval of the proposed plat for the purpose of establishing lot lines and creating three lots of record. Planner Maloney noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He stated that the 14 criteria listed in the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit.*

- During the public hearing: Keesler, a resident at 302 Norfolk, remarked that the structure encroaches into the City right-of-way and if the applicant demolishes the building, the City would have the opportunity to do something with it. Mr. Keesler wondered why the applicant needed a 19 foot wide driveway when Norfolk Avenue is only 8 feet wide. He could not understand why the City would allow pavement in an area that could be landscaped and could give something back to the public that the structure has possessed for so long. Mr. Keesler urged the Planning Commission to address this issue before the plat amendment is granted.
- Chair O'Hara noted that the Planning Commission will address specific issues during the CUP process.
- Jerry Fiat, the applicant, explained that the driveway will be shared by three homes and the reason for making it 19 feet wide is to allow two cars to pass or for one car to pass if another car is parked. Mr. Fiat pointed out that the existing house encroaches 18 feet on to the public right-of-way and the new homes would sit at least 10 feet back. The area that the driveway sits in is already disturbed and the net effect is that paved space will be returned to green space with a berm and planters.
- Planner Maloney stated that once the Planning Department receives proposals to build the actual structures on the lots, they will be in a better position to see how the grades will tie in and determine exactly what access makes the most sense in terms of the configuration of the driveway. They would also look at landscaping at that point.
- Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the proposed Upper Norfolk subdivision according to the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Staff report and subject to the amendments as discussed (regarding accessory apartments). Commissioner Wintzer seconded the motion. The motion passed unanimously.

City Council (July 27, 2006) meeting:

- To better understand the action, Mayor Williams noted that he and staff walked the property today.
- Dave Maloney summarized the application as staff found that the conceptual site plan proposed provided reasonable access from Norfolk Avenue. Because of the steep slope feature, the applicant had the ability to request a height increase but no increase in the floor area (LMC has changed since, and the height increase is no longer an option).
- Mr. Maloney added that it appears that the design of the driveway will retain the landscape berm and the conditional use process will finalize the design. Roger Harlan noted that a year ago, many Upper Norfolk Avenue residents were against this project. The applicant has done a good job of addressing neighborhood objections, but he is still concerned about construction impacts. Jerry Fiat discussed proposed construction phasing and staging on King Road.
- The Mayor opened the public hearing, and hearing no input, closed the hearing.

- *Jim Hier, "I move we approve Consent Agenda Items 1 through 5". Roger Harlan seconded. Motion unanimously carried.*

See Exhibit B – 25 March 2015 Planning Commission Minutes.

Analysis

The applicant requests to remove the two (2) conditions of approval outlined in executed Ordinance No. 06-55 dealing with the construction access the applicant proposes access from Upper Norfolk Avenue, which is the legal access to the properties. In 2006 the applicant secured staging area behind to property. Regarding the construction mitigation, which was heavily discussed during the March 25, 2015, meeting the applicant submitted the following documents two (2) documents: Exhibit C – Proposed Mitigation, and Exhibit D – Proposed Mitigation Plan over Site Plan. The Park City Building Department drafted Exhibit E – Draft Construction Mitigation Plan.

In summary, See Exhibit C – Proposed Mitigation, the applicant indicated the following:

- *Request to build all three (3) units at the same time as they find it would be more efficient.*
- *Staging area has been secured along the rear of the properties of approximately 2,000 square feet.*
- *No materials will be staged on the street.*
- *No parking shall be permitted anywhere other than on than on the shared private drive and on the lots themselves. No neighborhood parking space shall be used. They will not request any street parking passes (6 allowed total).*
- *There is sufficient room to turn all the truck and cars around so no trucks will need to back up or down Upper Norfolk.*
- *As we have the additional area in the rear and have access between the future houses can store spoils from the excavation and reuse it for back fill. This will greatly reduce the loads out of the site, as well as the site is partially excavated already, and the demolition is completed.*
- *We will encourage car pulling to further reduce traffic*
- *We will not allow any trucks to queue on Upper Norfolk*
- *No road closures other than utility upgrades will be needed*
- *All deliveries and unloading will be off the shared driveway, and will not block the street.*
- *All other normal requirements for construction in old town shall apply.*

The Park City Building Department has reviewed the applicant's proposed mitigation in detail and does not find that any additional items to be addressed at this time. The applicant has indicated that construction for the three (3) single-family dwellings would take place at the same time and that the above statements would be in compliance with the signed agreement. The work is to terminate in two (2) years or less as the easement agreement indicates such.

The Planning Department recognizes that all three (3) lots would have to be utilized for the construction of each structure. Staff recognizes that construction cross access

This 2005 survey showed the existing triplex which covered 2/3s of the subject area. The applicant also presented an existing conditions site plan, Exhibit I, a proposed site plan, Exhibit J, and corresponding cross section comparing the two site plans, Exhibit K.

Exhibit I - 2006 Existing Conditions Site Plan:

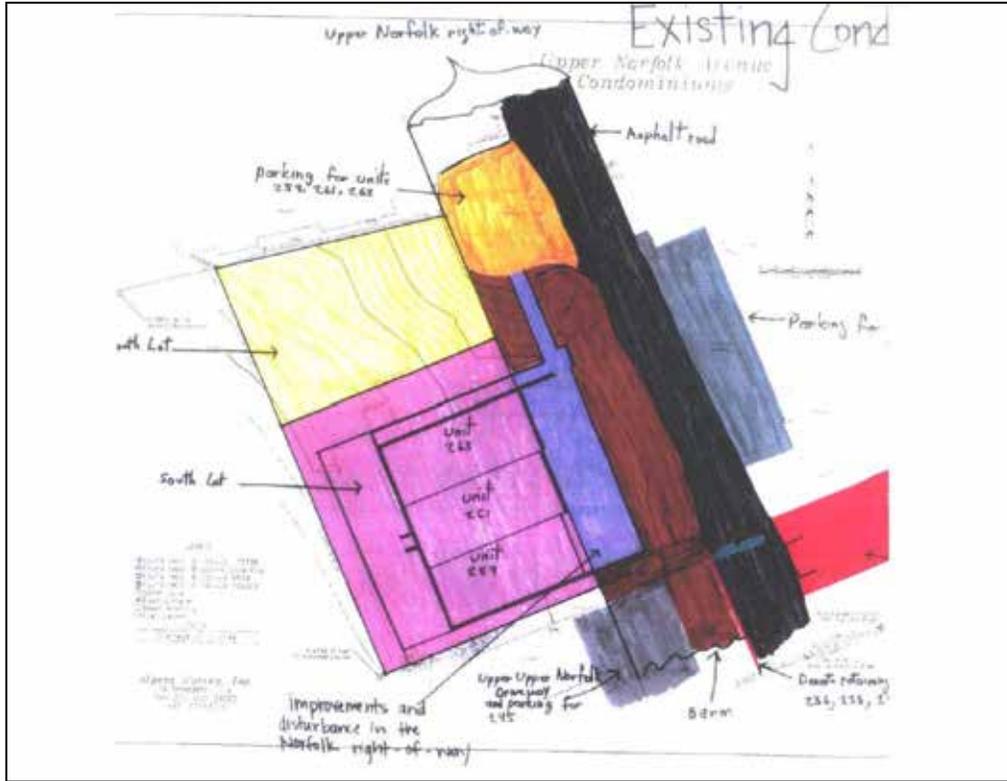


Exhibit J - 2006 Proposed Site Plan:

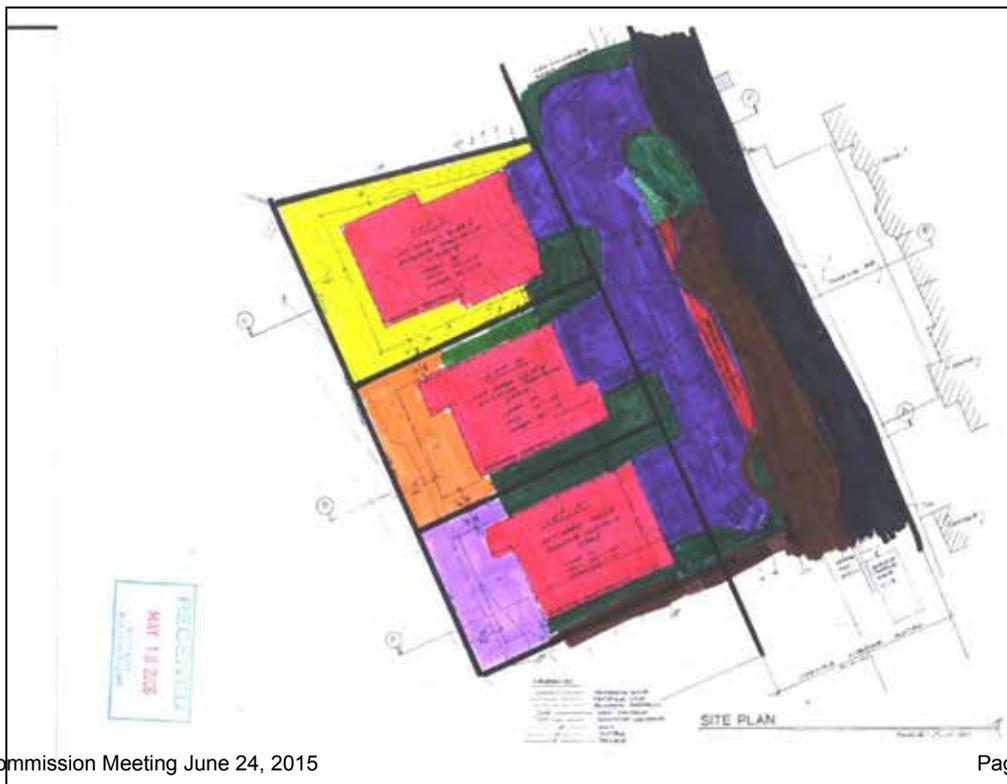
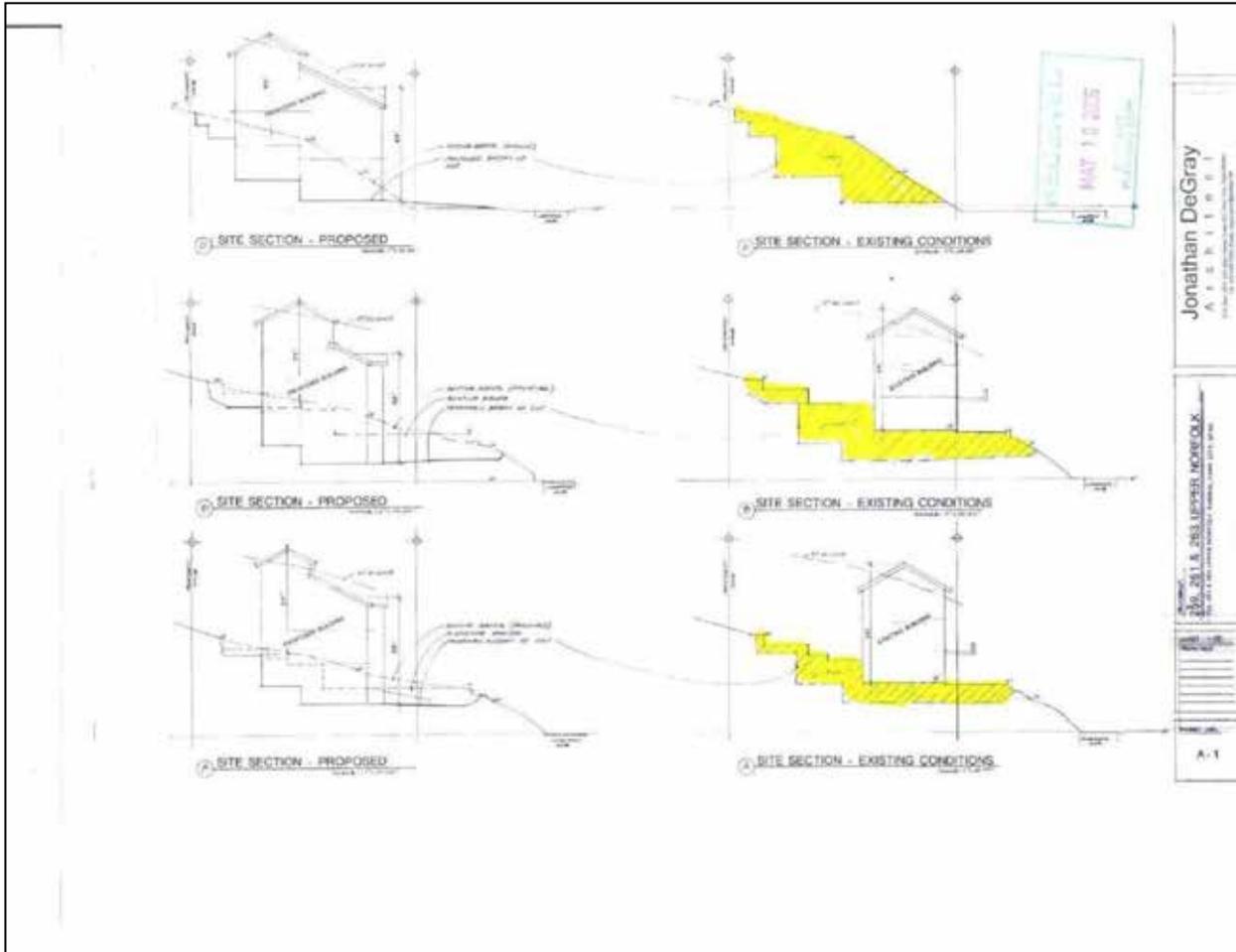


Exhibit K - 2006 Section Comparisons:



In 2010, there were two (2) determinations made by the Planning Director, See Exhibit L – SSCUP Memo 06.03.2010 and Exhibit M – 08.09.2010 SSCUP Memo. Exhibit L indicated that the Planning Director reviewed the request for a determination of the grade on the three lots relative to the Steep Slope Conditional Use Criteria (CUP) and found that the three (3) lots will be required to submit for a Steep Slope Conditional Use Permit under the current LMC. Exhibit M, determined two (2) months later, also by the Planning Director, clarified the disturbed area which included the demolished triplex and found that the three (3) lots will not necessitate a steep slope CUP application. The memo further clarifies that on August 3, 2010 staff inspected the site to estimate the grades on the three (3) disturbed lots as indicated on the submitted site plan. Using a laser range finder, staff measured the slope in areas that appeared not to have been disturbed and found the following grades:

- Lot 1 contained slopes of up to 19.4%.
- Lot 2 contained slopes of up to 18.4%.
- Lot 3 contained slopes of up to 24.8%.

Staff does not find that when the Planning Director reviewed the slopes that he was

aware of the specific finding of fact regarding the steep slope which indicates the following:

Finding of Fact #13: The proposed lots have slopes of greater than 30% and are subject to Conditional Use Permit, Construction on a steep slope review.

The later memo makes no mention of the approved ordinance or the July 2006 Planning Commission/City Council meeting minutes which discusses the steep slope review. As indicated on Exhibit O – 25 March 2015 Planning Commission Staff Report and Exhibits: Sub Exhibit F1 – 26 July 2006 Planning Commission Minutes & Sub Exhibit F2 – 27 July 2006 City Council Minutes, there were specific comments that the impacts of the proposal would be further mitigated and understood when reviewing the Steep Slope Conditional Use Permits.

The project Planner at the time (2006) noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He stated that the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit. During the Planning Commission public hearing, to address Keesler's concern in the form of public comment regarding the 19 foot wide driveway, Chair O'Hara noted that the Planning Commission will address specific issues during the CUP process. The project Planner indicated that once the Planning Department receives proposals to build the actual structures on the lots, they will be in a better position to see how the grades will tie in and determine exactly what access makes the most sense in terms of the configuration of the driveway. The project Planner noted that the conditional use process will finalize the design.

When the Planning Director made the determination in 2010 that the sites did not necessitate Steep Slope Conditional Use Permit review, staff was unaware of the comments made during the July 2006 Plat Amendment public hearings. Staff including the Planning Director reviewed the recorded plat; however, the finding of fact regarding the Steep Slope Conditional Use Permit review was not placed as a plat note, nor was it placed as a condition of approval, it was left in the approved Ordinance as a finding of fact. Staff recommends the Planning Commission not amend Finding of Fact #13 and allow it to remain in place.

The recently submitted site plan for the construction mitigation has an overlay of the topography which matches the 2005 survey provided by the applicant. Without looking at the disturbed topography, the site indeed reveals that the all three (3) lots would necessitate a steep slope Conditional Use Permit as the three (3) structures lots would be built on slopes that are 30% of greater. See Exhibit N – Current Survey Slope Analysis.

The Land Management Code indicates the following regarding steep slopes:

LMC § 15-2.2-6. DEVELOPMENT ON STEEP SLOPES.

Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Historic District Design Guidelines.

(A) **ALLOWED USE.** *An allowed residential Structure and/or Access to said Structure located upon an existing Slope of thirty percent (30%) or greater must not exceed a total square footage of one thousand square feet (1,000 sq. ft.) including the garage.*

(B) **CONDITIONAL USE.** *A Conditional Use permit is required for any Structure in excess of one thousand square feet (1,000 sq. ft.) if said Structure and/or Access is located upon any existing Slope of thirty percent (30%) or greater.*

For the purpose of measuring Slope, the measurement shall include a minimum horizontal distance of fifteen feet (15') measured perpendicular to the contour lines on the certified topographic survey. The measurement shall quantify the steepest Slope within the Building Footprint and driveway.

The Planning Department shall review all Conditional Use permit Applications and forward a recommendation to the Planning Commission. The Planning Commission may review Conditional Use permit Applications as Consent Calendar items. Conditional Use permit Applications shall be subject to the following criteria:

(1) **LOCATION OF DEVELOPMENT.** *Development is located and designed to reduce visual and environmental impacts of the Structure.*

(2) **VISUAL ANALYSIS.** *The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points:*

(a) *To determine potential impacts of the proposed Access, and Building mass and design; and*

(b) *To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities.*

(3) **ACCESS.** *Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged.*

(4) **TERRACING.** *The project may include terraced retaining Structures if necessary to regain Natural Grade.*

(5) **BUILDING LOCATION.** Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.

(6) **BUILDING FORM AND SCALE.** Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Director and/or Planning Commission may require a garage separate from the main Structure or no garage.

(7) **SETBACKS.** The Planning Department and/or Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.

(8) **DWELLING VOLUME.** The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Department and/or Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.

(9) **BUILDING HEIGHT (STEEP SLOPE).** The Zone Height in the HR-1 District is twenty-seven feet (27') and is restricted as stated above in Section 15-2.2-5. The Planning Department and/or Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures.

[...]

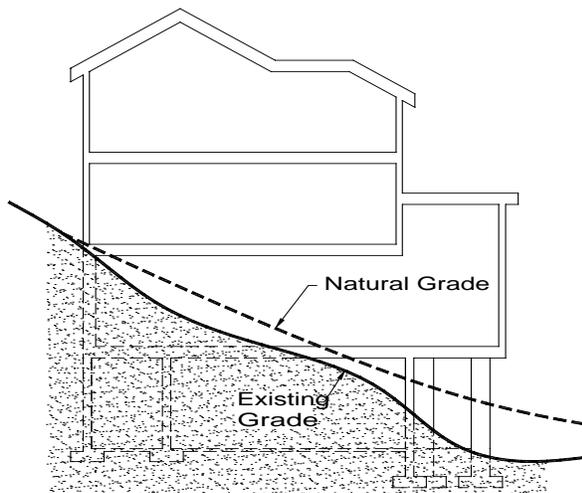
The Land Management Code has the following Grade definitions:

1.114 **GRADE.** The ground surface elevation of a Site or Parcel of land.

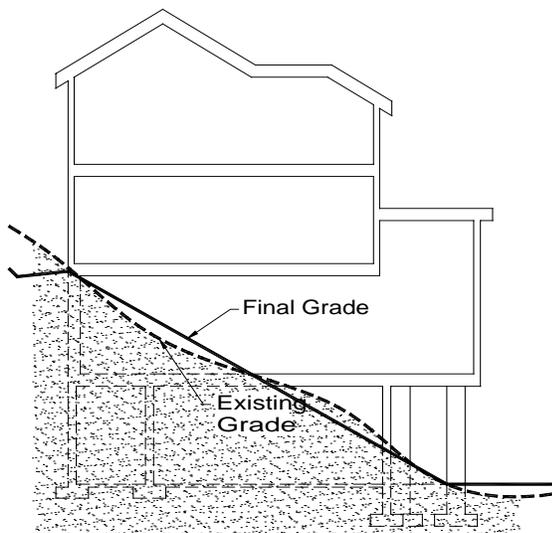
(A) **Grade, Existing.** The Grade of a Property prior to any proposed

Development or Construction Activity.

(B) Grade, Natural. *The Grade of the surface of the land prior to any Development Activity or any other man-made disturbance or Grading. The Planning Department shall estimate the Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property. The estimated Natural Grade shall tie into the elevation and Slopes of adjoining Properties without creating a need for a new retaining wall, abrupt differences in the visual Slope and elevation of the land, or redirecting the flow of run-off water.*



(C) Grade, Final. *The finished or resulting Grade where earth meets the Building after completion of the proposed Development Activity.*



Staff finds that in order to review the disturbed area and how that applies to steep slope conditional use review, an updated survey showing the existing conditions could be further examined and compared to the 2005 survey which included the now demolished

triplex. As of this time, an updated survey has not been submitted for review. Staff finds that the 08.09.2010 SSCUP Memo is not able to remove the Finding of Fact which indicated that the lots do necessitate the Steep Slope Conditional Use Permit review. Staff finds that because this finding was made and adopted in Ordinance No. 06-55, it has to be honored. If a Finding of Fact needs to be removed from an Ordinance it can only happen at the request of the property owner to the City through a new ordinance. Also, the memo makes no mention of the approved ordinance or the Planning Commission/City Council meeting minutes which discusses the steep slope review.

Good Cause

Staff finds good cause for this request to remove condition of approval no. 4 and 5 from executed Ordinance No. 06-55 due to the expiration of the recorded temporary construction access easement. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include that the lots are to be used for the construction of single-family houses, a utility/grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit, and that a note is added to the plat prior to recordation that prohibits accessory apartments on the newly created lots. Also, the findings of fact and conclusion of law shall continue to apply, including the determination which states that the lots need a steep slope CUP review.

Staff also recommends adding a condition of approval that indicated that the applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

Ordinance No. 06-55 Amendments

For clarity the original Findings of Fact, Conclusions of Law, and Conditions of Approval have been incorporated below to show the necessary changes in order to move forward with the development of the Upper Norfolk Subdivision.

Findings of Fact:

1. *The property is located at 259-263 Norfolk Avenue.*
2. *Currently the property is platted as the 'Upper Norfolk Condominiums'*
3. *There is an existing triplex structure located on the property.*
4. *The existing structure does not conform to the height and setback requirements of the HR-1 zoning district.*
5. *The applicant is proposing demolishing the existing structure.*
6. *The applicant is proposing vacating the existing 'Upper Norfolk Condominiums' plat.*
7. *The applicant is proposing establishing three lots of record - identified on the proposed plat as Lot 1, Lot 2, and Lot 3.*
8. *Lot 1 and Lot 2 measure 40.67 feet by 69.15 feet and contain 2812.33 square feet.*
9. *Lot 3 measures 39.98 feet at the front, 51.07 feet at the rear, 69.15 feet on the south side and 70.03 feet on the north side.*
10. *The proposed access to the lots is from Norfolk Avenue on the north side of the*

property.

11. The three proposed lots would share one driveway.
12. The proposed lots are for the purposes of building single family houses.
13. The proposed lots have slopes of greater than 30% and are subject to Conditional Use Permit, Construction on a steep slope review.
14. There is ~~not~~ sufficient area on the property to conduct construction staging.
15. Norfolk Avenue and Upper Norfolk Avenue are substandard, narrow streets on steep hillsides.
16. On-street and off-street parking in the Norfolk I Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.
17. Snow removal and emergency access to the Norfolk I Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.
18. LMC Section 15-7-6: Subdivisions - General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.
19. Accessory apartments are conditional uses in the HR-1 zoning district and require one parking space per bedroom.
20. Accessory apartments will increase the parking demand in the Norfolk I Upper Norfolk Avenue neighborhood.

Conclusions of Law:

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 is subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City 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.
3. The lots are to be used for the construction of single family houses.
- ~~4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.~~
- ~~5. The construction easement agreements must be finalized and submitted to the City prior to receiving building permits.~~
6. A Utility I Grading Plan is required to be reviewed and approved by the City

Engineer prior to the issuance of building permits.

- 7. A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.*

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 was received by a concerned neighbor, see Exhibit H – of the March 25, 2015, Planning Commission staff report. Additional comments were made during the March 25, 2015 Planning Commission public hearing, see Exhibit B – 25 March 2015 Planning Commission Minutes.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed ordinance no. 06-55 as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed ordinance no. 06-55 and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed ordinance no. 06-55.

Significant Impacts

There are no significant fiscal or environmental impacts from this application. They property owners would not be able to build on the lots because they wouldn't have construction access as indicated on the previous condition of approval.

Consequences of not taking the Suggested Recommendation

Condition of approval no. 4 of Ordinance 06-55 cannot be met and therefore either some amendment to Ordinance 06-55 will have to occur.

Recommendation

Staff recommends the Planning Commission hold a public hearing for Upper Norfolk Subdivision Plat Amendment, located at 259, 261, 263 Norfolk Avenue, to amend conditions of approval on Ordinance No. 06-55 adopted in 2006 and forward 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
- Exhibit B – 25 March 2015 Planning Commission Minutes
- Exhibit C - Proposed Mitigation
- Exhibit D - Proposed Mitigation Plan over Site Plan
- Exhibit E - Draft Construction Mitigation Plan
- Exhibit F - Former Structure
- Exhibit G - 2006 Existing Site Plan
- Exhibit H - Existing Conditions Survey
- Exhibit I - 2006 Existing Conditions Site Plan
- Exhibit J - 2006 Proposed Site Plan
- Exhibit K - 2006 Section Comparisons
- Exhibit L - SSCUP memo 06.03.2010
- Exhibit M - SSCUP Memo 08.09.2010
- Exhibit N - Current Survey Slope Analysis
- Exhibit O – 25 March 2015 Planning Commission Staff Report and Exhibits
 - Sub Exhibit A – Draft ordinance
 - Sub Exhibit B – Executed Ordinance 06-55
 - Sub Exhibit C – Upper Norfolk Subdivision Plat
 - Sub Exhibit D – Vicinity Map
 - Sub Exhibit E1 – Temporary Construction Access Easement (200 King) [expired]
 - Sub Exhibit E2 – Temporary Construction Access Easement (220 King)
 - Sub Exhibit F1 – 26 July 2006 Planning Commission Minutes
 - Sub Exhibit F2 – 27 July 2006 City Council Minutes
 - Sub Exhibit G – Original Lot Configuration
 - Sub Exhibit H – Public Comments

Exhibit A – Draft Ordinance No. 15-XX

AN ORDINANCE APPROVING THE FIRST AMENDED UPPER NORFOLK SUBDIVISION PLAT AMENDING CONDITIONS OF APPROVAL ON ORDINANCE NO. 06-55 AT 259, 261, 263 NORFOLK AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 259, 261, 263 Norfolk Avenue, have petitioned the City Council for approval of the First Amended Upper Norfolk Subdivision Plat Amendment; and

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

WHEREAS, the executed and recorded temporary construction access easement agreement (document no. 00793227) expired on December 31, 2009; and

WHEREAS, the three (3) lots need to have specific construction mitigation due to the narrowness of built Norfolk Avenue and steepness of the neighborhood; and

WHEREAS, Ordinance No. 06-44 approving the Upper Norfolk Subdivision authorized the three (3) lot Plat Amendment with specific findings of fact and conclusion of law.

WHEREAS, Ordinance No. 06-44 indicated specific conditions of approval regarding construction access from King Road through the adjacent property to the west, as per submitted construction easement agreements.

WHEREAS, this ordinance amends Ordinance No. 06-44 due to the expiration of construction easement agreements.

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

WHEREAS, the Planning Commission held a public hearing on March 25, 2015 and June 24, 2015, to receive input;

WHEREAS, the Planning Commission, on June 24, 2010 forwarded a recommendation to the City Council; and,

WHEREAS, on _____, 2015, the City Council conducted a public hearing and reviewed the First Amended Upper Norfolk Subdivision Plat Amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the First Amended Upper Norfolk Subdivision 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 existing plat amendment as shown in Attachment A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The properties are located at 259/261/263 Norfolk Avenue.
2. The three (3) proposed lots would share one (1) driveway.
3. The proposed lots are for the purposes of building single-family houses.
4. There is sufficient area on the Lots to conduct construction staging.
5. Norfolk Avenue is a substandard, narrow street on steep hillside.
6. On-street and off-street parking in the Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.
7. Snow removal and emergency access to the Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.
8. LMC § 15-7-6: Subdivisions – General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.
9. In July 2006 the City Council approved the Upper Norfolk Subdivision plat by Ordinance 06-55.
10. The plat was recorded at Summit County on June 01 2007.
11. The property owners requests to remove the following two (2) conditions of approval from Ordinance 06-55:
 4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
 5. The construction easement agreements must be finalized and submitted to the city prior to receiving building permits.
12. All other conditions of approval in Ordinance 06-55 will remain in effect.
13. Conditions of approval 4 and 5 stipulated that construction access would be from King Road via a construction access that would cross separately owned adjacent property.
14. The access was made possible through a temporary construction access easement agreement that expired in December 2009 and the owners have been unable to secure and extension of this easement.
15. The temporary construction access easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.
16. The applicant has indicated that construction for the three (3) single-family dwellings would take place at the same time and that the above statements would be in compliance with the signed agreement.
17. The proposed construction is to terminate in two (2) years or less as the easement agreement indicates such.
18. Cross access easement for the three (3) lots would also need to be executed prior to construction as the lots are built upon the available space is reduced.

19. The dimension of the Lots will not change with this Plat Amendment. The only change to the Upper Norfolk Subdivision by this First Amended Upper Norfolk Subdivision will be the plat notes and conditions of approval as contained herein.
20. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include:
 - The lots are to be used for the construction of single family houses.
 - A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit.
 - A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.
21. Staff recommends adding a condition of approval that indicates that the applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.
22. The Park City Building Department has reviewed the applicant's proposed mitigation in detail and does not find that any additional items to be addressed at this time.
23. The steep slope determination Memo dated 08.09.2010 is not able to remove the finding of Fact which indicated that the site necessitates the Steep Slope Conditional Use Permit review.
24. Because finding of fact number 13 was adopted in Ordinance No. 06-55, it still needs to be honored.

Conclusions of Law:

1. There is good cause for this Plat Amendment to amend the conditions of approval of executed ordinance no. 06-55 and add notes to the plat due to the expiration of the recorded temporary construction access easement.
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:

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.
3. The remaining conditions of approval from Ordinance No: 06-55 shall continue to apply.
 - The lots are to be used for the construction of single-family houses
 - A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit
 - A note shall be added to the plat prior to recordation that prohibits accessory

apartments on the newly created lots

4. An agreement must be entered into with the City Engineer concerning any construction staging which occurs within platted but un-built Upper Norfolk Right-of-Way
5. Prior to plat recordation, each lot will grant the other two (2) lots construction access easements which shall be executed and recorded and which will not expire until all single-family dwelling structures are built.
6. Prior to plat recordation, the Temporary Construction Access Easement on 220 King language shall be drafted appropriately, and if necessary, the applicant shall work with the easement signee to record an accurate description of the work area identified as Exhibit D on the Easement.
7. The applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.
8. The property owner and/or applicant representative shall be responsible of notifying property owners within 300 feet of any changes/amendments to the Construction Mitigation Plan as reviewed and approved by the Chief Building Official or their designees.

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

PASSED AND ADOPTED this ___ day of _____, 2015.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

ATTEST:

Marci Heil, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment A

Plat Notes to be added to First Amended Upper Norfolk Subdivision Plat:

- This subdivision plat is subject to the conditions of approval contained in Ordinance 06-55 and amended by Ordinance 15-XX.
- Accessory apartments are prohibited on the newly created lots.
- Prior to plat recordation, each lot will grant the other two (2) lots construction access easements which shall be executed and recorded and which will not expire until all single-family dwelling structures are built.
- Prior to plat recordation, the Temporary Construction Access Easement on 220 King language shall be drafted appropriately, and if necessary, the applicant shall work with the easement signee to record an accurate description of the work area identified as Exhibit D on the Easement.
- The applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

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(6') in height measured from final grade.

12. As part of the Construction Mitigation Plan, an access plan for 421 and 417 Ontario will be provided.

5. **259, 261, 263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance No. 06-55.** (Application PL-15-02665)

Commissioner Phillips recused himself and left the room.

Planner Astorga introduced Jerry Fiat and John Pelichoud, representing the applicants. He handed out two letters of public comment that he received after the packet was prepared.

Planner Astorga reviewed the administrative application amending conditions of approval of an approved ordinance 06-55. He stated that originally there was a triplex on the site that had illegal lockout units. The triplex structure was demolished and the site was replatted to three lots of record; 259, 261, and 263 Norfolk. When that application was approved in 2006, there were seven conditions of that approval, as outlined on page 316 of the Staff report. Condition #4 read, "Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements." Condition #5 read, "The construction easement agreements must be finalized and submitted to the City prior to receiving building permits". Planner Astorga noted that the application met all the conditions of approval. At that time the applicant's representative had the ability to secure access easement for construction through King Road; and not through Upper Norfolk, which was part of the condition of approval.

Planner Astorga reviewed a 2012 aerial photograph on page 330 of the staff report, which showed the three lots. He noted that there was secured staging area behind each of the lots which went over the 220 King Road property that is currently owned by Robert Sfire. In addition to the staging areas there was also an easement through 220 King Road to through the lot known as the Herman Property. Planner Astorga stated that the issue is that the Herman property lot had an expiration date and the construction easement would cease on December 31st, 2009. Therefore, when the property owners failed to receive their approvals through both the Planning Department through design reviews, and subsequently for building permits, they were in violation of the ordinance that approved the plat amendment creating the three subject lots.

Planner Astorga stated that since the King Road access is no longer an option, the applicant is requesting to come off Norfolk Avenue but still utilize the staging area that was obtained through the proper easements. He noted that the language on the 220 King

Road lot indicated the use of a construction staging area for two years from the time construction begins. Planner Astorga remarked that it was a difficult situation because due to circumstances the applicants were currently not meeting those specific conditions of approval.

Planner Astorga explained that the Staff asked the applicants to submit the plat amendment application again. The reason was not to amend the plat but rather to remove the conditions of approval, and to comply with the new plan as indicated by the applicant's representative in his project description. The language of the project description was included on page 317 of the Staff report, indicating what they would do to mitigate the construction.

Planner Astorga stated that since the applicant only has two years to build and they have a good area for staging construction materials, they would like to move forward and build each single family dwelling on all three lots at the same time. The Staff believed their proposal was an appropriate method of construction.

Jerry Fiat clarified that at the time he was the representative for the property owner and he had secured two different easements. One was for construction staging, which was the easement with Robert Sfire, and it would remain the same because the construction staging has not changed.

Chair Strachan asked if that easement would expire. Mr. Fiat stated that it expires two years after the start of construction. He clarified that the easement was purchased from Mr. Sfire to facilitate building the homes. The intent was always to build all three homes at one time. Mr. Fiat stated that what has changed is that he was the owner of the adjoining property at 200 King Road and he granted an easement across the property that expired after two years. The reason for the expiration was in case he wanted to build on that lot. Mr. Fiat pointed out that the condition of approval was in the ordinance but not on the plat.

Mr. Fiat stated that there was confusion over the matter and Assistant City Attorney McLean informed them that they had to go through the process of amending the ordinance with the condition of approval requiring access off of King Road. Mr. Fiat explained that the plan is to have all the staging materials and all the parking, dumpster and porta-pottys will all be off of Upper Norfolk.

Chair Strachan asked if they would be building a road from Norfolk through one of the lots to access the staging area. Mr. Fiat answered no. They would simply lift it up and over the site. Mr. Fiat clarified that even though he had granted that access, he never thought it was a viable access. It is a 1,000 feet of disturbance to get from King Road and 20,000 feet of re-vegetating. The property owner at the time gave the easement but they never

thought of it as a viable access. Mr. Fiat stated that there would be no parking or construction staging on Upper Norfolk. It would only be used for access.

Chair Strachan asked Mr. Fiat to explain how it would work when a cement truck goes up to pour the foundation. Mr. Fiat replied that there is a shared driveway for all three lots and the truck would pull into the unimproved upper Norfolk right-of-way. Chair Strachan wanted to know what would happen while the driveway was being built. He was concerned about the lack of room on Upper Norfolk. Mr. Fiat remarked that there was enough room because they had paid for an easement on the back. Chair Strachan was comfortable with the staging area but the issue was getting it ready. Mr. Fiat assured him that there was room to pull everything off the road.

Commissioner Joyce noted that many issues were brought up during the plat amendment discussions that were brushed off to be addressed during the Steep Slope CUP process. He understood that the Staff had re-evaluated the site and a Steep Slope CUP was not required. Commissioner Joyce pointed out that it was in a finding of fact that those issues would be addressed with the Steep Slope CUP. In reading the minutes for the plat amendment there was a lot of discussion regarding the position and location of the driveway and how it would be accessed. That was only one of the items that was mentioned throughout the minutes that was put off until the Steep Slope CUP.

Commissioner Joyce pointed out that some of the checks and balances that the previous Planning Commission relied on were now gone because the site was re-evaluated and it was determined that the percentage of slope was under 30%. Planner Astorga explained that removing the triplex completely changed the topography of the site. Based on that fact former Planning Director Eddington went on site and measured the grades. Planner Astorga stated that if Commissioner Joyce was more concerned with the access that was part of the original approval, none of that would be changing. Construction access would be the only change. Commissioner Joyce clarified that his issue was that when the Planning Commission approved the plat they chose not to address a number of their concerns as part of the plat amendment because they planned to address those concerns as part of the Steep Slope CUP. Now there is no CUP process he was concerned about addressing those issues.

Mr. Fiat stated that he did not have the list of concerns that Commissioner Joyce was referring to, but he could address the driveway. He explained that originally the proposal was to have individual driveways. That was met with opposition and they instead proposed two driveways. Since there was still opposition they opted for a single shared driveway. Mr. Fiat remarked that a full detail of the proposed shared driveway was provided at the time and the City should have it on file. He pointed out that the driveway is in the City right-of-way and the City Engineer would have absolute control over it. The applicants have to

secure an agreement with the City for the driveway, which is the normal process. Mr. Fiat felt certain that there were no outstanding issues with the driveway.

Commissioner Astorga understood that Commissioner Joyce was concerned when the determination was made that the site no longer required a Steep Slope CUP, because when the Planning Commissioner approved the plat amendment they believed that the mitigating factors would be reviewed in that future process. Commissioner Joyce clarified that he would not have an issue with it if he had not read through the past meeting minutes and saw how many times specific concerns were pushed off to the CUP process. Chair Strachan recalled that nightly rentals and lockouts were two concerns that they intended to address with the Steep Slope CUP. Mr. Fiat noted that the applicants had volunteered not to have lockouts. That was specified in the conditions of approval and it would not change.

Assistant City Attorney McLean clarified that the language in the conditions of approval says no accessory apartments. Mr. Fiat was unclear on the difference between a lock out and an accessory apartment. Planner Astorga understood that when the concern was raised, the applicant stipulated to adding that specific plat note and that would not change.

Planner Astorga asked if Commissioner Joyce would feel more comfortable if the Staff conducted a Steep Slope CUP analysis to try and mitigate the identified concerns from 2006. Commissioner Joyce understood that it would be an additional burden on the Staff but he thought it was a necessary step.

Commissioner Worel referred to page 350 of the Staff report, and noted that the Minutes from 2006 reflect that Planner Maloney said that the 14 criteria listed in the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit. That clarified that the Planning Commission intended to look at all 14 criteria. Planner Astorga remarked that in that same paragraph in the minutes Planner Maloney, who was the project planner at the time, also that noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He pointed out that the plat amendment was done prior to demolition of the triplex, which is why the Steep Slope CUP was referenced.

Commissioner Campbell wanted to know who tore down the triplex. Mr. Fiat provided some background. He stated that the property was sold to an individual, David Dewer. The structure was 45' in height and it was built on the unimproved right-of-way. It had six units, three of which were illegal. When Mr. Dewer purchased the property and what was not included in the conditions of approval for the plat amendment, was the requirement to demolish the triplex structure before the plat was recorded. However, plat was recorded before the structure was demolished, creating an illegal structure that spanned all three

lots. When they looked at rebuying the property, they had conversations with Ron Ivie and found that the City was actually looking at demolishing the triplex. In those conversations, Mr. Fiat told Ron Ivie that if they purchased the property they would demolish the structure immediately, which they did. The grade was interpolated once the structure was removed. Mr. Fiat remarked that having to go through a Steep Slope CUP is a large burden and a time consuming process. They would like to build the houses this year.

Commissioner Campbell clarified that he was not pushing for the applicant to go through the Steep Slope CUP process. However, he thought it was important to at least look at the 14 criteria that the former Planning Commission thought they would be reviewing to address their concerns. Mr. Fiat stated that from his reading of the minutes, the Planning Commission was not saying that they had 14 concerns. He believed it was more to the point that 14 points are reviewed in a conditional use permit.

Commissioner Campbell was curious how the topography of the lot changed during the demolition. Mr. Fiat replied that the structure spanned the entire property and there were overhanging decks, which made it difficult to accurately determine the grade. Once the structure was removed the Planning Department measured all the way across from the high point to the low point and it was found to be 17% or 18% slope. Mr. Fiat clarified that the grade had not changed, it was just more accurately.

Chair Strachan asked if the determination that it would be subject to a Steep Slope CUP was made before or after the structure was removed. Planner Astorga replied that the determination for a Steep Slope CUP was made as part of the plat amendment. Mr. Fiat was uncertain whether a formal determination was ever made because it was never really addressed. He stated that he never actually read the conditions of approval and it was his fault for not paying attention to the comments. He has since learned a hard lesson that they need to read the conditions and the plat notes.

Assistant City Attorney asked if there was a determination letter by Thomas Eddington regarding steep slopes. Planner Astorga answered yes. However, the letter was not included in the Staff report because the applicant was requesting to remove the two conditions of approval. Planner Astorga noted that Finding #13 of Ordinance 06-55 reads, "The proposed lots have slopes of greater than 30% and are subject to a conditional use permit, construction on a steep slope review." Planner Astorga stated that he does not like doing that on the plats that he reviews because he never knows whether the applicant will choose to put their footprint on those exact slopes. He addresses that issue with the design review and building permits and when he receives a certified survey. That is when he can honestly say that the slope hits the threshold. Planner Astorga felt it was premature to make that determination at the time of the plat amendment unless it can be verified that the entire lot is over 30%.

Assistant City Attorney McLean stated that because the Finding of Fact was part of the plat amendment approval, and the Staff has indicated that the finding may not be accurate, in re-opening the ordinance, the Planning Commission needs evidence to show that it is no longer accurate so the Finding of Fact could be removed. Planner Astorga agreed. He suggested that the applicant could submit a survey for the Staff to review. He noted that a survey could not be submitted without a footprint and a proposed floor plan on the survey. At that point the Staff would be able to make a determination of whether or not the slope was 30% or greater. Ms. McLean thought they already knew the footprint because the discussion this evening is about where the construction will take place. Planner Astorga clarified that the Staff did not know the exact location of the footprints of the three lots. He would ask the applicant to provide a certified survey and to identify an approximate location of the footprint.

Commissioner Campbell thought that was unnecessary because when the applicant comes in for a building permit it would not be approved if the slope is over 30%. Planner Astorga stated that if he sees 30% or greater slopes, independent of what may have been said in a previous memo, he has the obligation to say that it hits the threshold. Commissioner Campbell understood that it would come back to the Planning Commission if the slope was found to be over 30%. Planner Astorga answered yes. However, he understood Commissioner Joyce's concern about the previous Planning Commission waiting for the CUP to address the issues.

Commissioner Campbell believed Mr. Fiat was right in saying that the 14 criteria in the LMC would have to be addressed in a Steep Slope CUP, but they were not 14 specific concerns that were raised. Commissioner Campbell pointed out that if the slope is less than 30% those 14 criteria would not apply to these lots. Assistant City Attorney McLean stated that the concern she was hearing was that according to the 2006 Minutes there was further discussion about factors related to the original subdivision, and those concerns would be addressed with the Steep Slope CUP. In this case the Staff is finding that a Steep Slope CUP is not required. However, since there is an existing Finding of Fact that talks about a Steep Slope Cup, and because they were re-opening the ordinance, she recommended that the issue be addressed to determine whether or not the Finding of Fact is accurate. If a certified survey shows that a Steep Slope CUP is not needed, the Planning Commission could determine whether other issues needed to be addressed as part of the subdivision.

Chair Strachan opened the public hearing.

Jeff Braebender, a property owner at 283 Upper Norfolk, adjacent to 263 Norfolk. Mr. Braebender appreciated that the applicants have a right and an opportunity to build on their

project, and they should. However, he was concerned with the staging area behind 263. There is a large stand of mature scrub oak, and he would not want that disturbed or torn out for the convenience of a staging area because they would not be able to return it to its existing condition. Mr. Braebender requested that the language be strengthened to address the impacts to the staging area. He pointed out that there was still a significant amount of space that could accommodate the staging without disturbing the stand of scrub oak. Mr. Braebender stated that his second issue was treating all three lots as though they were the same, because they are not. When looking at the slope he thought the lots need to be addressed individually and not together. Mr. Braebender commented on access and he referred to the 25 feet of green space by Norfolk Avenue that is owned by the City. He understood that the applicants intend to cut a driveway where the bare land is but leave that green space. He did not believe that made sense and he thought the Commissioner would draw that same conclusion if they visited that area. Mr. Braebender stated that no one should dig a tunnel through there and leave dirt alongside of the road. The road is one car length wide in that spot. He thought it would be an opportunity to take out that space and provide direct access into those spots and to provide additional parking spaces. It would improve the road at the same time. Mr. Braebender believed his suggestion would also resolve the staging area problem. In his opinion, this was an opportunity for the City to work with the developer and spend City money to fix problems that already exist, especially for the people living from 302 through 256 who have difficulty getting in and out of their driveways now. He believed that at some point the City would have to address fixing Norfolk Avenue and this would fix at least 25% of it in conjunction with this project.

Ed DiSisto, a resident at 244 Upper Norfolk, stated that the original plan to stage the access and the mitigation behind was considered because of the problems that would occur if it was done on Norfolk Avenue. He noted that five years ago two people died on Norfolk Avenue and it is uncertain what can happen or when it will happen. There have always been problems with emergency vehicles getting all the way down the street to assist people in need. Mr. DiSisto remarked that the proposal says nothing about construction parking, particularly when three lots are being built at the same time. He also had a personal concern. He indicated a retaining wall and noted that the City gave Mr. Pack and Don Holbrook permission to build a retaining wall to create parking spaces for 244, 238 and 236 Norfolk. In one of the first plans that Mr. Fiat proposed, he wanted to cut down half that wall to create an ingress and egress to the project. That plan was reviewed and it was determined to be a bad idea primarily because of the slope. There was also an agreement with the City to have that wall there. Mr. DiSisto was concerned about a precedent of the City giving permission to someone and then taking it away and giving it to someone else. Mr. DiSisto wanted to make sure that nothing is allowed to creep in that would allow something like that to happen again. He remarked that there is nowhere for large construction trucks to turn around on the road, and traffic would be backed up or blocked waiting for those trucks to move. He was also concerned about storing the

excavated dirt, and he questioned how much of the staging area would be taken away for storing. Mr. DiSisto had not seen a mitigation plan, and he was left to rely on a few sentences in the Staff report, which he believed left it open for the applicants to do whatever they want.

Chair Strachan closed the public hearing.

Commissioner Campbell felt that he had sent the wrong message by misreading the 2006 Minutes. In re-reading them, he reiterated that the applicant was correct in stating that the 14 points of the Steep Slope CUP has nothing to do with particular application. He believed the question was whether or not a Steep Slope CUP was required, and Planner Astorga was indicating that it was not. Commissioner Campbell pointed out that if that assumption is wrong and the Staff finds that a Steep Slope CUP is required, it would come back to the Planning Commission.

Chair Strachan asked what legal standard was being applied. He personally has never been involved in amending an ordinance. Assistant City Attorney stated that it was not called out in the Code; and she believed it goes back to the original ordinance. The applicants have the right to build on their property and they have platted lots. The objective is to correct what was previously done. She believed it was more akin to a regular subdivision process when amending the original ordinance. Chair Strachan agreed. Using the example of an MPD, when a design is materially changed from an approved MPD, the whole MPD comes back for review. He believed that changing or removing one or two selected conditions of approval is like a stack of dominoes because they are all intertwined. Ms. McLean stated that the Planning Commission needs evidence to show that the slope is less than 30% so the Finding of Fact that talks about the Steep Slope CUP can be removed. Chair Strachan could not find a Code section that allows an applicant to amend a past ordinance. The closest process is when an applicant fails to record the plat on time and they have to start the process over. He was unsure which Code section they could cite to validate that they were following the Code by amending this ordinance to eliminate a condition of approval. He was uncomfortable doing that without following something specific in the Code.

Assistant City Attorney McLean stated that ordinances, by their own nature, can be amended. It would be a new ordinance that amends the prior ordinance. She noted that it has been done before and cited examples. Ms. McLean clarified that the lot lines were not being changed to change the plat. The request is to change the access that was identified in the conditions of approval. She stated that the Planning Commission has the purview to look into whether or not it is a Steep Slope CUP because that is a specific Finding of Fact #13. They also need to understand why the conditions of approval are there, and that those concerns have been met.

Commissioner Joyce stated that separating his issue with the Steep Slope CUP, and focusing on the access issue, he would need to delve into some of the impacts addressed in a construction mitigation plan before he could be comfortable removing the requirements. He needed to be convinced that their plans for construction staging, etc., would not greatly impact the neighbors or the road. Mr. Fiat noted that he specifically stated that there would be no parking on the street. He currently has three projects in progress and not one construction worker's car is parked in any part of the public right-of-way. He noted that he is allowed two parking passes to park on the street and he never takes them. He secures off-street parking for all of the workers, and sometimes that involves a shuttle to the work site, renting parking spaces or paying people to use their parking spaces. He lived on a street and he knows how angry he gets when someone takes his parking. Commissioner Joyce thought the problem was greater than just upsetting a neighbor. The street is very narrow and if one construction truck is stopped to unload, emergency vehicles are blocked from accessing the road. He needed to hear and understand their plan before he would consider removing the conditions of approval.

Mr. Fiat was prepared to talk about the specifics of the plan. Chair Strachan understood that Commissioner Joyce was looking for evidence that the plan would work, as opposed to having Mr. Fiat just talk about it.

Commissioner Thimm agreed with Commissioner Joyce. He noted that a condition was made and to whatever degree it was part of the premise for the approval. He thought that issue needed to be revisited so the Commissioners could understand exactly how the access would happen. He was willing to accept that it may work, but at that moment the Planning Commission had nothing in front of them to support it, other than Mr. Fiat telling them that it will work based on examples of other sites. Commissioner Thimm asked Assistant Attorney McLean how they should address the Finding regarding the Steep Slope CUP. Planner Astorga stated that if he had been the project planner in 2006 he would have written the Finding to say, "if there are any slopes of 30% or greater and the house sits on them, then it shall require the Steep Slope CUP application." Commissioner Thimm agreed that it would be better language, but the Finding was not written that way. Planner Astorga clarified that they could rewrite the Finding with that language. Ms. McLean agreed that it could be one way to address the issue. The other way would be to come back with a copy of a certified survey.

Commissioner Joyce was comfortable that if the steep slopes were determined, it would come back to the Planning Commission. He reiterated that his frustration was that the previous Planning Commission had concerns, but they did not spend time on them because throughout the minutes they kept saying it would be addressed in a Steep Slope CUP. He thought it was a fundamental assumption of their approval, and they disregarded

some concerns in an effort to deal with them later. The problems that were kicked down the road now have nowhere to go to be addressed. Commissioner Joyce remarked that a having a certified survey would not address his concern.

Commissioner Band thought her fellow Commissioners had done a good job stating the problem.

Commissioner Worel was still hung up on the statement by Planner Maloney that all three lots were on slopes greater than 30% which would require a CUP. He hoped that he had based his statement on something that could back it up, such as a survey or something else that was submitted as part of the proposal. Commissioner Worel believed that all of the decisions made by the Planning Commission and the City Council at that point in time were, in part, based on the Steep Slope CUP. She asked the Staff to research whether or not there was a past survey that they could compare with a current survey. Planner Astorga noted that there was not a current survey on the land.

Commissioner Band asked if they needed to treat this as a new application. Assistant City Attorney McLean stated that the applicant submitted an application to amend the ordinance. It was called the First Amended of the Subdivision, and the applicant was requesting to amend the subdivision plat to remove two conditions, and to address the finding of fact was not accurate.

Chair Strachan noted that Findings of Fact 13-17 say that the proposed lots have steep slopes greater than 30%; that there is not sufficient area on the property to conduct construction staging; Norfolk Avenue and Upper Norfolk are substandard narrow streets on steep hillside; on-street and off-street parking on Upper Norfolk and Norfolk is significantly limited due to steep narrow streets; snow removal and emergency access. Chair Strachan remarked that at a minimum, they needed to get evidence in the record to mitigate those findings. He thought it should be done through a very detailed construction mitigation plan or some type of submittal that addresses, for example, Finding #17, snow removal and emergency access. Without some type of plan to address those particular findings of fact, he was not sure they could say the potential impacts have been mitigated, which they are required to do by Code.

John Pack, stated that he flew in from Chicago to attend this meeting. He used to live in Park Meadows and he now lives in Chicago. He and his wife purchased the property at 263 Norfolk from the bank. He understood that the Planning Commission wants to be responsible to all the parties involved and work towards solutions, and he appreciated that. Mr. Pack stated that when he purchased the property in 2010 he and his wife did a significant amount of research to make sure it was a good parcel. They looked at the plat, the title record, and consulted an attorney. He noted that none of the issues raised this

evening were ever mentioned. There was never a hint that these issues could have existed. Therefore, they purchased their property believing it was a buildable lot. It was only later that they realized that the ordinance had not been properly recorded on to the plat. Mr. Pack felt like an innocent party in the matter because after doing his due diligence he still had no knowledge of these prior issues. He thought the Commissioners had a legitimate concern regarding emergency access, and he agreed that it was important to address those issues because it is a matter of public safety. Mr. Pack asked the Planning Commission to be sensitive of the fact that he was not involved in the previous process and he and his wife thought they were buying a piece of property in a beautiful part of Park City where they could build a nice, historically relevant home. He hoped they could reach a conclusion that meets the City's needs as well as those of the applicants.

Assistant City Attorney McLean understood that people do not always know where to look for ordinances; however, this ordinance was correctly passed and published and met all the legal requirements. She clarified that ordinances do not always get recorded against the property. Ms. McLean stated that thanks to the efforts of Mr. Fiat, the City has changed its procedure to give people more notice of the ordinance numbers and the ordinance number now put on the plat. But at that time the ordinance was legal. Not having it on the plat did not create a deficiency in the ordinance.

Mr. Fiat stated that the hard language is his letter that was included in the Staff report says that all staging, parking, deliveries, cranes, dumpster, porta-potty's, etc., will be off the driveway servicing the three lots, or on the properties and additional staging area in the rear of the properties. No shall park in the neighbors' parking spaces or outside the driveway servicing the lots. He believed that language was stronger than anything he has typically done in Old Town. He thought it was clear that they would not impede any emergency vehicles or snow removal. Mr. Fiat was comfortable making the language part of the construction mitigation plan, or even part of the ordinance.

Chair Strachan stated that there still needs to be evidence that a fire truck or other emergency vehicles are certain dimensions and how much right-of-way they need for access. Mr. Fiat was unsure how he could provide that evidence. Assistant City Attorney McLean told Mr. Fiat that the Planning Commission was asking for a construction mitigation plan in writing, and that there be some analysis of the other terms, which were pushed off at the original plat based on there being a Steep Slope CUP, as well as some analysis from Staff as to how those are addressed currently.

Commissioner Campbell thought construction mitigation plans were the purview of the Building Department. Ms. McLean replied that the Building Department handles the construction mitigation plan, but when there are issues related to the platting, the Planning Commission can add conditions of approval related to the construction mitigation plan.

Commissioner Campbell agreed with Chair Strachan that the letter from the applicant did not give enough teeth. He clarified that if the Planning Commission was forwarding an amendment to the City Council which would basically become a new ordinance, they could add anything they wanted to the ordinance. Ms. McLean replied that this was correct. Commissioner Campbell thought they could add a condition stating that these notes would be incorporated in the new ordinance and move this forward this evening.

Commissioner Band agreed. She thought they could add conditions of approval regarding the staging, construction vehicles, dumpsters, etc. that holds the applicants to do what they have stated they intend to do. She believed they could do that this evening rather than require the applicant to come back. Commissioner Band stated that she was trying to find a solution without requiring the applicant to do studies.

Commissioner Joyce pointed out that the original intent of the conditions of the approval was to take construction off of Upper Norfolk and keep it on King Road. The fact that they are building three houses simultaneously puts three pieces of construction traffic in a significantly small area at one time.

Chair Strachan clarified that he was not suggesting that the applicant do a study. He just wanted to see something in writing showing how they propose to keep the trucks off the road. Chair Strachan thought it was important to see the construction mitigation plan. Mr. Fiat stated that he has already submitted a full construction plan to the Building and Planning Departments. Planner Astorga clarified that what they received was a site plan. There was nothing regarding construction mitigation. Planner Astorga understood that Chair Strachan wanted to see a mitigation plan that addresses Findings 13-17 to see how the applicant intends to mitigate the findings from 2006. Chair Strachan was not opposed to drafting new findings if that was a better approach.

Mr. Fiat pointed out that if they make it a condition of approval, Code Enforcement would make sure that the conditions are met. Chair Strachan wanted mitigation measures that would keep it from going as far as Code Enforcement. In order to fulfill their responsibility to mitigate what they know are impacts, they need something in writing to support an approval.

Chair Strachan called for a motion.

MOTION: Commissioner Joyce moved to CONTINUE 259, 261, 263 Norfolk Avenue, consideration of First Amended Upper Norfolk Subdivision Plat to May 13, 2015. Commissioner Worel seconded the motion.

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March 25, 2015
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VOTE: The motion passed 4-1. Commissioner Campbell voted against the motion. Commissioner Phillips was recused.

The Park City Planning Commission Meeting adjourned at 10:15 p.m.

Approved by Planning Commission: _____

Exhibit C - Proposed Mitigation

Jerry Fiat
Po Box 4581
Park City, Utah 84060
435 513 1273
Jfiat727@gmail.com

April 2, 2015

Re; Construction access for 259, 261, 263 Upper Norfolk (three single family lots "Properties")

Back ground

In the ordinance that approved the re-plat of the above property there was a condition of approval which required construction access from King Rd.

This access is over two private properties, 200 King Rd, and 220 King Rd. This access was created by two separate agreements.

The agreement with the property owner of 200 King Rd has expired.

The owner of 200 King Rd is not willing to renew the agreement.

The reason the owner of 200 King Rd is not willing to extend the agreement is;

1. The access would have to be cut and would disturb about 10,000 sq. ft.
2. The access would impact their access to the public trails (lower Sweeny switchbacks).

There is no condition in the approved ordinance about construction staging, parking, etc.

We are requesting that the condition in the ordinance requiring construction access from King Rd be removed and allow access through the adjoining right-of-way; Upper Norfolk.

The Properties are currently owned by two different owners.

In order to further entice the Planning Commission and the City to remove the above condition in the ordinance we have provided the following Construction Mitigation Plan. Should the Commission wish to make this Construction Mitigation Plan a condition of approval, we are hereby agreeing to such a condition.

Construction mitigation Plan

1. Sequence

We believe the best way to build these properties is all together, sequentially, and as much as possible by one GC, one excavator, one roofer, etc. this will both save construction costs, but more significantly it will reduce, the amount of construction time, conflicts, parking, and staging area needed.

There seems to be a miss conception that there will be more impact because it is three houses at one time. That would be true if it was three deferent builders with deferent subs building at the same time. What we are proposing is more like building one larger house. I reality the number of cars, deliveries, workers and subcontractor scheduling would be same if we built one of these house as building all three.

If the construction was staggered, it would take three times longer and major issues would come up if one or more of these houses were occupied when the other/s were under construction.

If it was three deferent builders that used deferent subs, schedule, and did not share items like dumpster, porta potty, crane, fork lift, supervisors etc. the staging area, parking, conflicts would in increase. More over issues over access do to the shared driveway could be a major issue if one of the homes was occupied.

Therefore we believe the best option is to build all three in one time, with one GC and the same subs

2. Space

We have secured an area along the rear of the three properties from the adjoining property 220 King Rd. this area is 20 feet deep by 98 feet wide or 1960 sq. ft. (just over the size of a single old town lot). This agreement expires two years from the start of construction.

In addition, the shared driveway and space in front of the houses provides an additional 4550 sq. ft. of area available for, parking, staging, dumpster, porta potty, deliveries, unloading and turn around.

Total area available for the above is 7010 sq. ft. (equal to 3.5 city lots)

3. Staging

We have sufficient space to stage all the materials within the lots, additional area in the rear, and the shared driveway. No materials will be staged on the street.

4. Parking

No parking shall be permitted anywhere other than on than on the shared private drive and on the lots themselves. No neighborhood parking space shall be used. We will not request any street parking passes (6 allowed total).

The plan attached shows sufficient space within the shared drive way whereby we can provide 10 8.5' by 20' parking spaces and 2 11' by 25' parking spaces, and still have room for staging, dumpster, porta potty, deliveries, and unloading

5. Turn around

There is sufficient room to turn all the truck and cars around so no trucks will need to back up or down Upper Norfolk.

6. Traffic

As we have the additional area in the rear and have access between the future houses can store spoils from the excavation and reuse it for back fill. This will greatly reduce the loads out of the site, as well as the site is partially excavated already, and the demolition is completed.

We will encourage car pulling to further reduce traffic

7. Que

We will not allow any trucks to que on Upper Norfolk

8. Road closures

No road closures other than utility upgrades will be needed

9. Deliveries and unloading

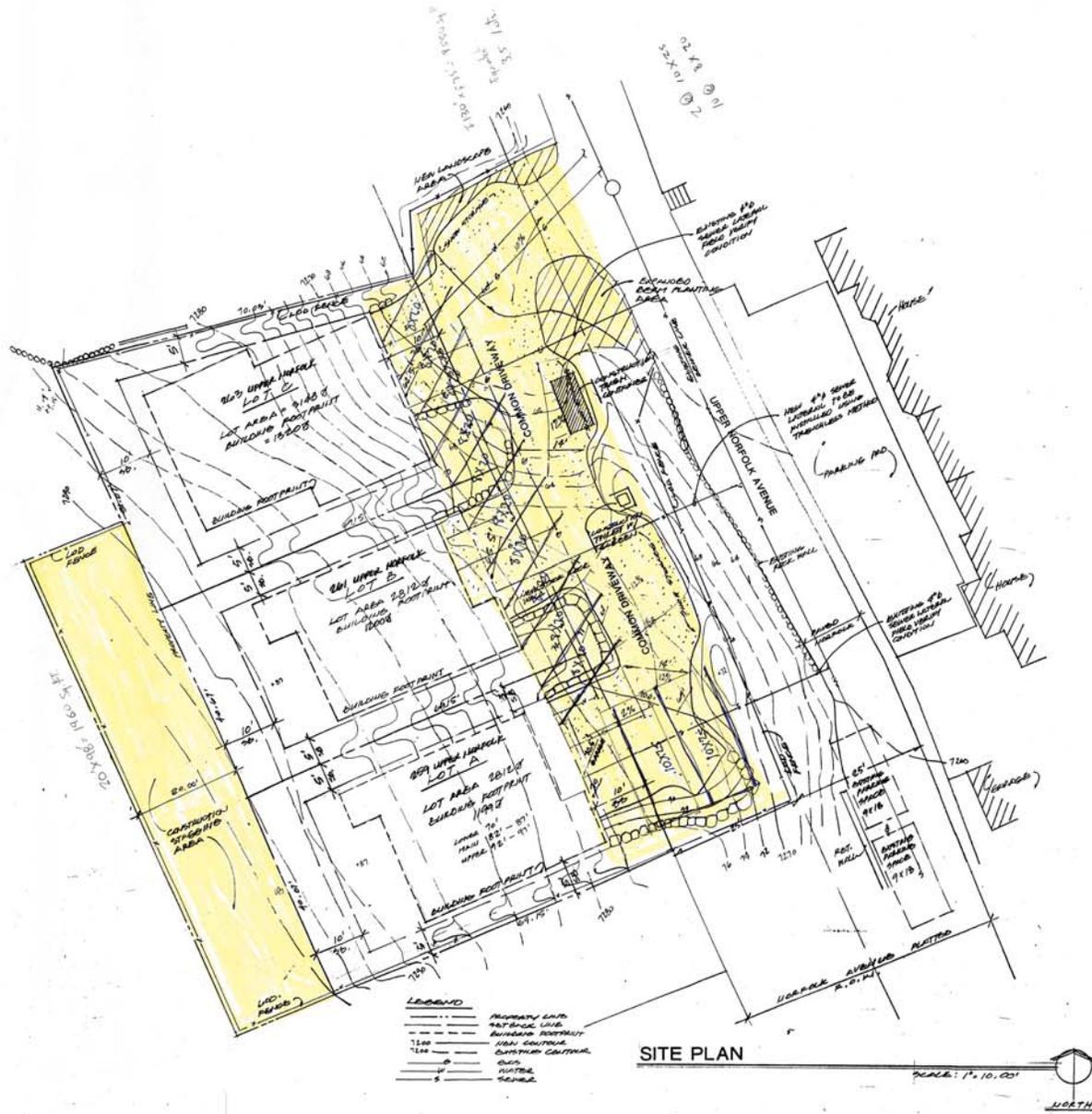
All deliveries and unloading will be off the shared driveway, and will not block the street

10. Other

All other normal requirements for construction in old town shall apply;

1. Screening of the porta potty
2. 6 foot security fence
3. Erosion and run off controls
4. LOD fencing
5. Hours of operations
6. Limits on noise
7. Signage

Exhibit D - Proposed Mitigation Plan over Site Plan



Jonathan DeGray
Architect

P.O. Box 1874, 614 Main Street, Suite 202, Park City, Utah 84060
Tel: 435-946-7203, E-mail: jon@jdgayarchitect.com

Mitigation Plan
259, 261 and 263 Upper Norfolk, Park City, Utah

SITE PLAN

REVISIONS
1-8-11
3-18-11

DATE:

PROJECT NUMBER:

SHEET NUMBER:

T-1



CONSTRUCTION MITIGATION PLAN

Subject to Change at Any Time

PERMIT # NO PLANS HAVE BEEN SUBMITTED SO MITIGATION IS SUBJECT TO CHANGE

ADDRESS: 259-261-263 UPPER NORFOLK

CONTRACTOR: _____

Contact Person, 24/7 Phone Numbers

1. Hours of Operation are 7:00 a.m. to 9:00 p.m. Monday through Saturday and 9:00 a.m. to 6:00 p.m. on Sundays. Construction activity is not permitted to occur on dates that it would have a negative impact on Special Events and/or Holidays.

Other work hour limitations may be placed on Main St and Old Town area Construction sites. No work in lower main area on Sunday's during Silly Sunday events.

Anticipated events at this time are Sundance, Savor the Summit, July 4th, Tour of Utah, Food & Wine, Triple Crown, Art Festival, Miners Day, Pioneer Day, Halloween.

Limitations and other main street events:

There will be NO WORK during Art Festival, Sundance and on the weeks of Thanksgiving, Christmas and New Year's (Dec 23-Jan5). Additional dates may be added by PCMC at their discretion.

If minimal work can be accommodated within the site during any of the events or holidays and can be proven to not have a negative impact on the Event or holiday, it can be considered by the Building Department for approval. If your construction site is in the Main Street or Old Town areas your work areas will be impacted.

During Events you will be required to comply with any requests from the Special Events Coordinator.

Work hour extensions may be approved by the Park City Building Official when needed.

In order to be approved, a written request for the extension must be received a minimum of 48 hours in advance and must include the dates and times for the extension and a description of any of the anticipated impacts, (deliveries, outdoor lighting, noise, etc.). The request will not be automatically approved once submitted. It must be considered, and a determination will be made.

2. Parking will not block reasonable public and safety vehicle access. An approved parking plan will be obtained from the Public Works Department prior to permit being issued.

Comments: Any parking in city lots, city property or on street parking must be approved by the Parking Dept. and is not approved with the building permit. No Construction equipment, (fork lifts, cranes, backhoes, etc.) are permitted to be driven or parked on a city street or any other property unless otherwise approved (this includes staging materials, unloading of deliveries, See Deliveries below.)

****No Main St Parking is approved with this building permit for any construction activity or vehicles. Only a very limited amount of parking passes are available at any given time and must be applied for with our Parking Department. Please count on the vast majority of your employees/workers having to car pool to minimize your impacts in the Main Street Corridor. The Construction activity cannot block city sidewalks unless approved with the Building and Engineering Depts.**

Additional staff must carpool from an approved area not located in the Main Street corridor. Transportation/shuttle will be the responsibility of the contractor(s)

Comments: All construction parking will be on site

3. Deliveries will be during hours of operation only. Contractor will get the appropriate Partial Road Closure Permits approved for Deliveries that take over one hour or close the road. Unless approved otherwise Deliveries will follow the PCMC code for deliveries on Main St. A FULL road closure requires approval from the Chief Building Official no less than 48 hours in advance.

Comments: _____

4. Stockpiling & Staging will be on site and within the approved limits of disturbance fence. Comments: If storage cannot be accommodated on site, an off premise site will have to be obtained. Any additional site must be approved including a LOD fence and bond by PCMC.

Comment: All stockpiling and staging will be on site.

5. Construction Phasing if necessary may be required and will be authorized by the Building Official and a copy will be put in the building file.

Comments: During hours of Operation the crane cannot boom over the street without an approved partial road closure permit that includes a traffic control plan meeting MUTCD. _____ See section 14

6. Trash Management & Recycling - Construction site will provide adequate storage and program for trash removal and will keep site clean daily. Recycling is encouraged. If the port of potty is installed behind the Construction fencing and is visible to the public it will be required to be screened. Comments: _____

7. **Control of Dust & Mud** will be controlled daily. Gravel will be placed in the egress and ingress areas to prevent mud and dirt from being tracked on streets. Water will be on site to prevent dust. Comments: _____

8. **Noise** will not be above 65 decibels which violates the noise ordinance and will not be made outside the hours of operation. Comments: _____

9. **Grading & Excavation** will be during hours of operation and trucking routes may be restricted to prevent adverse impacts. Truck Route to be preapproved by Park City Engineering Department.

Cubic Yards to be removed: _____ Destination: _____
Comments: _____

10. **Temporary Lighting** if used, will be approved by the Planning Department. Lighting will be required in a boardwalk if it is determined to be needed. See sec 16
Comments: _____

11. **Construction Sign** will be posted on site and in a location that is readable from the street. The sign will not exceed 12 square feet in size and 6 feet in height. The lettering will not exceed 4 inches in height and will include the following information: Contractor name, address, phone number and emergency contact information.
Comments: _____

12. **Other Issues:** Dogs will be prohibited from construction site. Information will be provided to neighboring property owners to help them be aware of project and to keep the lines of communication open.
Comments: _____

13. **Erosion Control:** Storm Water Management Plan - Attachment A - will be reviewed, signed and attached to this construction mitigation plan. Comments: Contractor will monitor entry into job site and ensure that no mud or debris enters the gutter or street area that may empty into the city's storm drains. It will also be cleaned daily. _____

14. **Cranes:** All cranes must be preapproved with the Chief Building Official. Contractor will provide a drawing/plan showing radius of boom over neighboring properties.

The boom CANNOT with or without loads be swung over a city street or neighboring properties without prior approval. If approval is given, flaggers will be required. Airspace or trespass agreements will be required to be in place and a copy in the file before the crane can be installed on the property.

Comments: Crane will be maintained on site

15. **Right Of Way Permits:** Right of way permits are required from the City Engineers Office for any work, damage or reconstruction in the Public Right of Way.

A separate Right of Way Permit is required if materials, dumpsters or toilets are to be placed in the Public Right Of Way.

11-14- 2. FENCING OF PUBLIC

RIGHT-OF-WAY. In those zones, which permit construction of buildings up to property lines or within five feet (5') of property lines, leaving a very limited or no setback area, the building official may permit construction fences to be built across sidewalk area where there are sidewalks, or into the parking lane of the street where there is no sidewalk. Where street width will permit, in the judgment of the building official, the construction fence shall also provide a temporary sidewalk area, which may be built in the parking lane of the street. Any sidewalk built as a part of a construction site fence must be covered with a structural roof, which complies with Section 3306 of the International Building Code. The International Building Code requirements for construction of a temporary sidewalk may be reduced or waived by the Building Official where conditions will not permit the full four foot (4') width. The location of fencing within the public way and the determination of whether to require sidewalk shall be made by the Building Official, subject to review by the City Manager. In the event that changes in parking regulations are required by the construction of such a fence, the Police Chief is authorized to post signs prohibiting or otherwise regulating parking in the area adjoining the construction site.

16. **Damage of sidewalks and roadways in construction areas:** Boardwalks are required by code and will be required. Boardwalk will have a mine theme and will be required to have lights and/or reflectors. Hand out available with specs.

Sidewalks inside the LOD will be considered a loss and it is expected that the sidewalk will be rebuilt to current city standards. Any damage to existing sidewalks crossed over or under boardwalks during construction will be rebuilt back to city standards, Before Certificate of Occupancy, No exceptions. Bond money may be required by the Engineering Department for Road damage.

***If a boardwalk is required you can get guidelines at the Building Department.

17. Toilet Facilities: All construction sites shall have permanent toilets, or an approved temporary toilet facility positioned in a location approved by the Building Department, at the rate of one toilet per fifteen on-site employees (1-15 employees = one toilet, 16-30 employees = two toilets and so on). Portable toilets will be screened from public view. Suggestions are 3 sheets of Plywood painted dark green or black. Door facing job site. If you would like to do something different to make them aesthetically pleasing it may be approved by Community Service.

18. FENCING. Construction fencing is required. If the excavation is 4' or deeper a six foot chain link will be required for safety. If not it can either be out of dark green or black plastic fencing. We will require wattle or silt fencing in the areas that may be of concern for erosion control. If there is a storm drain(s) in the vicinity the contractor will be required to protect it.

PCMC give no guarantee of partial CO's.

PCMC reserves the right to take abatement action as they determine necessary for inactive construction sites.

PCMC may require the contractor to complete neighborhood noticing to their satisfaction as needed.

** Special Instructions may be given at any time.

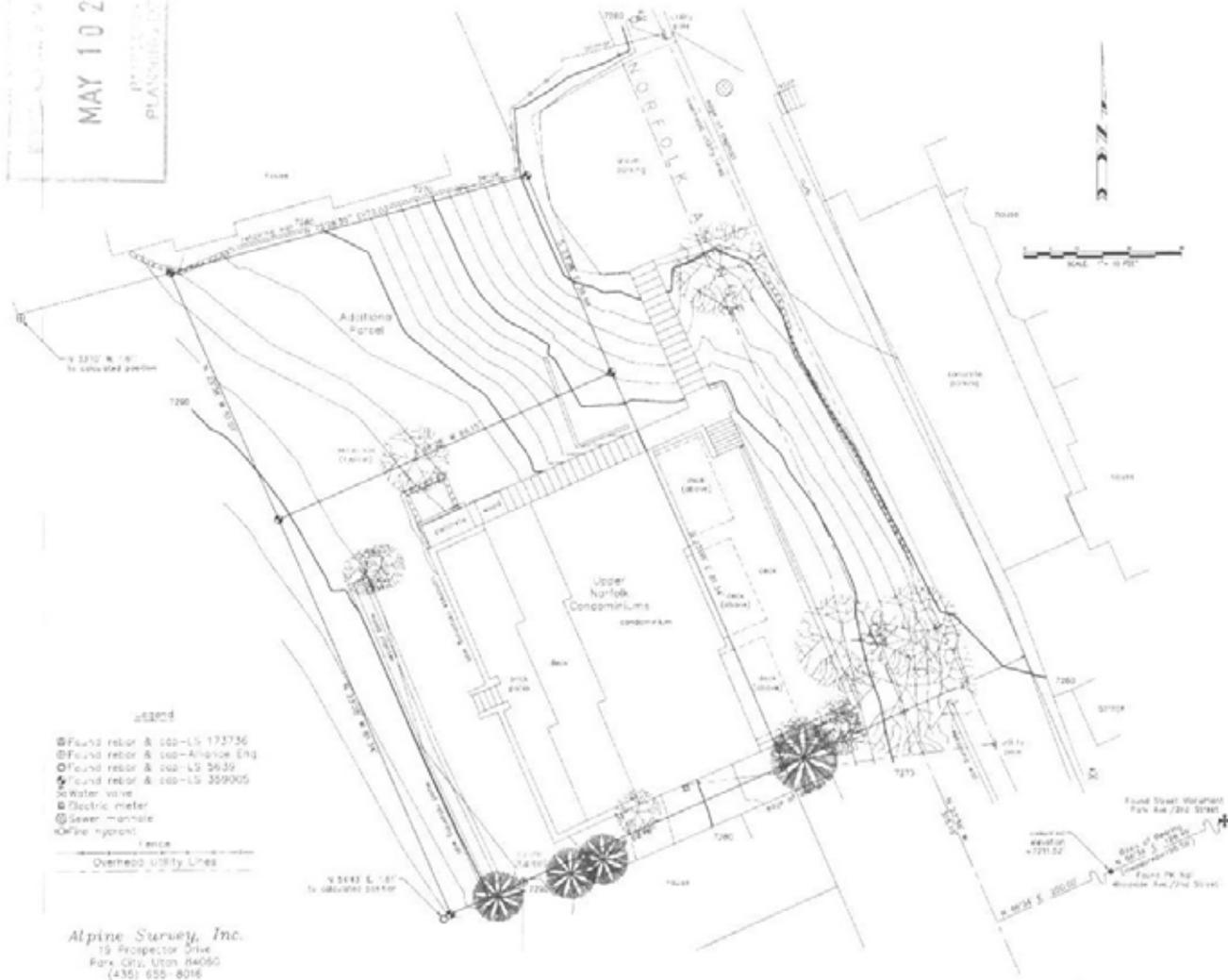
Contractor _____ **Signature:** _____
Date: _____

Approved _____ **By:** _____
Date: _____



Upper Norfolk Avenue Condominiums

MAY 10 2006
PLANNING COMMISSION



- Found rebar & cap-LS 173736
- Found rebar & cap-Allison Eng
- Found rebar & cap-LS 2639
- Found rebar & cap-LS 359005
- Water valve
- Electric meter
- Sewer manhole
- Fire hydrant

Alpine Survey, Inc.
19 Prospector Drive
Park City, Utah 84096
(435) 655-8016

NARRATIVE

1. Survey requested by Jerry Fiat.
2. Purpose of survey: locate the deed description, improvements, and the topographic relief, according to the Upper Norfolk Avenue Condominium Plat, Recorded as No. 220280 in the office of the Summit County Recorder.
3. Basis of survey: found street monuments as shown. Block dimensions from the Amended Park City Monument Control Map by Burr & Guggell, Inc. Recorded as Entry No. 139887 in the office of the Summit County Recorder, and the Plat of Subdivision No. 1 of Waste Reservation, Park City, Utah, dated June 20, 1887.
4. Date of survey: July 29, 2005.
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. See the official plats of The Park City Survey for other possible easements and restrictions.
8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
9. For previous surveys in the area, see Record of Survey File No. S-1317, S-1662, S-1457, S-2674 & S-2752 on file in the office of the Summit County Recorder.
10. An elevation of 7211.52 feet was assumed at the point found at the intersection of Woodside Avenue and 2nd St., from the Monument Control Map of Park City, Recorded as Entry No. 139887 in the office of the Summit Co. Recorder.

LEGAL DESCRIPTION

Beginning at a point which lies North 23°36' West, 6.34 feet from the southeast corner of Lot 33, Block 78, Waste Reservation, Park City, Utah; and running thence South 23°36' East, 81.34 feet to the southeast corner of Lot 30 of said Block 78; thence South 66°22' West, 69.15 feet; thence North 23°58' West, 81.34 feet; thence North 66°22' East, 69.15 feet to the point of beginning; contains 0.129 acres, more or less.
 Additional land: Beginning at a point which lies North 23°36' West, 6.34 feet from the southeast corner of Lot 33, Block 78, Waste Reservation, Park City, Utah; and running thence South 66°22' West, 69.15 feet; thence North 23°36' West, 51.07 feet; thence North 75°28' 35" East, 70.03 feet to the northerly corner of said Lot 33; thence South 23°36' East, 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

SURVEYOR'S CERTIFICATE

I, J.D. Goley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 259005, 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.

Signed: J.D. Goley
Date: 7/29/05

Exhibit H - Existing Conditions Survey

Upper Norfolk right-of-way

Existing Cond

Upper Norfolk Avenue Condominiums

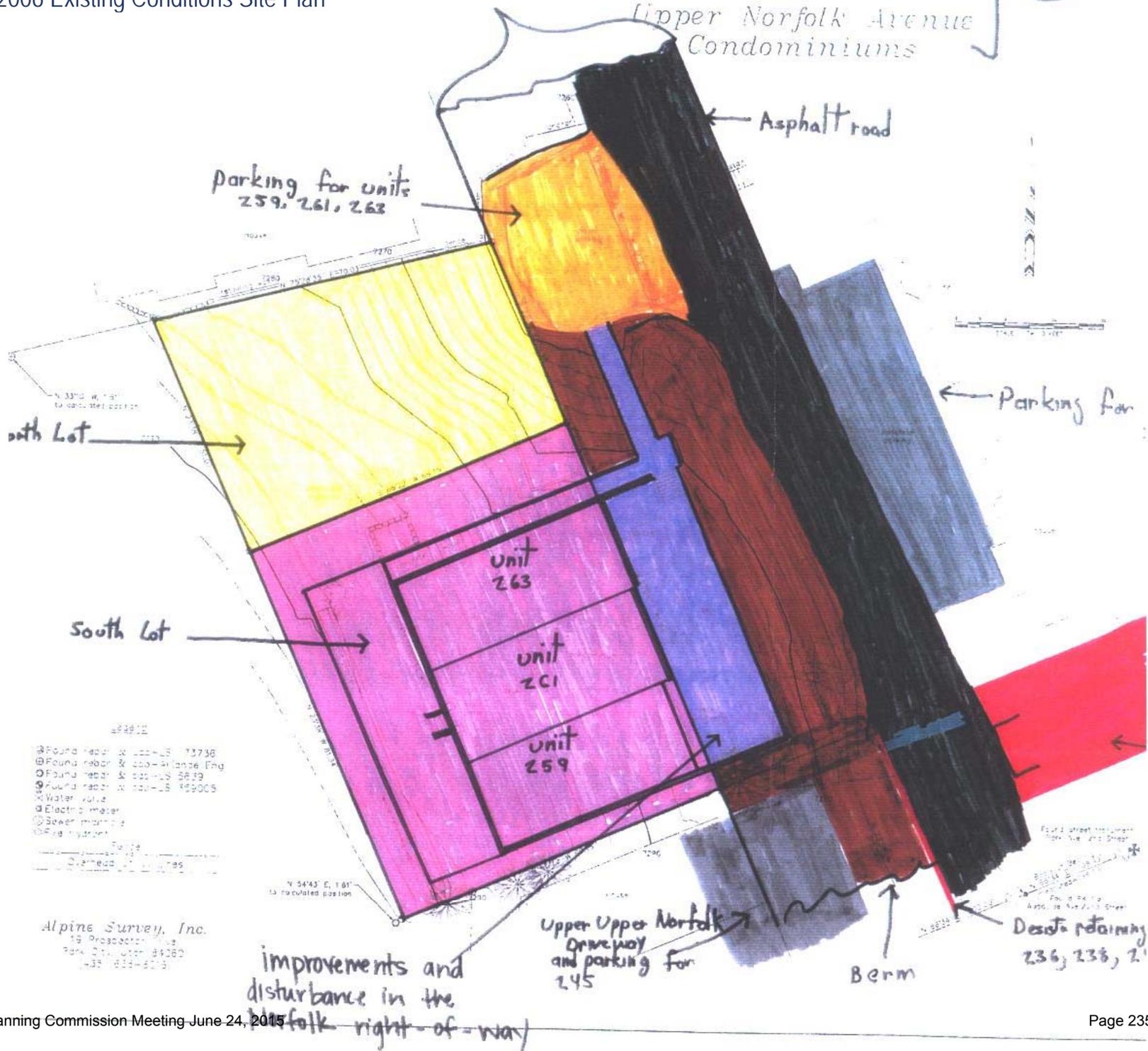


Exhibit J - 2006 Proposed Site Plan





June 10, 2010

TO: Jonathan DeGray, Architect
FROM: Thomas Eddington, Jr., Planning Director
SUBJECT: Upper Norfolk Subdivision, Lots 1, 2, and 3

I have reviewed your request for a determination of the grade on the three lots relative to the Steep Slope Conditional Use Criteria (CUP). Under the current Land Management Code, Natural Grade is defined as: "The Grade of the surface of the land prior to any Development Activity or any other man-made disturbance or grading. The Planning Department shall estimate the Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property." Certainly, the lots in question have been previously disturbed with the construction and subsequent demolition of the previous building and staff is charged with estimating grade.

Under the requirements for a Steep Slope CUP (LMC 15-2.2-6(B)), if the structure and/or Access is located upon any existing Slope of 30% or greater over a minimum distance of 15 feet. Staff has estimated the grade from the edge of asphalt on the south side of Lot 1 and the north side of Lot 2 to the rear property corners. On Lot 1 the grade change is 34 feet over a length of 107 feet for a average grade of 31.78%. Between Lot 2 and 3, the elevation difference is 32 feet over 105 feet for an average grade of 30.48%.

Based on these factors, I find that the three lots will be required to submit for a Steep Slope Conditional Use Permit under the current LMC. Appeals to the Planning Director's determination can be appealed to the Planning Commission per LMC 15-12-15 (8).

Cc: Brooks Robinson



August 9, 2010

TO: Jerry Fiat
FROM: Thomas Eddington, Jr., Planning Director
SUBJECT: Upper Norfolk Subdivision, Lots 1, 2, and 3

I have reviewed your request for a determination of the grade on the three (3) lots on Upper Norfolk Subdivision relative to the Steep Slope Conditional Use Criteria (CUP). Per the current Land Management Code (LMC), Natural Grade is defined as: *"The Grade of the surface of the land prior to any Development Activity or any other man-made disturbance or grading. The Planning Department shall estimate the Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property. [...]"*

Certainly, the lots in question have been disturbed with the construction and subsequent demolition of the previous building and staff is charged with estimating grade. Our prior calculations did not correctly take into account these construction disturbances.

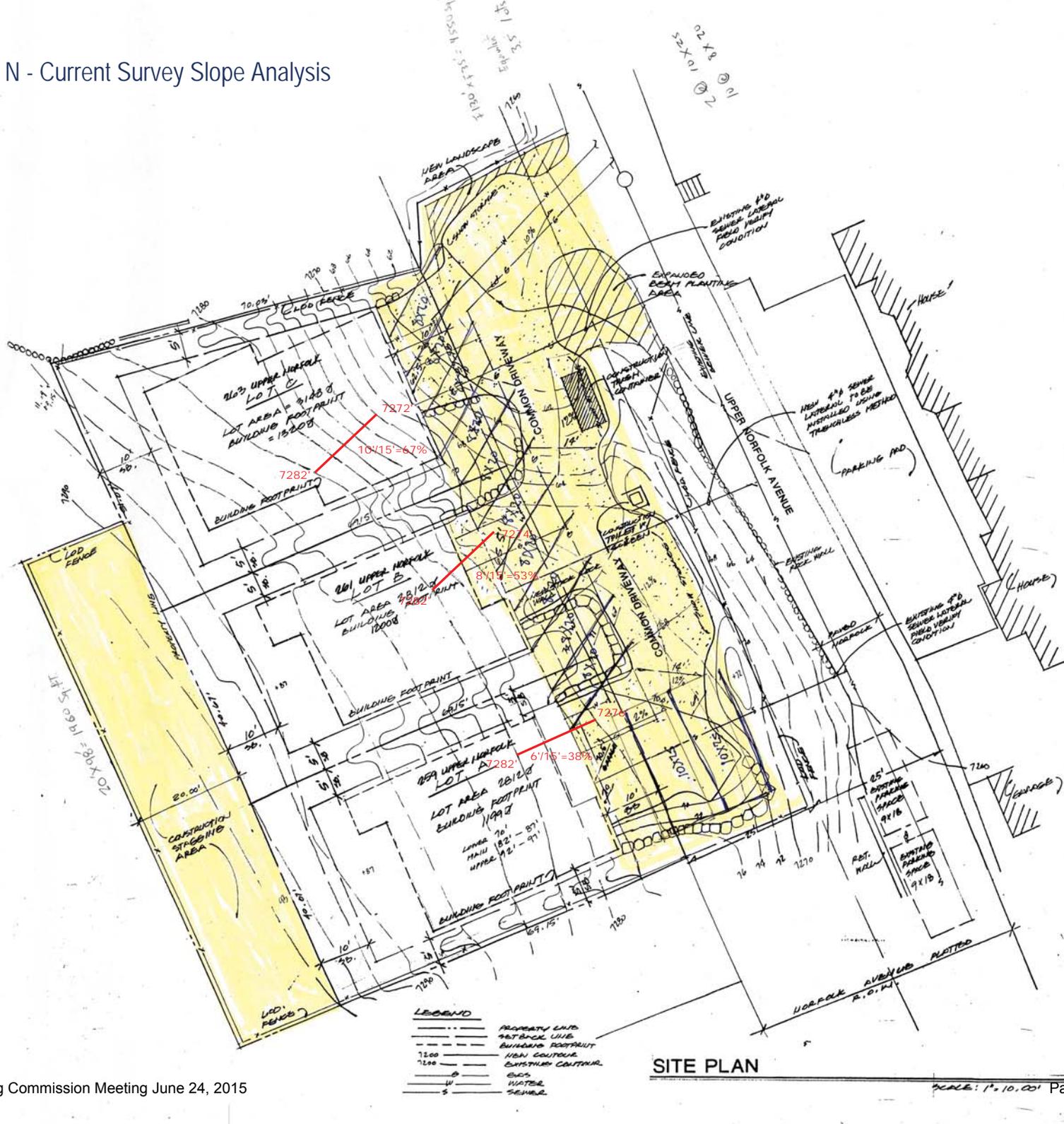
Based upon the requirements for a Steep Slope CUP (LMC 15-2.2-6(B)), the analysis takes into account whether the structure and/or access are located upon any existing Slope of thirty percent (30%) or greater over a minimum distance of fifteen (15) feet (measured perpendicular to the contour lines on the certified topographic survey). The measurement shall quantify the steepest Slope within the Building Footprint and driveway/access areas.

On August 3, 2010 staff inspected the site to estimate the grade on the three (3) disturbed lots as indicated on the submitted site plan. Using a Laser range finder, staff measured the slope in areas that appeared not to have been disturbed and found the following grades: Lot 1 contained slopes of up to 19.4%. Lot 2 contained slopes of up to 18.4%. Lot 3 contained slopes of up to 24.8%.

Based on these factors, I find that the three (3) lots will not necessitate a steep slope CUP application. Appeals to the Planning Director's determination can be appealed to the Planning Commission per LMC 15-12-15(8).

cc: Francisco Astorga

Exhibit N - Current Survey Slope Analysis



Planning Commission Staff Report



Application No: PL-15-02665
Subject: 259, 261, 263 Norfolk Avenue
Upper Norfolk Subdivision Plat
Author: Francisco J. Astorga, City Planner
Date: March 25, 2015
Type of Item: Administrative – Amending Conditions of Approval on
Ordinance No. 06-55

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for Upper Norfolk Subdivision Plat Amendment, located at 259, 261, 263 Norfolk Avenue, to amend conditions of approval on Ordinance No. 06-55 adopted in 2006 and forward 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.

This Staff report reflects the professional recommendation of the Planning Department. The Planning Commission, as an independent body, may consider the recommendation but should make its decisions independently.

Description

Applicants: 259 Upper Norfolk, LLC, Amos Fiat, member
261 Upper Norfolk, LLC, Amos Fiat, member
263 Upper Norfolk LLC, John Pelichioud, member
Represented by Jerry Fiat
Location: 259/261/263 Norfolk Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Proposal

This is a request to remove two (2) conditions of approval on executed Ordinance No. 06-55 adopted in 2006 which approved the Upper Norfolk Subdivision Plat. One of the conditions of approval in the Ordinance called for construction access to take place from King Road rather than Upper Norfolk Avenue. Construction access was made possible through temporary access agreements with adjacent property owners with access from King Road. The agreement was executed and recorded in October 2006, with a stipulation that it would become void December 2009. The Upper Norfolk Subdivision received approval in July 2006 and the plat was recorded in June 2007.

Background

On January 21, 2015, the City received a request for the Upper Norfolk Subdivision Plat

Amendment located at 259/261/263 Norfolk Avenue in the Historic Residential-1 District. The request is to remove two (2) conditions of approvals required in the executed ordinance. The access and layout of the lots are not being amended with this application. The subdivision is comprised of Lots 1, 2, and 3. The lots are accessed from Upper Norfolk Avenue. There is a single shared drive from the northern section of the lots (Exhibit D – Vicinity Map). The property owners of Lots 1, 2 and 3 are currently listed as co-applicants in this plat amendment request to remove two (2) conditions of approval. The applicants are represented by Jerry Fiat.

In July 2006, the City Council approved the Upper Norfolk Subdivision Plat Amendment request in Ordinance No. 06-55. In 2006 the applicant addressed neighborhood concerns, such as designing the driveway to retain the landscape berm, and proposing the construction phasing and staging on King Road, etc. The proposal included a request to demolish a three (3) unit non-historic condominium structure (the triplex had lockout units, therefore the reference in the minutes is a six (6) unit building), vacate the existing condominium plat, and establish three (3) lots of record with the intention of building three (3) single-family dwellings, one (1) in each lot. The plat was recorded at Summit County on June 1, 2007. The Upper Norfolk Avenue Condominiums Plat (prior triplex) was retired by Summit County on June 13, 2007. The triplex was demolished in February 2010.

The plat amendment approval contained the following conditions of approval outlined in the executed ordinance:

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.
3. The lots are to be used for the construction of single family houses.
4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
5. The construction easement agreements must be finalized and submitted to the City prior to receiving building permits.
6. A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issue of a building permit.
7. A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

These conditions above were not added as notes on the plat with the exception of condition no. 7 regarding prohibiting accessory apartments. Conditions of approval 4 and 5 stipulated that construction access would be from King Road via a construction access that would cross separately owned adjacent property through the finalization of construction easement agreements prior to receiving building permits. (Exhibit E –

Temporary Construction Access Easement [expired]).

When the plat amendment was originally approved in 2006, the three (3) lots in the subdivision were owned by the same entity and construction of all three (3) structures was anticipated to occur at the same time. (Exhibit F1 – 26 Jul 2006 Planning Commission Minutes & Exhibit F2 – 7.27.2006 City Council Minutes). Since that time the three (3) lots have been transferred to different entities.

The reason for the requirement of the access agreement was to reduce the construction impact of building three (3) structures all at the same time on the neighborhood. This access was made possible through an agreement that had a specific time frame before it became void. In 2006, Jerry Fiat, had control of the three (3) lots as well as the adjacent property with the access easement directly from King Road. The time period has since lapsed making the construction access from King Road no longer an option for the applicant. The easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.

The 2006 Ordinance had findings of fact stating that due to the steepness of the lots, a steep slope conditional use permit would be required. Since that time, the triplex building was demolished and a more detailed analysis of the slope was evaluated by the Planning Department. Based upon more detailed analysis, the Planning Director determined that the lots do not meet the 30% slope threshold and therefore Steep Slope Conditional Use Permits will not be required.

Analysis

In order to remove the two (2) conditions of approval outlined in executed Ordinance No. 06-55 dealing with the construction access the applicant proposes access from Upper Norfolk Avenue, which is the legal access to the properties. In 2006 the applicant secured staging area behind to property (see Exhibit E2 – Temporary Construction Access Easement [220 King] attached easement). The applicant stated the following in his project description:

All staging, parking, deliveries, cranes, dumpster, porta potty, etc. will not be off the driveway servicing the three lots, and or the properties, and or the additional staging area in the rear of the properties.

No contractors shall park in neighbors, parking spaces, or outside the driveway servicing the lots.

We are proposing to store excavated material from the excavation on site (in the staging area in the rear) for back fill, in order to reduce truck traffic.

We would like to start construction summer of 2015, and complete construction by fall of 2016.

The applicant has indicated that construction for the three (3) single-family dwellings

would take place at the same time and that the above statements would be in compliance with the signed agreement. The work is to terminate in two (2) years or less as the easement agreement indicates such. The Planning Department recognizes that all three (3) lots would have to be utilized for the construction of each structure. Staff recognizes that cross access easement for the three (3) lots would also need to be executed prior to construction as the lots are built upon the available space is reduced.

As staff reviewed the current staging area easement, (see Exhibit E2 – Temporary Construction Access Easement [220 King]), it was found that two (2) legal descriptions were incorrectly drafted in the document, Easement Exhibit D (Work Area), and that the language needs to be fixed.

Staff finds good cause for this request to remove condition of approval no. 4 and 5 from executed Ordinance No. 06-55 due to the expiration of the recorded temporary construction access easement. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include that the lots are to be used for the construction of single-family houses, a utility/grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit, and that a note is added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

Staff also recommends adding a condition of approval that indicated that the applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

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 by a concerned neighbor. See Exhibit H – Public Comments.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed ordinance no. 06-55 as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for Upper Norfolk Subdivision Plat Amendment amending the conditions

of approval on executed ordinance no. 06-55 and direct staff to make Findings for this decision; or

- The Planning Commission may continue the discussion on Upper Norfolk Subdivision Plat Amendment amending the conditions of approval on executed ordinance no. 06-55.

Significant Impacts

There are no significant fiscal or environmental impacts from this application. They property owners would not be able to build on the lots because they wouldn't have construction access as indicated on the previous condition of approval.

Consequences of not taking the Suggested Recommendation

Condition of approval no. 4 of Ordinance 06-55 can not be met and therefore either some amendment to Ordinance 06-55 will have to occur.

Recommendation

Staff recommends the Planning Commission hold a public hearing for Upper Norfolk Subdivision Plat Amendment, located at 259, 261, 263 Norfolk Avenue, to amend conditions of approval on Ordinance No. 06-55 adopted in 2006 and forward 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

Exhibit B – Executed Ordinance 06-55

Exhibit C – Upper Norfolk Subdivision Plat

Exhibit D – Vicinity Map

Exhibit E1 – Temporary Construction Access Easement (200 King) [expired]

Exhibit E2 – Temporary Construction Access Easement (220 King)

Exhibit F1 – 26 July 2006 Planning Commission Minutes

Exhibit F2 – 27 July 2006 City Council Minutes

Exhibit G – Original Lot Configuration

Exhibit H – Public Comments

Exhibit A – Draft Ordinance No. 15-__

AN ORDINANCE APPROVING THE FIRST AMENDED UPPER NORFOLK SUBDIVISION PLAT AMENDING CONDITIONS OF APPROVAL ON ORDINANCE NO. 06-55 AT 259, 261, 263 NORFOLK AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 259, 261, 263 Norfolk Avenue, have petitioned the City Council for approval of the First Amended Upper Norfolk Subdivision Plat Amendment; and

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

WHEREAS, the executed and recorded temporary construction access easement agreement (document no. 00793227) expired on December 31, 2009; and

WHEREAS, the three (3) lots need to have specific construction mitigation due to the narrowness of built Norfolk Avenue and steepness of the neighborhood; and

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

WHEREAS, the Planning Commission held a public hearing on March 25, 2015, to receive input;

WHEREAS, the Planning Commission, on March 25, 2015, forwarded a recommendation to the City Council; and,

WHEREAS, on _____, 2015, the City Council conducted a public hearing and reviewed the First Amended Upper Norfolk Subdivision Plat Amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the First Amended Upper Norfolk Subdivision 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 existing plat amendment as shown in Attachment A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The properties are located at 259/261/263 Norfolk Avenue.
2. The three (3) proposed lots would share one (1) driveway.
3. The proposed lots are for the purposes of building single-family houses.
4. There is not sufficient area on the Lots to conduct construction staging.
5. Norfolk Avenue is a substandard, narrow street on steep hillside.

6. On-street and off-street parking in the Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.
7. Snow removal and emergency access to the Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.
8. LMC § 15-7-6: Subdivisions – General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.
9. In July 2006 the City Council approved the Upper Norfolk Subdivision plat by Ordinance 06-55.
10. The plat was recorded at Summit County on June 01 2007.
11. The property owners requests to remove the following two (2) conditions of approval from Ordinance 06-55:
 4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
 5. The construction easement agreements must be finalized and submitted to the city prior to receiving building permits.
12. All other conditions of approval in Ordinance 06-55 will remain in effect.
13. Conditions of approval 4 and 5 stipulated that construction access would be from King Road via a construction access that would cross separately owned adjacent property.
14. The access was made possible through a temporary construction access easement agreement that expired in December 2009 and the owners have been unable to secure and extension of this easement.
15. The temporary construction access easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.
16. The applicant has indicated that construction for the three (3) single-family dwellings would take place at the same time and that the above statements would be in compliance with the signed agreement.
17. The proposed construction is to terminate in two (2) years or less as the easement agreement indicates such.
18. Cross access easement for the three (3) lots would also need to be executed prior to construction as the lots are built upon the available space is reduced.
19. The dimension of the Lots will not change with this Plat Amendment. The only change to the Upper Norfolk Subdivision by this First Amended Upper Norfolk Subdivision will be the plat notes and conditions of approval as contained herein.
20. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include:
 - The lots are to be used for the construction of single family houses.
 - A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit.
 - A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.
21. Staff recommends adding a condition of approval that indicates that the applicant

shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

Conclusions of Law:

1. There is good cause for this Plat Amendment to amend the conditions of approval of executed ordinance no. 06-55 and add notes to the plat due to the expiration of the recorded temporary construction access easement.
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:

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.
3. The remaining conditions of approval from Ordinance No: 06-55 shall continue to apply.
 - The lots are to be used for the construction of single-family houses
 - A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit
 - A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots
4. An agreement must be entered into with the City Engineer concerning any construction staging which occurs within platted but un-built Upper Norfolk Right-of-Way
5. Prior to plat recordation, each lot will grant the other two (2) lots construction access easements which shall be executed and recorded and which will not expire until all single-family dwelling structures are built.
6. Prior to plat recordation, the Temporary Construction Access Easement on 220 King language shall be drafted appropriately, and if necessary, the applicant shall work with the easement signee to record an accurate description of the work area identified as Exhibit D on the Easement.
7. The applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

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

PASSED AND ADOPTED this ___ day of _____, 2015.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

ATTEST:

Marci Heil, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment A

Plat Notes to be added to First Amended Upper Norfolk Subdivision Plat:

- This subdivision plat is subject to the conditions of approval contained in Ordinance 06-55 and amended by Ordinance 15-XX.
- Accessory apartments are prohibited on the newly created lots.
- Prior to plat recordation, each lot will grant the other two (2) lots construction access easements which shall be executed and recorded and which will not expire until all single-family dwelling structures are built.
- Prior to plat recordation, the Temporary Construction Access Easement on 220 King language shall be drafted appropriately, and if necessary, the applicant shall work with the easement signee to record an accurate description of the work area identified as Exhibit D on the Easement.
- The applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

Ordinance No. 06-55

**AN ORDINANCE APPROVING THE UPPER NORFOLK SUBDIVISION
LOCATED AT 259-263 NORFOLK AVENUE, PARK CITY, UTAH.**

WHEREAS, the owners of the property located at 259-263 Norfolk Avenue have petitioned the City Council for approval of the Upper Norfolk 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 12, 2006, to receive input on the Upper Norfolk Subdivision;

WHEREAS, the Planning Commission, on July 26, 2006, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 27, 2006, the City Council approved the Upper Norfolk Subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the Upper Norfolk Subdivision.

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 Upper Norfolk Subdivision as shown in Exhibit A 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 259-263 Norfolk Avenue.
2. Currently the property is platted as the 'Upper Norfolk Condominiums'
3. There is an existing triplex structure located on the property.
4. The existing structure does not conform to the height and setback requirements of the HR-1 zoning district.
5. The applicant is proposing demolishing the existing structure.
6. The applicant is proposing vacating the existing 'Upper Norfolk Condominiums' plat.
7. The applicant is proposing establishing three lots of record – identified on the proposed plat as Lot 1, Lot 2, and Lot 3.

8. Lot 1 and Lot 2 measure 40.67 feet by 69.15 feet and contain 2812.33 square feet.
9. Lot 3 measures 39.98 feet at the front, 51.07 feet at the rear, 69.15 feet on the south side and 70.03 feet on the north side.
10. The proposed access to the lots is from Norfolk Avenue on the north side of the property.
11. The three proposed lots would share one driveway.
12. The proposed lots are for the purposes of building single family houses.
13. The proposed lots have slopes of greater than 30% and are subject to Conditional Use Permit, Construction on a steep slope review.
14. There is not sufficient area on the property to conduct construction staging.
15. Norfolk Avenue and Upper Norfolk Avenue are substandard, narrow streets on steep hillsides.
16. On-street and off-street parking in the Norfolk / Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.
17. Snow removal and emergency access to the Norfolk / Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.
18. LMC Section 15-7-6: Subdivisions – General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.
19. Accessory apartments are conditional uses in the HR-1 zoning district and require one parking space per bedroom.
20. Accessory apartments will increase the parking demand in the Norfolk / Upper Norfolk Avenue neighborhood.

Conclusions of Law:

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 is subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

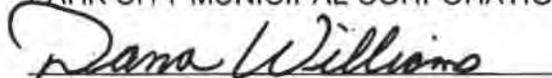
1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within 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.
3. The lots are to be used for the construction of single family houses.
 4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
 5. The construction easement agreements must be finalized and submitted to the City prior to receiving building permits.
 6. A Utility / Grading Plan is required to be reviewed and approved by the City Engineer prior to the issuance of building permits.
 7. A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

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

PASSED AND ADOPTED this 27th day of July, 2006.

PARK CITY MUNICIPAL CORPORATION



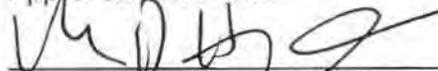
Mayor Dana Williams

Attest:



Janet M. Scott, City Recorder

Approved as to form:



Mark D. Harrington, City Attorney



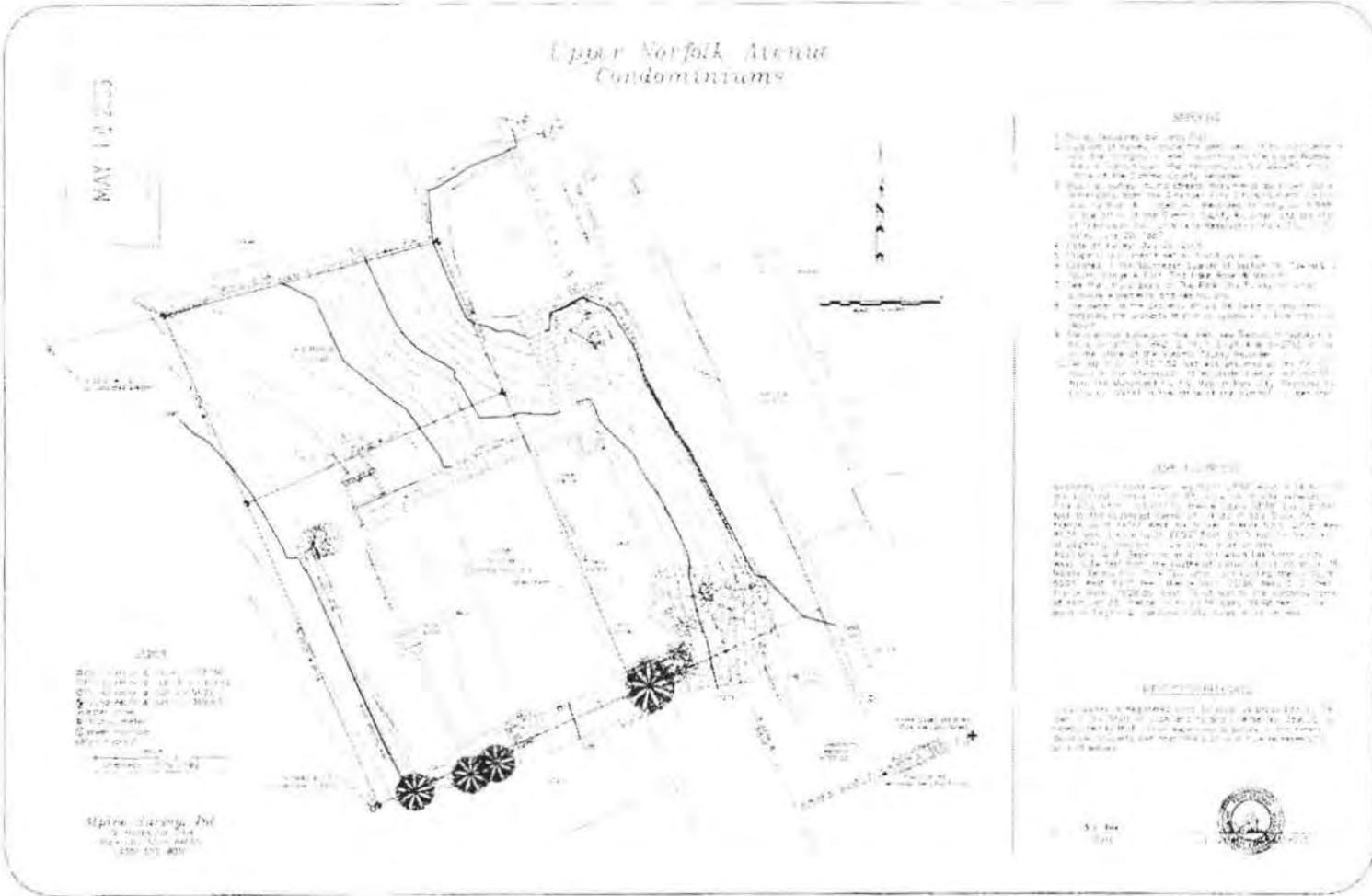


Exhibit O Sub Exhibit C – Upper Norfolk Subdivision Plat

Upper Norfolk Subdivision An Amended Lot Line Plat in A Portion of Block 78 Millsite Reservation

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned is a member of Upper Norfolk Properties, L.L.C., the owner of the herein described Upper Norfolk Subdivision, Millsite Reservation to the Park City Survey, and having caused this Plat Amendment to be made, does hereby consent to the recording of this Record of Survey Plat in the office of the County Recorder of Summit County, Utah, in accordance with Utah Law. Also, the owners hereby irrevocably offer for dedication to the City of Park City all the streets, land for local government uses, utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned has set his hand this 10 day of October, 2006.

By: David Hanson
Member, Upper Norfolk Properties, L.L.C.

Legend

- ⊕ Found Street Monument
- ⊙ Found rebar & cap-LS 173736
- ⊙ Found rebar & cap-LS 154941
- ⊙ Set rebar & cap-LS 359005
- ⊙ Set nail & washer-LS 359005
- ⊙ Address on Norfolk Avenue

SURVEYOR'S CERTIFICATE

I, J.D. Gallely, 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 property.



Date 9/2/06
J.D. GALLELY, License No. 359005

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents that the undersigned is a member of Upper Norfolk, L.L.C., the owner of the herein described Upper Norfolk Subdivision, Millsite Reservation to the Park City Survey, and having caused this Plat Amendment to be made, does hereby consent to the recording of this Record of Survey Plat in the office of the County Recorder of Summit County, Utah, in accordance with Utah Law. Also, the owners hereby irrevocably offer for dedication to the City of Park City all the streets, land for local government uses, utilities and easements shown on the plat in accordance with an irrevocable offer of dedication.

In witness whereof, the undersigned has set his hand this 10 day of September, 2006.

By: Jerry Flat
Member, Upper Norfolk, L.L.C.

STATE OF UTAH
County of Summit:

On this 10 day of Sept, 2006, Jerry Flat personally appeared before me, the undersigned Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that he is a member of Upper Norfolk, L.L.C., that he has signed the above Owner's Dedication and Consent to Record on behalf of said Upper Norfolk, L.L.C. and that he executed this document in his capacity as member as the act of said Upper Norfolk, L.L.C., for the purpose set forth hereon.

My commission expires: Nov 29 2009

Robert C. Lee
NOTARY PUBLIC
RESIDING IN UTAH COUNTY, SUMMIT

NARRATIVE

1. Survey requested by: Jerry Flat.
2. Purpose of survey: amended lot line plat.
3. Basis of survey: found streets monuments as shown. Block dimensions from the Amended Park City Monument Control Map by Bush & Gudgeil Inc., recorded as Entry No. 199887 in the office of the Summit County Recorder, and the Plat of Subdivision No.1 of Millsite Reservation, Park City, Utah, dated June 20, 1887.
4. Date of survey: July 29, 2005.
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. See the official plats of the Park City Survey for other possible easements and restrictions.
8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
9. Accessory apartments are prohibited on the newly created lots.

OLD LEGAL DESCRIPTION

Beginning at a point which lies North 23'38" West, 6.34 feet from the southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah; and running thence South 23'38" East, 81.34 feet to the southeast corner of Lot 30 of said Block 78; thence South 66'22" West, 69.15 feet; thence North 23'38" West, 81.34 feet; thence North 66'22" East, 69.15 feet to the point of beginning; containing 0.129 acres, more or less. Additional Land: Beginning at a point which lies N 23'38" W, 6.34 feet from the southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah; and running thence S 66'22" W, 69.15 feet; thence N 23'38" W, 51.07 feet; thence N 75'28'35" E, 70.03 feet to the northerly corner of said Lot 33; thence S 23'38" E, 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

NEW LEGAL DESCRIPTIONS

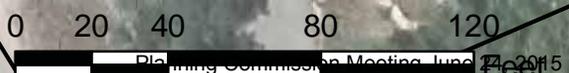
Lot 1: Beginning at a point which lies South 23'38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah, said point also being North 23'38' West, 355.86 feet and South 66'22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23'38' East, along the westerly right of way of Norfolk Avenue, 40.67 feet; thence South 66'22' West, 69.15 feet; thence North 23'38' West, 40.67 feet; thence North 66'22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 2: Beginning at a point which lies North 23'38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah, said point also being North 23'38' West, 396.53 feet and South 66'22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23'38' East, along the westerly right of way of Norfolk Avenue, 40.67 feet; thence South 66'22' West, 69.15 feet; thence North 23'38' West, 40.67 feet; thence North 66'22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 3: Beginning at a point which lies North 23'38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78, Millsite Reservation, Park City, Utah, said point also being North 23'38' West, 396.53 feet and South 66'22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence North 23'38' West, along the westerly right of way of Norfolk Avenue, 39.98 feet; thence South 75'28'35" West, 70.03 feet; thence South 23'38' East, 51.07 feet; thence North 66'22' East, 69.15 feet to the point of beginning, containing 3148.12 square feet, more or less.

<p>Alpine Survey, Inc. 19 Proscpector Dr. Park City, Utah 84060 (435) 655-8016</p>	<p>SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVENUE FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THE 15th DAY OF <u>Sept</u>, 2006.</p>	<p>PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 26th DAY OF JULY, 2006 A.D. By: <u>Jack Thomas</u> CHAIRMAN</p>	<p>ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS <u>27th</u> DAY OF <u>SEPTEMBER</u>, 2006 A.D. By: <u>Chris Watson</u> PARK CITY ENGINEER</p>	<p>APPROVAL AS TO FORM APPROVED AS TO FORM THIS <u>21</u> DAY OF <u>September</u>, 2006 A.D. By: <u>Robert C. Lee</u> NOTARY PUBLIC</p>	<p>CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 27th DAY OF <u>July</u>, 2006 A.D. By: <u>John Smith</u> PARK CITY RECORDER</p>	<p>COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 27th DAY OF JULY, 2006 A.D. By: <u>Diana Williams</u> MAYOR</p>	<p># <u>814949</u> RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF <u>Coalition Title</u> DATE <u>6-1-07</u> TIME <u>4:58 PM</u> BOOK <u>---</u> PAGE <u>---</u> <u>3300</u> FEE <u>---</u> RECORDER <u>Diana Williams, Deputy</u></p>
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Exhibit D - Vicinity Map Upper Norfolk Subdivision 259, 261, 263 Norfolk Avenue



Legend

-  Address
-  Parcels
-  Streets

Temporary Construction Access Easement (200 King) [expired]

ALAN SPRIGGS, SUMMIT CO RECORDER
2006 OCT 06 12:47 PM FEE \$29.00 BY BW
REQUEST: COALITION TITLE AGENCY, INC.
Electronically Recorded by Simplifile

WHEN RECORDED RETURN TO
Upper Norfolk, LLC
PO Box 244
Park City, UT 84060

TEMPORARY CONSTRUCTION ACCESS EASEMENT

This Agreement, made this 6 day of October 2006, between P.C. Estate Development, LLC., owner of legal and equitable title of the Servient Parcel, hereinafter designated Grantor, and the Upper Norfolk, LLC., hereinafter designated Grantee, owner of legal and equitable title to the Dominant Parcel.

Recitals.

1. The purpose of this Agreement is to provide an access road to the Dominant Parcels to receive construction materials and equipment. It is not intended to be used for any other purpose, including but not limited to parking, ingress and egress of construction workers.
2. Grantee intends to limit the use of the Road to the minimum and create the least possible disturbance in connection with the construction of the structures on the Dominant Parcel.
3. This Agreement is shall become effective upon approval by Park City of the plat and plans for construction on the Dominant Parcels, and the agreed consideration is paid.

NOW THEREFORE, for good and valuable consideration does hereby grant unto the Grantee, its heirs, successors, assigns, agents, contractors, subcontractors, and employees:

A. a temporary non-exclusive right of way for ingress and egress over and across the existing driveway ("Road") on the property described on Exhibit A ("Servient Parcel") for all vehicles, trucks, and construction equipment related to Grantee's performance of any and all construction activities necessary for Grantee to construct three residential homes on Grantee's three properties, which properties are more fully described on Exhibit B (the "Dominant Parcels"). Grantee will be required to construct a temporary road (the "Road") across the Servient Parcel in the approximate location as drawn on Exhibit C to gain access to the Dominant Parcel for construction purposes.

IT IS UNDERSTOOD that the Easement rights herein granted shall terminate 2 years from the date that construction begins on the Dominant Parcels, in no event later than December 31, 2009. Grantee shall use all reasonable efforts to minimize use of the Road. When the last structure on the Dominant Parcels are dried in and the exterior grading is complete, Grantor may request to vacate this Easement for the Road prior to the termination date, which request will not be unreasonably denied.

IT IS ALSO UNDERSTOOD that the Easement herein granted does not convey any right or interest in the above described property, except as stated herein, nor prevent Grantor from the use of said property; provided, however that such use does not interfere with the Grantee's rights herein granted.

In addition, the Grantee, including its successors, assigns, agents, contractors, and employees agree to

BK1822 PG0039

J

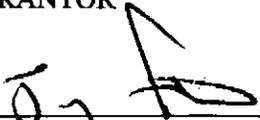
the following conditions:

1. **CONSTRUCTION OF ROAD:** Grantee shall construct the Road and take appropriate measures to control erosion and to avoid trespass on adjacent properties.
2. **DAMAGE TO PROPERTY:** Grantee shall exercise care to avoid damaging the property in any manner not consistent with the purpose for which this agreement is issued, and shall restore any damaged property to its original condition or a reasonably equivalent condition.
3. **COOPERATION WITH GRANTOR:** Grantee shall at all times cooperate with Grantor(s) and comply with reasonable requests not inconsistent with the purpose for which this agreement is issued. It is understood that Grantor is not a full time resident of the Servient Parcel. Grantee shall reasonably curtail any noise causing or dust causing construction activity on the access road, in such a way to not affect Grantor's and others' reasonable use of the ski easement and trail easement. Grantee will use its best efforts to accommodate Grantor's requests and use all reasonable efforts to limit the use and schedule the use of the access road .
4. **PARKING:** No part of the Servient Parcel may be used for parking construction vehicles or construction employee vehicles, other than for temporary loading or unloading.
5. **CLEAN-UP:** Grantee will keep the Servient Parcel free of construction related litter and debris. The construction site shall be kept clean and organized, and related litter shall be removed daily. Grantee shall inspect the site to ensure the site is free of construction debris. As necessary, during construction, Grantee shall clean the windows on Grantor's homes that face the construction site on a quarterly basis in any quarter during which the construction activities cause dust. Grantee shall clean all the ground occupied of all rubbish, excess material, temporary structures, and equipment.
6. **CONSTRUCTION MAINTENANCE.** Grantee shall comply with all applicable building codes, including but not limited to providing: silt fencing, erosion controls, maintain limits of disturbance, as well as provide a safe way for area residents, adjoining property owners, and the general public to use and access the Sweeney Master Plan Trails ("Trails"). Grantee will not disturb the Trails, and will make all necessary repairs to keep the Trails in their pre-construction condition.
7. **RE-LANDSCAPING.** Within 90 days after completion of construction (the date on which the local government grants a permanent certificate of occupancy), Grantee shall uniformly grade the Work Area, and the Road and re-lanscape the Road and Work Area according the plan attached as Exhibit C.
8. **INDEMNITY & INSURANCE.** Grantee will use the Road, the Work Area and the Servient Parcel at its sole risk and expense. Grantee will indemnify and defend Grantor from and against all claims and liabilities, including reasonable attorneys' fees arising out of Grantee's use of the Servient Parcel. During construction, Grantee shall maintain a property and liability insurance policy in the amount of \$2 million, for its use of the Servient Parcels, naming Grantor as an additional insured.
9. **GATE ENCLOSURE:** All individuals accessing the property shall close and lock the gate entrance to the Servient Parcel at every entrance and exit.

10. GRANTOR'S RIGHT OF PERFORMANCE: If Grantee fails to comply with the terms of this Easement, including but not limited to cleaning up, restoring Grantor's property, obtaining insurance, and locking the gate enclosure, Grantor shall provide Grantee a written notice of any such failure and seven calendar days to cure. If Grantee fails to cure, Grantor may perform in place of Grantee and shall charge Grantee all costs of Grantor's performance, plus a fee of 20% of the costs of performance. If Grantor reasonably determines that Grantee continues to fail to comply with the terms herein after a written notice to cure, Grantor may rescind this Easement. Notwithstanding anything herein to the contrary, in the case of emergency, Grantor reserves the right to cleanup, lock up, and perform any other act required of Grantee and to charge Grantee for the same plus a fee of 20% of the cost of performance, without any prior notice.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed this 6 day of October 2006.

GRANTOR



 Jerry Fiat, Member
 P.C. Estate Development, LLC

GRANTEE

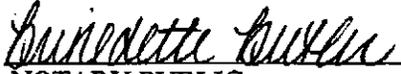


 Jerry Fiat, Member
 Upper Norfolk, LLC

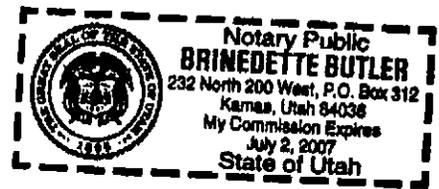
State of Utah)
) ss.
 County of Summit)

Before me, the undersigned, a Notary Public within and for said County and State, on this 6 day of October 2006, personally appeared to me Jerry Fiat, known to be the identical person(s) who executed the within and foregoing instrument stating that he had authority of P.C. Estate Development, LLC., for the uses and purposes herein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



 NOTARY PUBLIC



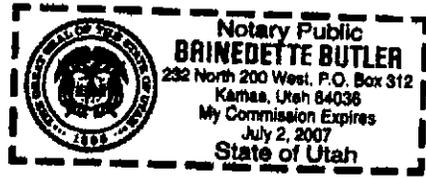
State of Utah)
) ss.
 County of Summit)

Before me, the undersigned, a Notary Public within and for said County and State, on this ___ day of October 2006, personally appeared to me Jerry Fiat, known to be the identical person(s) who executed the within and foregoing instrument, stating that he had authority of Upper Norfolk, LLC., for the uses and purposes herein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

BK1822 PG0041

Brinedette Butler
NOTARY PUBLIC



BK1822 PG0042

Exhibit A
(Servient Parcel)

LOT 1 TREASURE HILL SUBDIVISION PHASE 1; ACCORDING TO THE OFFICIAL PLAT ON
FILE IN THE SUMMIT COUNTY RECORDERS OFFICE CONT 37,283 SQ FT OR 0.86 AC 958-
299 (REF:671-90; 951-682; 1345-1078; 1413-76& 1483-1699; 1483-1702; 1484-1142; 1486-1022)
1678-1202

BK1822 PG0043

Exhibit B
(Dominant Parcels)

Lot 1

Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 396.53 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 2

Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 355.86 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 3

Beginning at a point which lies South 23°38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, and running thence South 66°22' West, 69.15 feet; thence North 23°38' West, 51.07 feet; thence North 75°28'35" East, 70.03 feet to the northerly corner of said Lot 33, thence South 23°38' East 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

BK1822 PG0044

Exhibit C
(Map of Road and Relandscaping Plan)

BK1822 PG0045

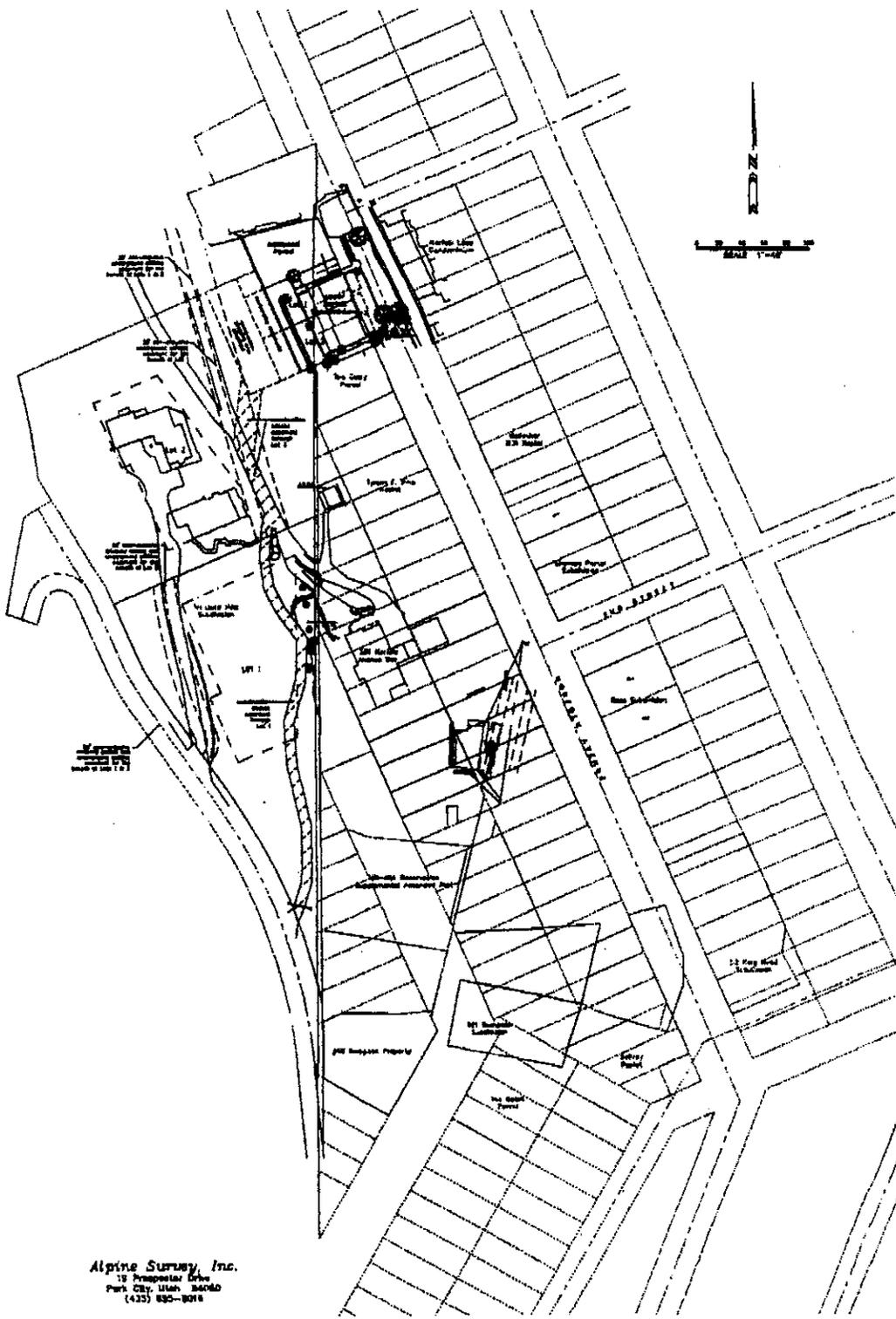
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Planning Commission Meeting June 24, 2015

Page 263 of 525



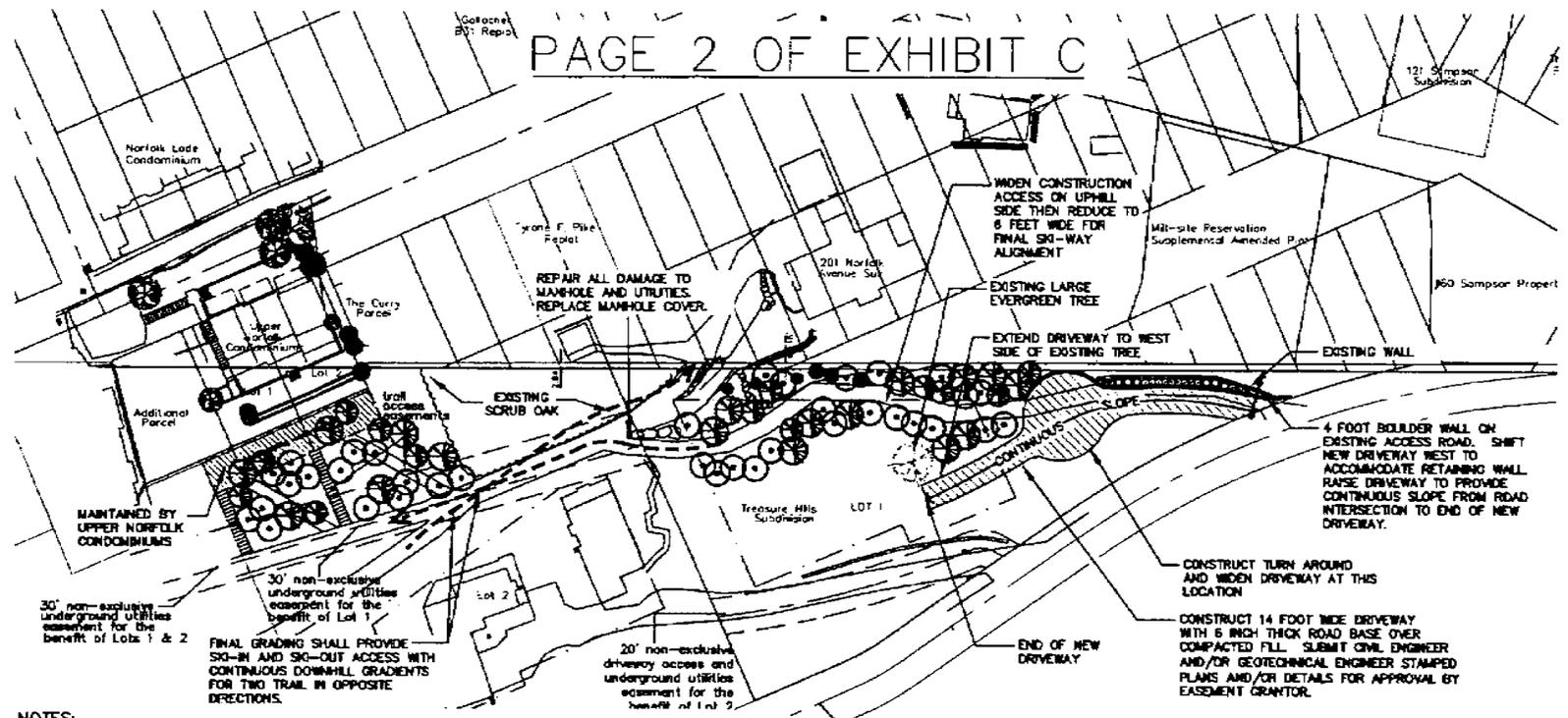
Park City Survey
Blocks 31, 32, 77, 78 & 79



Alpine Survey, Inc.
19 Popocatepetl Drive
Park City, Utah 84060
(435) 830-9018

BK1822 PG0046

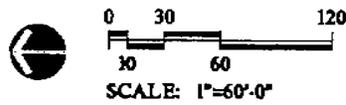
PAGE 2 OF EXHIBIT C



NOTES:

1. THIS DOCUMENT ILLUSTRATES THE DESIGN INTENT ON THE AGREEMENT. GRANTEE SHALL PROVIDE EASEMENT GRANTOR WITH CONSTRUCTION ACCESS PLANS INCLUDING ACCESS LAYOUT, EROSION CONTROL PLAN, REVEGETATION PLAN, PLANTING PLAN, AND IRRIGATION PLAN FOR APPROVAL BY EASEMENT GRANTOR PRIOR TO START OF ASSOCIATED CONSTRUCTION.
2. ALL PLANT LOCATIONS SHALL BE STAKED BY THE GRANTEE AND APPROVED BY THE EASEMENT GRANTOR PRIOR TO INSTALLATION.
3. EXISTING TREES REMOVED OR DAMAGED SHALL BE REPLACED IN KIND.
4. ALL AREAS CUT OR FILLED TO WIDEN ACCESS ROAD SHALL BE RETURNED TO ORIGINAL GRADES.
5. ALL AREAS DISTURBED BY CONSTRUCTION SHALL BE BROUGHT TO FINISH GRADES. INSTALL 6 INCHES OF TOPSOIL, SEED WITH APPROVED NATIVE GRASS AND WILDFLOWER MIX, AND MULCHED. SLOPES 3:1 OR STEEPER AND ALL DRAINAGE SWALES SHALL BE COVERED WITH EROSION BLANKET.
6. ALL AREAS DISTURBED BY CONSTRUCTION SHALL BE IRRIGATED.
7. ALL TREES, SHRUBS, AND GROUND COVERS SHALL BE IRRIGATED.
8. GRANTEE SHALL PROVIDE 2 YEAR WARRANTY FOR ALL PLANT MATERIAL AND REVEGETATION.

30' non-exclusive driveway access and underground utilities easement for the benefit of Lots 1 & 2



	DECIDUOUS TREE (ASPEN) 50% SINGLE STEM @ 3" CAL 50% CLUMP MULTI-STEM @ 16'-0" HEIGHT MIN.
	EVERGREEN TREE (WHITE FIR) 10% @ 4' 20% @ 8' 20% @ 12' 20% @ 14' 20% @ 16' 10% @ 20'
	DECIDUOUS SHRUB (CURRANT)
	EVERGREEN SHRUB (JUNIPER)

Upper Norfolk Condominiums
 DESIGN
 00793227
 00793227

Temporary Construction Access Easement (220 King)

ALAN SPRIGGS, SUMMIT CO RECORDER
2006 SEP 14 10:21 AM FEE \$33.00 BY BW
REQUEST: SUMMIT ESCROW AND TITLE INSURA
Electronically Recorded by Simplifile

WHEN RECORDED RETURN TO
Upper Norfolk, LLC
PO Box 244
Park City, UT 84060

Accommodation Recording

TEMPORARY CONSTRUCTION & ACCESS EASEMENT

This Agreement, made this 2th day of August 20 06, between Robert R. Sfire, owner of legal and equitable title of the Servient Parcel, hereinafter designated Grantor, and the Upper Norfolk, LLC., hereinafter designated Grantee, owner of legal and equitable title to the Dominant Parcel,

Recitals.

1. The purpose of this Agreement is to provide access to the Dominant Parcels to receive construction materials and equipment and to stage construction. It is not intended to be used for any other purpose, including but not limited to parking, ingress and egress of construction workers.
2. Grantee intends to limit the use of the Work Area and Road to the minimum and create the least possible disturbance in connection with the construction of the structures on the Dominant Parcel.
3. This Agreement ~~X~~ shall become effective upon approval by Park City of the plat and plans for construction on the Dominant Parcels, and the agreed consideration is paid.

J. Meach
M/S

NOW THEREFORE, for good and valuable consideration does hereby grant unto the Grantee, its heirs, successors, assigns, agents, contractors, subcontractors, and employees:

A. a temporary non-exclusive right of way for ingress and egress over and across the property described on Exhibit A ("Servient Parcel") for all vehicles, trucks, and construction equipment related to Grantee's performance of any and all construction activities necessary for Grantee to construct residential homes on each of Grantee's three properties, which properties are more fully described on Exhibit B (the "Dominant Parcels"). Grantee will be required to construct a temporary road (the "Road") across the Servient Parcel from the property with the address 200 King Road to the Dominant Parcel in the approximate location as drawn on Exhibit C to gain access to the Dominant Parcel for construction purposes.

J. Meach
M/S

B. a temporary easement for a work area for the staging of any and all materials and equipment (including without limitation, cranes, back hoes, lifts, and any other reasonably necessary piece of equipment), on that portion of the Servient Parcel as described on Exhibit D ("Work Area") for the purpose of constructing a residential homes on each of Grantee's three properties.

C. a temporary easement and the right to erect and use construction equipment, including a crane, on the Work Area and to use the airspace above portions of the Servient Parcel for moving said crane and materials to and around the site of Grantee's construction herein described, except that a long-term crane (a crane which stays for more than two weeks) shall only be placed on the 20 most Eastern feet of the Construction Area on the Servient Parcel.

IT IS UNDERSTOOD that the Easement rights herein granted shall terminate 2 years from the date that construction begins on the Dominant Parcel. Grantee shall use all reasonable efforts to minimize use of the Road. When the last structure on the Dominant Parcels are dried in and the exterior grading is complete, Grantor may request to vacate this Easement for the Road prior to the termination date,

which request will not be unreasonably denied.

IT IS ALSO UNDERSTOOD that the Easement herein granted does not convey any right or interest in the above described property, except as stated herein, nor prevent Grantor from the use of said property; provided, however that such use does not materially interfere with the Grantee's rights herein granted.

In addition, the Grantee, including its successors, assigns, agents, contractors, and employees agree to the following conditions:

1. **CONSTRUCTION OF ROAD:** Grantee shall construct the Road and take appropriate measures to control erosion and to avoid trespass on adjacent properties.
2. **DAMAGE TO PROPERTY:** Grantee shall exercise care to avoid damaging the property in any manner not consistent with the purpose for which this agreement is issued, and shall restore any damaged property to its original condition or a reasonably equivalent condition.
3. **COOPERATION WITH GRANTOR:** Grantee shall at all times cooperate with Grantor(s) and comply with reasonable requests not inconsistent with the purpose for which this agreement is issued. It is understood that Grantor is not a full time resident of the Servient Parcel. Grantee shall reasonably curtail any noise causing or dust causing construction activity on the access road, in such a way to not affect Grantor's and others' reasonable use of the ski easement and trail easement. Grantee will use its best efforts to accommodate Grantor's requests and use all reasonable efforts to limit the use and schedule the use of the access road .
4. **PARKING:** No part of the Servient Parcel may be used for parking construction vehicles or construction employee vehicles, other than for temporary loading or unloading.
5. **CLEAN-UP:** Grantee will keep the Servient Parcel free of construction related litter and debris. The construction site shall be kept clean and organized, and related litter shall be removed daily. Grantee shall inspect the site to ensure the site is free of construction debris. As necessary, during construction, Grantee shall clean the windows on Grantor's homes that face the construction site on a quarterly basis in any quarter during which the construction activities cause dust. Grantee shall clean all the ground occupied of all rubbish, excess material, temporary structures, and equipment.
6. **CONSTRUCTION MAINTENANCE.** Grantee shall comply with all applicable building codes, including but not limited to providing: silt fencing, erosion controls, maintain limits of disturbance, as well as provide a safe way for area residents, adjoining property owners, and the general public to use and access the Sweeney Master Plan Trails ("Trails"). Grantee will not disturb the Trails, and will make all necessary repairs to keep the Trails in their pre-construction condition.
7. **RE-LANDSCAPING.** Within 90 days after completion of construction (the date on which the local government grants a permanent certificate of occupancy), Grantee shall uniformly grade the Work Area, and the Road and re-lanscape the Road and Work Area according the plan attached as Exhibit C.
8. **INDEMNITY & INSURANCE.** Grantee will use the Road, the Work Area and the Servient Parcel at its sole risk and expense. Grantee will indemnify and defend Grantor from and against

Before me, the undersigned, a Notary Public within and for said County and State, on this 8th day of August 2006, personally appeared to me Jerry Fiat, known to be the identical person(s) who executed the within and foregoing instrument, stating that he had authority of Upper Norfolk, LLC., for the uses and purposes herein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Tassie Williams
NOTARY PUBLIC

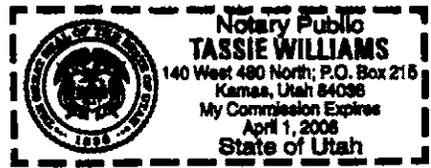


Exhibit A
(Servient Parcel)

The following adjacent parcels:

THILL-2-A-AM

A PORTION OF LOT 2, TREASURE HILL SUBDIVISION PHASE 1 AMENDED, MORE PARTICULARLY DESC AS FOLLOWS: BEG AT A PT WH IS S 66°22' W 21.67 FT & S 00°08'50" E 81.95 FT M/L FROM THE NE COR OF LOT 32 BLK 78 MILLSITE RESERVATION TO PARK CITY UTAH SD PT ALSO BEING S 66°40' W 240.50 FT & S 00°08'50" E 599.26 FT FROM A PARK CITY MONUMENT AT THE INT/SEC OF PARK AVENUE & 4TH STREET; & RUN TH S 00°08'50" E 136.08 FT; TH S 66°22' W 201.18 FT; TH N23°31'34" W 17.11 FT; TH N 31°26'11" W 109 FT TO THE PT OF BEG & RUN TH N 31°26'11" W 7.94 FT TO A PT ON A 605 FT RAD CUR TO THE LEFT (LONG CHORD BEARS N 11°00' W 94.07 FT); TH RUN NW'LY ALONG THE ARC OF SD CUR 94.16 FT (DELTA=08°55'04"); TH N 66°22' E 234.29 FT; TH S 23°38' E 100.00 FT; TH S 28°32'08" W 115.445 FT; TH W 177.49 FT TO THE PT OF BEG CONT 0.77 AC 958-302-311-313 973-487-489 1433-946-950 (REF:671-90; 951-682; 1345-1078; 1413-76 & 1483-1699; 1483-1702; 1484-1142; 1486-1022)

THILL-2-B-AM

A PORTION OF LOT 2 TREASURE HILL SUBDIVISION PHASE 1 AMENDED, MORE PARTICULARLY DESC AS FOLLOWS: BEG AT A PT WH IS S 66°22' W 21.67 FT & S 00°08'50" E 81.95 FT M/L FROM THE NE COR OF LOT 32 BLK 78 MILLSITE RESERVATION TO PARK CITY UTAH SD PT ALSO BEING S 66°40' W 240.50 FT & S 00°08'50" E 599.26 FT FROM A PARK CITY MONUMENT AT THE INT/SEC OF PARK AVENUE & 4TH STREET; & RUN TH S 00°08'50" E 136.08 FT; TH S 66°22' W 201.18 FT; TH N23°31'34" W 17.11 FT; TH N 31°26'11" W 109.00 FT; TH E 177.49 FT; TH N 28°32'08" E 115.445 FT; TH N 66°12'00" E 16.39 FT TO THE PT OF BEG CONT 0.47 AC 958-302-315-317 1433-948-952 (REF:671-90; 951-682; 1345-1078; 1413-76 & 1483-1699; 1483-1702; 1484-1142; 1486-1022) CONSTANCE M SFIRE AN UND 1/2 INT 958-315-317; & 220 KING ROAD LLC AN UND 1/2 INT 1433-952;

BK1816 PG1551

Exhibit B
(Dominant Parcels)

Lot 1

Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 396.53 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 2

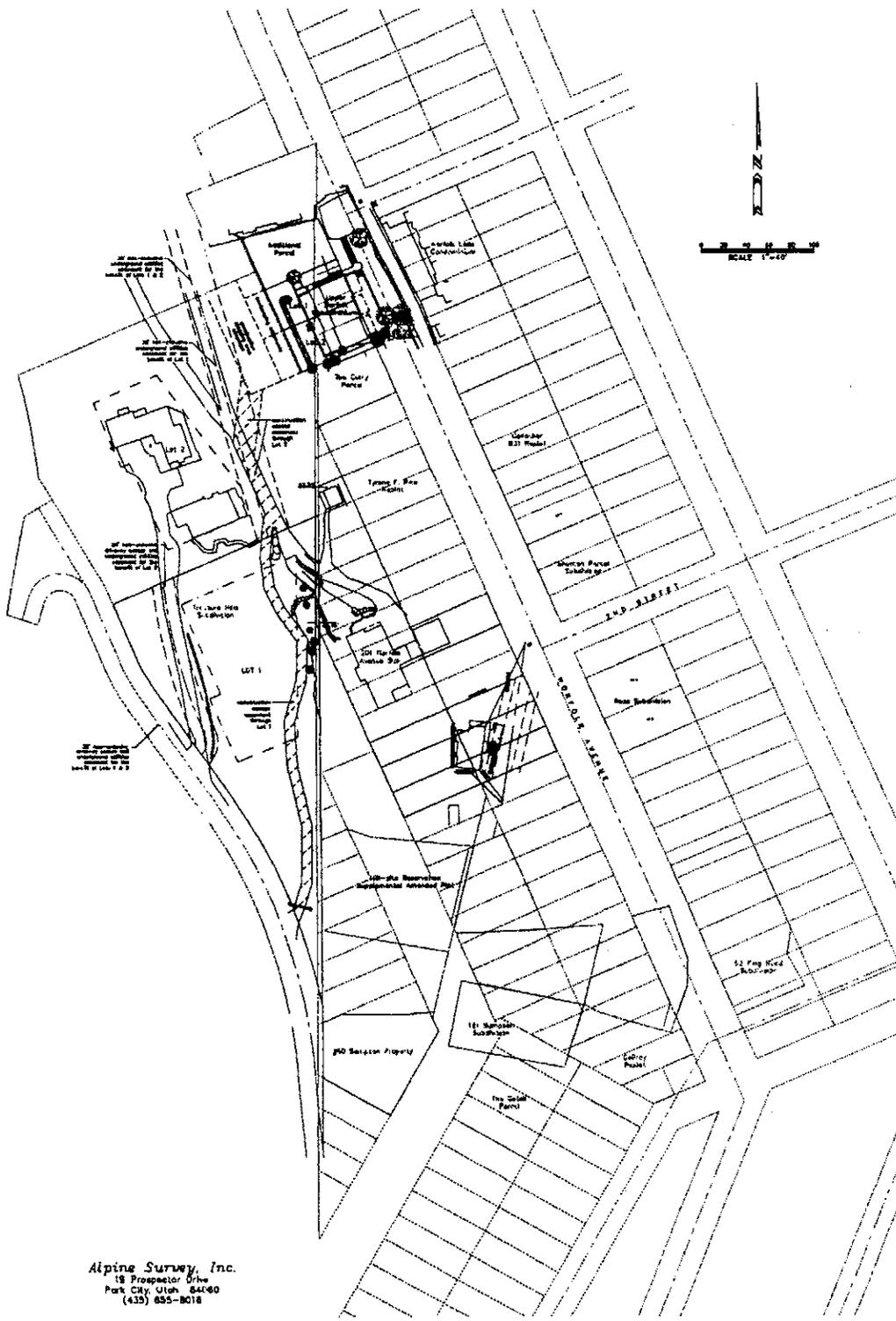
Beginning at a point which lies South 23°38' East, 34.33 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, said point also being North 23°38' West, 355.86 feet and South 66°22' West, 25.00 feet from the intersection of Norfolk Avenue & 2nd Street and running thence South 23°38' East, along the westerly right of way of Norfolk Avenue 40.67 feet; thence South 66°22' West, 69.15 feet; thence North 23°48' West, 40.67 feet; thence North 66°22' East, 69.15 feet to the point of beginning; containing 2812.33 square feet, more or less.

Lot 3

Beginning at a point which lies South 23°38' West, 6.34 feet from the Southeast corner of Lot 33, Block 78 Millsite Reservation, Park City, Utah, and running thence South 66°22' West, 69.15 feet; thence North 23°38' West, 51.07 feet; thence North 75°28'35" East, 70.03 feet to the northerly corner of said Lot 33, thence South 23°38' East 39.98 feet to the point of beginning; contains 0.072 acres, more or less.

Exhibit C
Location of Road across Servient Parcel

Park City Survey
 Blocks 31, 32, 77, 78 & 79



Alpine Survey, Inc.
 18 Prospector Drive
 Park City, Utah 84060
 (435) 855-8018

Exhibit D
(Work Area)

Upper Norfolk, Lot 1

Beginning at the northwesterly corner of Lot 1, Upper Norfolk Subdivision, according to the official plat thereof, on file and f record in the office of the Summit County Recorder, and running thence S 23°38' E, along the westerly line of said Lot 1, 40.67 feet to the southwesterly corner of said Lot 1; thence S 66°22' W, 20.00 feet; thence N 23°38' W 40.67 feet; thence N66°22' E, 20.00 feet to the point of beginning; containing 813.4 square feet, more or less.

Upper Norfolk Lot 2

Beginning at the northwesterly corner of Lot 2 Upper Norfolk Subdivision, according to the official plat thereof, on file and of record in the office of the Summit County Recorder, and running thence S 23°38' E, along the westerly line of said Lot 1, 40.67 feet to the southwesterly corner of said Lot 2 thence S 66°22' W, 20.00 feet; thence N 23°38' W 40.67 feet; thence N66°22' E 20.00 feet to the point of beginning; containing 813.4 square feet, more or less.

Lot 3

Beginning at the northwesterly corner of Lot 1, Upper Norfolk Subdivision, according to the official plat thereof, on file and f record in the office of the Summit County Recorder, and running thence S 66°22' W, 20.00 feet; thence N 23°38' W 18.35 feet to the northerly line of Lot 2, 20.00 feet to the westerly line of the Lot 3, north of the Upper Norfolk Subdivision; thence S 23°38' W 18.35 feet to the point of beginning; containing 367.0 square feet, more or less.

BK1816 PG1555

Planning Commission Meeting
Minutes of July 26, 2006
Page 2

MOTION: Commissioner Barth nominated Commissioner O'Hara to be Chair and for Commissioner Thomas to continue as Vice-Chair. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

At this time, Commissioner O'Hara assumed the Chair.

IV CONSENT AGENDA

1. 320 Woodside Avenue - CUP for construction on a slope greater than 30%

V. REGULAR AGENDA/PUBLIC HEARINGS

1. 1104 & 1118 Lowell Avenue - Steep Slope Conditional Use Permit
2. 7745 Bald Eagle - Plat Amendment
3. 1335 Lowell Avenue, The Gables - Amendment to the Record of Survey
4. 2409 Iron Mountain Road - Plat Amendment
5. 101 Prospect Street

MOTION: Commissioner Wintzer made a motion to CONTINUE the Consent Agenda, 1104 & 1118 Lowell Avenue, 7745 Bald Eagle, and 1335 Lowell Avenue to August 9, 2006 and to CONTINUE 2409 Iron Mountain Road and 101 Prospect Avenue to August 23. Chair Barth seconded the motion.

VOTE: The motion passed unanimously.

6. 259-263 Norfolk Avenue - Condominium plat vacation/subdivision

Planner David Maloney reviewed the application for a three lot subdivision and noted that the Planning Commission has reviewed this item a number of times. The last time this was before the Planning Commission the Commissioners visited the site and discussed the contents of the Staff report and the applicant's proposal. The Planning Commission requested that the Staff return with findings and conditions for approval.

For the benefit of the public, Planner Maloney explained that an existing six unit structure on the property does not meet the Code in terms of height and setbacks, and a portion of the front decks are within the City right-of-way. The application is to demolish the existing structure and dissolve the existing condominium on the land, and to plat three new lots for the purpose of constructing three single family homes. Planner Maloney stated that the proposed access is from the north side of the lot. He presented a conceptual site plan that was submitted to the Planning Department for the purpose of verifying that it is reasonable

to access the three lots. Through Staff discussion and meetings with the applicant, the Staff has determined that the plat amendment proposed is reasonable and can be accessed from the north side of the lot.

Planner Maloney commented on concerns raised at the last public hearing about preserving the existing landscaping along the front of the site. In addition, the driveway being proposed on the conceptual site plan is 19 feet wide and issues were raised regarding the excessive width.

The Staff recommended approval of the proposed plat for the purpose of establishing lot lines and creating three lots of record. Planner Maloney noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He stated that the 14 criteria listed in the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council on the proposed three lot subdivision called the "Upper Norfolk Subdivision".

Commissioner Barth wanted to know what would happen if they voted to vacate the condominium plat and adopt the ordinance but the property is never built. Planner Maloney explained that the lots would remain platted until someone applies for a conditional use permit. The applicant would demolish the existing structure before the lots would be recorded so the lots would be vacant.

Chair O'Hara opened the public hearing.

Jim Keesler, a resident at 302 Norfolk, remarked that the structure encroaches into the City right-of-way and if the applicant demolishes the building, the City would have the opportunity to do something with it. Mr. Keesler wondered why the applicant needed a 19 foot wide driveway when Norfolk Avenue is only 8 feet wide. He could not understand why the City would allow pavement in an area that could be landscaped and could give something back to the public that the structure has possessed for so long. Mr. Keesler urged the Planning Commission to address this issue before the plat amendment is granted.

Chair O'Hara closed the public hearing.

Chair O'Hara noted that the Planning Commission will address specific issues during the CUP process

Jerry Fiat, the applicant, explained that the driveway will be shared by three homes and the reason for making it 19 feet wide is to allow two cars to pass or for one car to pass if another car is parked. Mr. Fiat pointed out that the existing house encroaches 18 feet on to the public right-of-way and the new homes would sit at least 10 feet back. The area that the driveway sits in is already disturbed and the net effect is that paved space will be returned to green space with a berm and planters.

Planner Maloney stated that once the Planning Department receives proposals to build the actual structures on the lots, they will be in a better position to see how the grades will tie in and determine exactly what access makes the most sense in terms of the configuration of the driveway. They would also look at landscaping at that point.

Commissioner Barth asked if Mr. Keesler will be within the noticing boundary when those proposal are reviewed. Planner Maloney replied that he would.

Commissioner Pettit stated that she is very familiar with Upper Norfolk and the challenges it presents to the neighborhood. Her concern was tied to density and traffic. She understood that there may be a benefit in demolishing the current existing non-conforming structure and that it may resolve some of the parking issues. Ms. Pettit asked about the number of bedrooms in the six unit condominium. Mr. Fiat replied that there are 3 bedrooms per unit. There are three townhouse units and each one has a lock out. These new structures would be single family homes and most likely second homes based on the nature of Upper Norfolk. Mr. Fiat saw this as a significant decrease in density. In addition, parking will be underneath the structure, as well as in front of the homes in the setback. Mr. Fiat noted that he did not ask for the maximum density that would be allowed for the size of the lot. Planner Maloney clarified that the minimum lot size in the zone is 25' x 75' and these lots are roughly 40 feet in width and 70 feet deep.

Ms. Pettit assumed that the single family homes would have the ability to submit a CUP application for accessory apartments. What might appear to be a reduction in density could change if that happens and that presents other issues. Ms. Pettit understood that the proposal is to access the site from up above through Mr. Fiat's property, and she was very concerned about any construction vehicle access on Norfolk because of the challenges of the street.

Planner Maloney stated that a condition of the plat approval requires that the construction easement agreements be finalized and submitted to the City prior to receiving building permits. This would insure that construction access is from King Road through the adjacent properties in the rear. Ms. Fiat stated that he has tried to do everything possible to minimize the impacts through the neighborhood and every neighbor who is adversely affected supports his proposal.

To address the concerns of accessory apartments, Planner Maloney noted that the Planning Commission has the option of a plat note stating that the structures should remain single family homes without any accessory or lock out units. Ms. Pettit stated that another concern is whether or not the homes could be used as nightly rentals. Planner Maloney replied that nightly rentals are permitted in the zone.

Commissioner O'Hara clarified that accessory apartment or nightly rental constraints are typically done on the plat rather than through a condition of the CUP. Planning Director Patrick Putt stated that it would be appropriate to establish a finding that speaks to the reason for a specific condition of approval.

Planner Maloney referred to Condition of Approval #6 and requested that the language "prior to plat recordation" be replaced with "prior to issuing a building permit". This revision was made based on a recommendation from the City Engineer.

Commissioner Sletten was not interested in regulating nightly use at this point, but he felt the issue of restricting accessory apartments could be addressed in a condition of approval. Mr. Fiat was not opposed to a plat note that restricts accessory apartments.

Polly Samuels McLean, Assistant City Attorney, stated that generally the City tries to steer away from plat notes that restrict these types of uses. It is more appropriate to make findings for a condition of approval. Ms. McLean noted that if the City Council adopts their recommendation, it will become part of the ordinance and the Building Department is very careful about reading all the conditions before they issue a building permit. Planner Maloney remarked that this property is also in the Historic District and the Planning Department would review any future plans for an amendment to the design. If there appears to be an accessory apartment, it would require a conditional use permit process.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the proposed Upper Norfolk subdivision according to the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Staff report and subject to the amendments as discussed; the revision to Condition of Approval #6 to delete "plat recordation" and insert "issue of a building permit", and the addition of Condition of Approval #7 that would preclude accessory apartments. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 259-263 Norfolk Avenue

1. The property is located at 259-263 Norfolk Avenue.

2. Currently the property is platted as the "Upper Norfolk Condominiums",
3. There is an existing triplex structure located on the property.
4. The existing structure does not conform to the height and setback requirements of the HR-1 zoning district.
5. The applicant is proposing demolishing the existing structure.
6. The applicant is proposing vacating the existing "Upper Norfolk Condominiums" plat.
7. The applicant is proposing establishing three lots of record - identified on the proposed plat as Lot 1, Lot 2, and Lot 3.
8. Lot 1 and Lot 2 measure 40.67 feet by 69.15 feet and contain 281.33 square feet.
9. Lot 3 measures 39.98 feet at the front, 51.07 feet at the rear, 69.15 feet on the south side and 70.03 feet on the north side.
10. The proposed access to the lots is from Norfolk Avenue on the north side of the property.
11. The three proposed lots would share one driveway.
12. The proposed lots are for the purposes of building single family houses.
13. The proposed lots have slopes of greater than 30% and are subject to Conditional Use Permit, Construction on a steep slope review.
14. There is not sufficient area on the property to conduct construction staging.

Conclusions of Law - 259-263 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 is subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval - 259-263 Norfolk Avenue

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.
3. The lots are to be used for the construction of single family houses.
4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
5. The construction easement agreements must be finalized and submitted to the city prior to receiving building permits.
6. A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issue of a building permit.

Chair O'Hara took this time to welcome Julia Pettit and Evan Russack, the new Planning Commissioners, and thanked them for their willingness to serve the City.

7. 3605 & 3615 Oakwood Drive - Plat Amendment

Planner Maloney reported that a plat amendment that was approved in July 2004 created a lot and a half from Lot 64 and half of Lot 63 in the Oaks Deer Valley Subdivision. This current proposal is to revert back to the originally platted lots within the subdivision for Lots 63 and 64. This would eliminate the lot and a half that was created in 2004. This item was presented to the Planning Commission on July 12, at which time there was some discussion regarding the reasoning behind the original approval. Planner Maloney had researched the minutes and found that the owner at that time wanted to create a lot and a half so he could build a larger house than what was allowed on Lot 64 alone. He had ownership of half of Lot 63 and combined with Lot 64 to make a lot and a half into one lot. That action increased the square footage of the house they could build per the CC&R's. Planner Maloney stated that the adjacent owners of the other half of Lot 63 and all of Lot

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 27, 2006**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, July 27, 2006. Members in attendance were Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; David Maloney, Planner; Kirsten Whetstone, Planner; and Ben Davis, Planning Intern.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Resolution naming and honoring Sally Elliott as the Mayor's Choice for the 2006 Award in the Humanities – The Mayor read the resolution into the record and thanked Ms. Elliott for her many contributions to the community both as a former City Council member and current Summit County Commissioner.

III PUBLIC INPUT (any matter of City business not scheduled on agenda)

None.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF JULY 6, 2006 AND JULY 13, 2006

Roger Harlan, "I move approval of the work session notes and minutes of the meetings of July 6 and July 13, 2006". Candace Erickson seconded. Motion unanimously carried.

V RESIGNATIONS AND APPOINTMENTS

Appointments to the Police Review and Complaint Committee – Mayor Williams recommended the reappointment of Jerry Bush, and appointments of Charles Neal and Coady Schueler for terms expiring July 2008.

VI CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance amending the Prospect Street Subdivision Plat, Park City, Utah (motion to continue to September 14, 2006) – The Mayor requested a motion to continue. Candace Erickson, "I so move". Roger Harlan seconded. Motion unanimously carried.

2. Continuation of a public hearing of an Ordinance approving a subdivision plat for 259-263 Norfolk Avenue, Park City, Utah – To better understand the action, Mayor

Williams noted that he and staff walked the property today. Dave Maloney explained that the condominium plat is being vacated. The owner intends to demolish the existing structure and establish three lots of record to construct three single family homes. The lots are on steep slopes and subject to a conditional use permit prior to the issuance of a building permit. Staff finds that the conceptual site plan proposed provides reasonable access from Norfolk Avenue. He added that the existing structure doesn't meet current HR-1 height and setback requirements and encroaches 18 feet into the Norfolk Avenue right-of-way. Because of the steep slope feature, the applicant has the ability to request a height increase but no increase in the floor area. At its meeting last night, the Planning Commission recommended approval with additional findings. Mr. Maloney distributed a revised ordinance and pointed out modifications and additions, including prohibition of accessory apartments. Mayor Williams relayed that this action relates to platting property, not designing structures.

Applicant Jerry Fiat stated that the existing structure encroaches on City right-of-way and he is proposing a 19 foot driveway where disturbance already exists. One driveway will serve three homes and is wide enough to accommodate trucks. He felt it is a benefit eliminating three units of density, removing a non-conforming structure, adding on-site parking which did not exist, and providing construction access from King Road at considerable expense. Additionally, he has agreed to prohibit accessory units. The disturbed area of the existing structure is greater than the net affect of new three structures and the driveway. There will be more green space.

Mr. Maloney added that it appears that the design of the driveway will retain the landscape berm and the conditional use process will finalize the design. Roger Harlan noted that a year ago, many Upper Norfolk Avenue residents were against this project. The applicant has done a good job of addressing neighborhood objections, but he is still concerned about construction impacts. Jerry Fiat discussed proposed construction phasing and staging on King Road.

Dave Maloney stated that he received a correspondence from an adjacent neighbor, Kevin King, who wrote that his letter is a formal notice of appeal if the plat is approved tonight and referenced LMC Section 15-7.34 which deals with road design requirements. Mr. Maloney pointed out that this section of the Code deals with new subdivisions and does not apply to this application.

The Mayor opened the public hearing, and hearing no input, closed the hearing.

3. Ordinance approving the Lot 5 April Mountain Subdivision Plat Amendment, located at 1315 Mellow Mountain Road, Park City, Utah – Ben Davis, Intern Planner, explained that the application is to adjust building pads by moving the lot further north, which will preserve natural landscaping. The Planning Commission forwarded a

positive recommendation. He explained limitations on the access road for construction of the driveway. The Mayor opened the public hearing, and closed it as there were no comments from the audience.

4. Ordinance approving the Kampai Plat Amendment, located at 586 Main Street, Park City, Utah – Ben Davis explained that the request is to combine Lot 22, Lot 24 and a metes and bounds parcel into one lot of record. There is an existing historic building where the Kampai Restaurant operates. There is no impact on the pedestrian walkway easement in the area, and there are no objections by neighboring owners. The Planning Commission forwarded a positive recommendation. The Mayor opened the public hearing. There was no public input and the hearing was closed.

5. Ordinance approving a plat amendment for Lots 63 and 64, The Oaks at Deer Valley, located at 3615 and 3605 Oakwood Drive, Park City, Utah – Planner Dave Maloney explained that Lots 62, 63 and 64 were owned by two separate parties and in 2004, a plat amendment was approved to combine Lot 64 and half of Lot 63, although the property owners of the other half of Lot 63 and Lot 62 felt that they didn't receive proper notice. The plat amendment proceeded and a lot and a half was created and there was a verbal agreement between the parties that Lot 63 would remain open space. The owners of Lot 64 and half of Lot 63 could have increased the size of the residence by 150% with the lot combination. Since that time, the owners of Lot 62 and half of Lot 63 have purchased the other half of Lot 63 and Lot 64, and are requesting to revert to the way the lots were originally platted in 1989. All three lots are still vacant, the ownership is under one party, and approval eliminates remnant parcels.

The Mayor opened the public hearing and with no comments, closed the public hearing.

VII CONSENT AGENDA

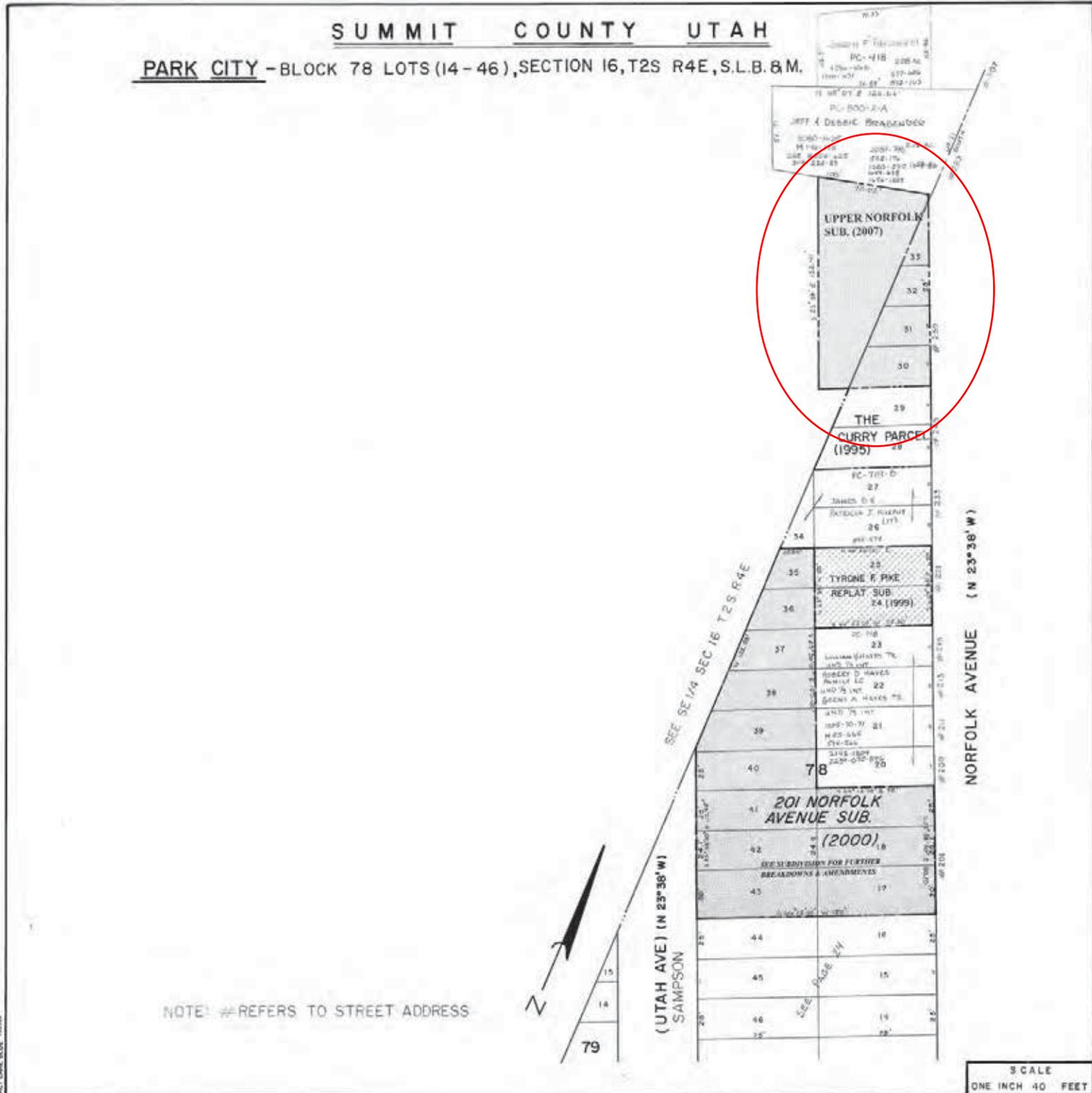
Jim Hier, "I move we approve Consent Agenda Items 1 through 5". Roger Harlan seconded. Motion unanimously carried.

1. Ordinance approving a subdivision plat for 259-263 Norfolk Avenue, Park City, Utah – See staff report and public hearing.

2. Ordinance approving the Lot 5 April Mountain Subdivision Plat Amendment, located at 1315 Mellow Mountain Road, Park City, Utah - See staff report and public hearing.

3. Ordinance approving the Kampai Plat Amendment, located at 586 Main Street, Park City, Utah - See staff report and public hearing.

Exhibit O Sub Exhibit G – Original Lot Configuration



March 18, 2015

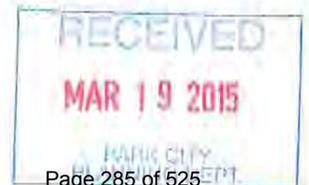
Dear Francisco Astorga and the Planning Board,

Thirty-two years ago, Don and Betty Holbrook built their house at 238 Upper Norfolk Street. It is now owned by Michael Kaplan. The same contractors renovated 244 Upper Norfolk Street, which is owned by Edward DeSisto. Part of the construction involved erecting a retaining wall, which was approved and later inspected by the city. (The city issued an encroachment permit, a copy of which is included with this letter.) This wall was built with the intent of providing parking spaces for the residents of 238 and 244 Upper Norfolk Street. The city has allowed both owners to post signs which read, "The parking along the wall is reserved for 238 and 244 Norfolk Street." Over the years we have made improvements to the wall, including a red sandstone rock face, and maintained the landscape behind the wall.

Jerry Fiat is the owner of three lots on the uphill side of Upper Norfolk, beyond one end of the retaining wall. One of Jerry Fiat's early plans was to create an ingress and egress by cutting down half of the wall, which is on a 30-degree slope. The Planning Department has previously rejected the plan. We are concerned that the new proposals may try to do the same as the first plan. We would like to have assurance that the retaining wall will not be disturbed.

The construction mitigation for this project is a real concern for the whole neighborhood. We would like to see a plan that includes the following:

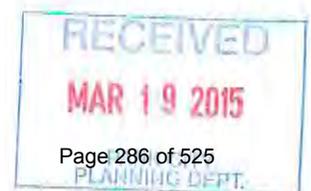
- 1) There would be no contractor parking on the street where the residents normally park. A carpool plan for the contractors would be helpful.
- 2) Construction vehicles would not impede the flow of traffic along the street. Of special concern is the ready access for emergence vehicles.
- 3) Residents would have the authority to have vehicles fined and/or towed that are in violation.
- 4) City inspectors and police and police would monitor their compliance.
- 5) There should be a detailed construction mitigation plan.



The residents of Upper Norfolk wish to maintain the historic, mountainous nature of the neighborhood and we trust your leadership will follow the spirit of the Park City Municipal Code.

Thank you,

Edward DeSisto
244 Upper Norfolk Street



Fee Exempt per Utah Code
Annotated 1953 21-7-2

4442000

REQUEST OF Park City Municipal

FEE \$ D.H. ALAN SPENCER, CLERK & RECORDER

RECORDED 7-9-94 at 9:10 M

ENCROACHMENT PERMIT
 236,238, 240 UPPER NORFOLK AVENUE
 DONALD B. HOLBROOK, BETTY J. HOLBROOK
 AND DEBRA PACK

INDEXED: _____
 GRANTOR: _____
 GRANTEE: _____
 RELEASED: _____
 ABSTRACTED: A 125
 STAMPED: _____

THIS AGREEMENT is made by and between PARK CITY MUNICIPAL CORPORATION ("City") AND DONALD B. and BETTY J. HOLBROOK and DEBRA PACK ("Owners") to set forth the terms and conditions under which the City will permit the Owners to build certain improvements to their lots within the right-of-way at 236-238, 240, Upper Norfolk Avenue, Park City, Utah. Subject to the following terms and conditions of this Agreement, Owners shall have the right to construct and maintain a retaining wall to support a driveway and parking area within the platted right-of-way

1. This Encroachment Agreement shall be appurtenant to the following described property:

✓ Lots 21, 22 and 23, Block 29 Park City Survey (Upper Norfolk Avenue).

This Agreement is not transferrable to other property, but is freely transferrable with the title to these lots. The license and conditions as stated in the Agreement, are binding on the successors in title or interest of Owners.

2. The improvements permitted within the street right-of-way for Upper Norfolk Avenue shall consist of a concrete retaining wall of a design approved by the City as being structurally sufficient to retain the earth and the loadings that are reasonably anticipated. The extent of the encroachment is shown on plans approved by the City in conjunction with construction on the Holbrook-Pack property.

3. Although it is not currently planned, and somewhat unlikely because of the expense involved, the

BOOK 306 PAGE 561-565

(# 1)

City may, at some future date, elect to make improvements to Upper Norfolk Avenue at this location and widen the street to the full width of the right-of-way for Upper Norfolk Avenue. To the extent that any street improvements require the removal, relocation, replacement, and/or destruction of the improvements the Owners may have built within the right-of-way, the Owners waive any right to compensation for the loss of the use of the street right-of-way and/or any change in the grade and elevation of the street. This waiver of compensation, in the event the improvements are removed for street widening purposes, is the consideration given for the granting of this encroachment permit.

4. Prior to widening the street in a manner that will require the removal or relocation of the improvements, the City will give the Owners thirty (30) days notice, in which time the Owners shall make adjustments and remodel the access to the lots necessary to accommodate the changes in the street width and/or grade at Owners' cost.

5. No permanent right, title, or interest of any kind shall vest in the Owners in the street right-of-way by virtue of this Agreement. The property interest hereby created is a revocable license, and not an easement or other perpetual interest. No interest shall be perfected under the doctrines of adverse possession, prescription, or other similar doctrines of law based on adverse use, as the use hereby permitted is entirely permissive in nature.

6. The Owners or their successors shall maintain the retaining wall in a good state of repair at all times, and upon notice from the City, will repair any damaged, weakened, or failed sections of the wall. The Owners agree to hold the City harmless and indemnify the City for any and all claims which might arise from third parties who

BOOK 306 PAGE 562

are injured as a result of the Owners' use of the right-of-way for private purposes, or from the failure of the Owners' improvements.

7. This Agreement shall be in effect until the license is revoked by the City. Revocation shall be effected by the City regarding a notice of revocation with the Summit County Recorder and sending notice to Owners or their successors.

Dated this 5th day of July, 1984.

PARK CITY MUNICIPAL CORPORATION

John C. Green, Jr.
Mayor John C. Green, Jr.

ATTEST:

William R. Gasthousen
City Recorder



Donald B. Holbrook
Donald B. Holbrook

Betty J. Holbrook
Betty J. Holbrook

Debra Pack
Debra Pack

BOOK 306 PAGE 563

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the 7 day of July, 1984, personally appeared before me JOHN C. GREEN, JR. and WILLIAM R. GATHERUM, who being duly sworn did say, each for themselves, that he the said John C. Green, Jr. is the Mayor and he, the said William R. Gatherum is the City Recorder of PARK CITY MUNICIPAL CORPORATION, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its City Council, and they duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Thomas E. Chase
Notary Public
Residing at Park City, Utah

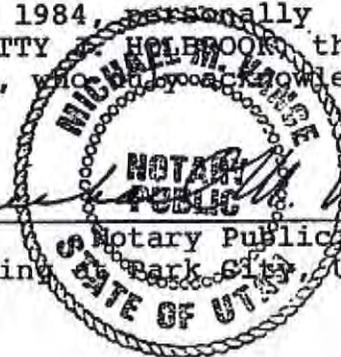


My Commission Expires:
Oct 17, 1986

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the 2nd day of July, 1984, personally appeared before me DONALD B. and BETTY S. HOLEBROOK, the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

Michael M. Vance
Notary Public
Residing at Park City, Utah

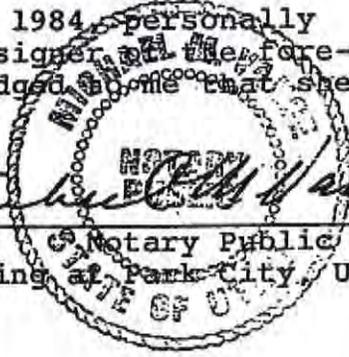


My Commission Expires:
6/18/88

BOOK 306 PAGE 564

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

On the 2nd day of July, 1984, personally appeared before me DEBRA PACK, the signer of the foregoing instrument, who duly acknowledged to me that she executed the same.

A circular notary seal for Michael E. Hance, Notary Public, State of Utah, with his signature written across it.
Michael E. Hance
Notary Public
Residing at Park City, Utah

My Commission Expires:
6/18/88

BOOK 306 PAGE 565

Planning Commission Staff Report



Application: PL-14-02595
Subject: LMC Amendments
Author: Kirsten Whetstone, MS, AICP
Date: June 24, 2015 (continued from June 10, 2015)
Type of Item: Legislative – LMC Amendments

Summary Recommendation

Staff recommends that the Planning Commission review and discuss the following proposed amendments to the Land Management Code (LMC) as part of the annual LMC review and update:

- Setbacks for patios and hot tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, and RC Chapter 2.16;
- Applicability of Steep Slope Conditional Use Permits in HRL, Chapter 2.1, HR-1 Chapter 2.2, and HR-2 Chapter 2.3;
- Combination of condominium units procedure in Chapters 7.1;
- Annexations procedure and review in Chapter 8;
- Non-conforming uses and non-complying structures in Chapter 9;
- Board of Adjustment standard of review and appeals in Chapters 1 and Chapter 10; and
- Definitions in Chapter 15 (carports, building footprint, light industrial use, mixed use).

Staff recommends the Planning Commission conduct a public hearing, consider public input, and consider forwarding a positive recommendation to City Council according to the findings of fact and conclusions of law in the Draft Ordinance.

Staff recommends continuation of LMC Amendments to Chapter 2.4 Historic Medium Density (HRM) to the July 22, 2015 meeting. This Chapter of the LMC was noticed for the June 10th meeting however Staff requests additional time to review proposed redlines.

Note: This report was in the June 10, 2015 meeting. Minor changes have been made to the dates and additional redlines for Chapters 2, 8, 9, and 10 were incorporated into the body of the report. At the June 10th meeting the Planning Commission opened a public hearing and continued this item to the June 24th meeting due to the lateness of the hour. No public input was provided at the June 10th meeting.

Executive Summary

The Planning Staff conducted an annual review of the Land Management Code (LMC) and proposes these amendments to the Code for consideration by the Planning

Commission and City Council. This annual review includes various administrative and substantive items to align the LMC with the State Code, to address issues and inconsistencies that have come up over the past year, and to address specific goals of the newly adopted Park City General Plan.

Description

Project Name: LMC Amendments 2015
Approximate Location: Historic Districts and Citywide
Proposal: Amendments to the Land Management Code (LMC) require Planning Commission review and recommendation with final action by the City Council.

Background

On February 25, 2015, the Planning Commission conducted a public hearing, discussed the proposed amendments to setbacks for hot tubs and patios (Exhibit H). After discussion the Commission requested staff return with further revisions. The Commission recommended staff prepare redlines to allow three (3') foot side and rear setbacks for hot tubs and patios. The Commission was unanimous in recommending that screening of hot tubs not be required. The Commission has not yet discussed the other items in this report.

General Plan

These proposed Land Management Code (LMC) amendments were reviewed for consistency with the recently adopted Park City General Plan. The LMC 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. The LMC is intended to be updated on a regular basis to stay current with State Law and the General Plan.

Proposed LMC Amendments

1. Setbacks for patios and hot tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, HRM Chapter 2.4, and RC Chapter 2.16

As discussed at the February 25, 2015 meeting, due to several factors there are numerous hot tubs in the HR-1, HRL, HR2, HRM and RC Zoning Districts that were installed prior to LMC changes requiring a five foot (5') rear and side setback or were installed more recently without proper permits. It is apparent that hot tubs are a typical element in a mountain town, both for permanent residents and visitors and the City desires to accommodate this element with reasonable constraints.

Staff has heard from many property owners that it can be very difficult to locate a hot tub in the rear yard of existing houses where the typical rear setback is ten feet (10') and the hot tub exception is five feet. A typical hot tub with the cabinet and cover will usually not fit within this area (e.g. a five (5') square hot tub would have to be located

right up against the house wall and, once the trim/outer rim of the hot tub is taken into the calculations, it will cross over into the five (5') rear yard setback exception leaving four feet (4'), or 3 feet (3') for the larger six foot (6') square hot tubs. In the design phase for new houses this dimension is pointed out and the design can be changed to accommodate the five foot (5') setback.

Staff has met with individual property owners as well as contractors in an attempt to figure out a compromise. The LMC currently allows patios (and tables and chairs) to be located within one foot (1') of the rear lot line in "Old Town." Accessory structures, up to 18' in height are also allowed within one foot (1') with restrictions on lot coverage.

Staff is recommending, in concert with direction from the Planning Commission at the February 25, 2015 meeting, that hot tubs be allowed within three feet (3') of the rear and side lot lines. This will accommodate most typical sized hot tubs. Staff recommends that hot tubs be screened in the form of a fence, trellis, or substantial vegetation, however this is not a code requirement.

In order to address setback issues related to hot tubs and patios in the rear and side yards in the HRL, HR-1, HR-2, HRM, and RC Zoning Districts, and to ensure that the language is consistent in these zones, Staff recommends discussion regarding the following LMC Amendments:

- Amend the Side and Rear Yard Setback Exceptions to allow hot tubs to be located within three feet (3') of the rear yard (currently requires five feet (5')) and within three feet (3') of the side yard (currently requires five feet (5')). **(See Exhibit B - Sections 15-2.1 (HRL), 15-2.2 (HR-1), 15-2.3 (HR2), 15-2.4 (HRM), and 15-2.16 (RC)) for proposed redlines).**

See below for Example of redlines to the Rear Yard Exceptions in the HRL District:

15-2.1-3 LOT AND SITE REQUIREMENTS

...

(G) REAR YARD EXCEPTIONS. The Rear Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, projecting not more than two feet (2') into the Rear Yard.

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Rear Yard.

(3) Window wells or light wells extending not more than four feet (4') into the Rear Yard.

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Rear Yard.

(5) Window sills, belt courses, cornices, trim, exterior siding, or other ornamental features projecting not more than six inches (6") into the Rear Yard.

(6) A detached Accessory Building not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, and maintaining a minimum Rear Yard Setback of one foot (1'). Such Structure must not cover over fifty percent (50%) of the Rear Yard. See the following illustration: ...

(7) Hard-Surfaced Parking Areas subject to the same location requirements as a Detached Accessory Building.

(8) Screened mechanical equipment, hot tubs, ~~or~~ and similar Structures located at least ~~five feet (5')~~ three feet (3') from the Rear Lot Line.

(9) Fences or walls as permitted in Section 15-4-2 Fences and Walls.

(10) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") above Final Grade, located at least one foot (1') from the Rear Lot Line.

(11) Pathways or Steps connecting to a City staircase or pathway.

On February 25, 2015, the Planning Commission conducted a public hearing and discussed the proposed amendments to setback requirements for hot tubs (see Exhibit H). There was consensus among the Commission to amend the code allowing a three foot (3') setback on both the side and rear property lines for hot tubs and that requiring additional screening was not necessary. Screening of mechanical equipment would continue to be required if the equipment is located within the setback area.

2. Applicability of Steep Slope Conditional Use Permits in HRL, Chapter 2.1, HR-1 Chapter 2.2, and HR-2 Chapter 2.3

Steep Slope Conditional Use Permits are required in the HRL, HR-1, and HR-2 zoning districts for development on slopes that measure 30% or greater. In reviewing applications for compliance with the Steep Slope CUP requirements, Staff finds that the language related to the applicability of these requirements could be clarified and amended. The current language is not clear whether additions trigger a Steep Slope CUP or when a driveway triggers a Steep Slope CUP.

Staff proposes these amendments to change the applicability of Steep Slope CUPs from the current requirement of when construction is greater than 1,000 square feet of building area to a requirement of when construction (new or an addition) is greater than 200 sf of building footprint. The amendments make it clear that a Steep Slope CUP is required when the driveway access or the building footprint is located on a slope of 30% or greater.

The existing language regarding "Allowed Use" is not necessary and is confusing to some applicants. There are no changes to the review criteria or regulations with these amendments (**see Exhibit B- Sections 15-2.1 (HRL), 15-2.2 (HR-1), and 15-2.3 (HR2) for redlines to these sections**). Staff proposes the following redlines to HR-1 (same language proposed in HRL and HR2 Zoning Districts):

15-2.1-6 DEVELOPMENT ON STEEP SLOPES.

Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Historic District Design Guidelines for Park City's Historic Districts and Historic Sites and Chapter 5.

~~(A) **ALLOWED USE.** An allowed residential Structure and/or Access to said Structure located upon an existing Slope of thirty percent (30%) or greater must not exceed a total square footage of one thousand square feet (1,000 sq. ft.) including the garage.~~

~~(BA) **CONDITIONAL USE.** A Conditional Use permit is required for any Structure in excess of one thousand square feet (1000 sq. ft.) if said Structure, and/or Access, is located upon any existing Slope of thirty percent (30%) or greater.~~

(1) A Steep Slope Conditional Use permit is required for construction of any Structure with a Building Footprint in excess of two hundred (200) sq. ft. , if said Building Footprint is located upon an existing Slope of thirty percent (30%) or greater.

(2) A Steep Slope Conditional Use permit is required for construction of any addition to an existing Structure, when the addition has a new Building Footprint in excess of two hundred (200 sq. ft.), if the new Building Footprint is located upon an existing Slope of thirty (30%) or greater.

(3) A Steep Slope Conditional Use permit is required for any Access driveway located upon an existing Slope of thirty (30%) or greater.

For the purpose of measuring Slope, the measurement shall include a minimum horizontal distance of fifteen feet (15') measured perpendicular to the contour lines on the certified topographic survey. The measurement shall quantify the steepest Slope within the Building Footprint and any Access driveway.

The Planning Department shall review all Steep Slope Conditional Use permit Applications and forward a recommendation to the Planning Commission. The Planning Commission may review Steep Slope Conditional Use permit Applications as Consent Calendar items. Steep Slope Conditional Use permit Applications shall be subject to the following criteria: ...

3. Combination of condominium units procedure in Chapter 7

State Code was amended in 2014 to explicitly allow (with certain exceptions) a condominium unit owner after acquiring an adjoining unit that shares a common wall with

the unit owner's unit: to remove or alter a partition between the unit owner's unit and the acquired unit, even if the partition is entirely or partly common areas and facilities; or create an aperture to the adjoining unit or portion of a unit. In the past, State Code required an amendment to the Condominium Plat and consent of two-third of the unit owners.

In order to clarify the process required by our Code based on the changes, **Staff recommends amending the plat amendment application and adding language to Chapter 7.1 of the LMC (See Exhibit C).** The combination of adjacent units that share a common wall within a condominium plat will still require an amendment to the recorded condominium plat in order to reflect the joining of the two units, however based on State Code section 57-8-4.5 (Exhibit I), the requirement for proof consent by two-thirds of the units owners will not be required.

-Staff recommends adding the following language to LMC Chapter 7.1 Subdivision Procedures:

15-7.1-6. FINAL SUBDIVISION PLAT

...

(G) COMBINATION OF ADJOINING CONDOMINIUM UNITS WITH A CONDOMINIUM RECORD OF SURVEY PLAT

(1) Subject to the condominium declaration, a unit owner after acquiring an adjoining unit that shares a common wall with the unit owner's unit and after recording an amended condominium record of survey plat in accordance with this Title, a unit owner may:

- (a) remove or alter a partition between the unit owner's unit and the acquired unit, even if the partition is entirely or partly common areas and facilities; or
- (b) create an aperture to the adjoining unit or portion of a unit.

(2) A unit owner may not take this action if such action would:

- (a) impair the structural integrity or mechanical systems of the building or either unit;
- (b) reduce the support of any portion of the common areas and facilities or another unit;
- (c) constitute a violation of Utah Code Section 10-9a-608-, as amended, or violate any section of this code or the IBC.

(3) Approval of a condominium plat amendment to combine units does not change an assessment or voting right attributable to the unit owner's unit or the acquired unit, unless the declaration provides otherwise.

4. Annexations procedure and review in Chapter 8

Staff recommends changes to Chapter 8 regarding the procedure for annexation petition and annexation plats to align the LMC with State Code. **The itemized procedural changes are reflected in attached redlines of Chapter 8 (see Exhibit D).**

15-8-4. PROCEDURE FOR PETITION AND ANNEXATION PLATS.

The procedure for processing annexation petitions and plats shall be as follows:

...

(D) If the annexation petition is certified by the City Recorder, the City Council shall provide for public notice ~~and shall set a hearing~~ as set forth in Section 10-2-406 of the Utah Code, Annotated, 1953, as amended.

(E) The Planning Commission, upon referral from the Planning Director, shall hold a public hearing and make a recommendation on the annexation proposal, including the recommended zoning, to the City Council. After receipt of the Planning Commission's recommendation and after giving notice pursuant to Section 10-2-406 of the Utah Code, Annotated, 1953, as amended, the City Council shall hold a public hearing on all proposed annexations. After closure of the public hearing, the City Council may either grant ~~or~~ deny the annexation petition; provided, however, that protests to an annexation petition shall be dealt with as set forth in Section 10-2-407 of the Utah Code, annotated, 1953, as amended. Denial of or granting the petition under protest is subject to Section 10-2-408 of the Utah Code, Annotated, 1953, as amended. If City Council grants the annexation petition, it shall assign a zone to the annexed territory at the time the territory is annexed.

(G) Once the City Council enacts an ordinance annexing an unincorporated Area or adjusting a boundary all applicable zoning and Land Management Code sections shall apply to the annexed Property.

(H) Within thirty (30) days after enacting an ordinance annexing an unincorporated Area or adjusting a boundary, the City shall:

~~(1) Record with the County Recorder a certified copy of the ordinance approving the annexation or boundary adjustment, together with the annexation plat or map prepared by a licensed surveyor and approved by the City, showing the new boundaries of the affected Area.~~

~~(2) File file~~ with the Lieutenant Governor of the State of Utah the ~~amended Articles of Incorporation reflecting the annexation or boundary adjustment, as provided in Section 10-1-117~~ notice of annexation, as required by Section 10-2-425, of the Utah Code, Annotated, 1953, as amended.

~~(3) Comply with the notice requirements of Section 10-1-116 of the Utah Code, Annotated, 1953, as amended.~~

(I) Upon receipt of the Certificate of Annexation from the Lieutenant Governor, the City shall record with the County Recorder:

(1) The original notice of annexation filed with the Lieutenant Governor;

(2) The Certificate of Annexation issued by the Lieutenant Governor;

(3) The original approved plat or map prepared by a licensed surveyor and approved by the City; and

(4) A certified copy of the ordinance approving the annexation.

(Amended by Ord. No. 06-22)

(C) CONDITIONS OF ANNEXATION APPROVAL AND ANNEXATION AGREEMENT. The City has established the following conditions, which must be met prior to completion of the annexation, unless the City Council finds that the circumstances of an annexation are such that a condition or conditions do not apply. These conditions shall be applied consistently for each Property; however, unusual or unique circumstances may emerge from time to time where special conditions may be applied. The conditions of annexation approval shall be formalized as part of ~~the a~~ written annexation agreement prepared by the Planning Director, or designee.

The annexation agreement shall be reviewed by the Planning Commission and approved by City Council contemporaneously with the certified annexation petition. If approved the annexation agreement shall be signed by the petitioners and City Council and recorded with the Summit County Recorder.

5. Non-conforming uses and non-complying structures in Chapter 9

Staff recommends two primary changes to the non-conforming use and non-complying structure sections of Chapter 9. The first change is the addition of qualifying language pertaining to the enforcement of certain non-conforming use and non-complying structure regulations and that the language is not intended to cause the termination of legal Non-conforming rental housing use and outlines physical changes that can be required to a Structure containing a legal Non-conforming rental housing use.

The second change deletes the word "a majority" and replaces it with "more than 50% of the Gross Floor Area" when referring to the amount of the building that can be voluntarily demolished in order to be able to restore the building back to the previous non-conforming use or non-complying condition. Additionally Staff proposes amendments to Section 15-9-8 regarding appeals of a Board of Adjustment decision

under this Chapter to be consistent with other Sections of the LMC (**See Exhibit E for redlines to Chapter 9**).

15-9-5. MOVING, ENLARGING, OR ALTERING NON-CONFORMING USES. ...

(F) DAMAGE OR DESTRUCTION OF BUILDING OR STRUCTURE WITH NON-CONFORMING USE.

If a Building or Structure that contains a Non-Conforming Use is allowed to deteriorate to a condition that the Structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the Property Owner that the Structure is uninhabitable and that the Non-Conforming Use will be lost if the Structure is not repaired or restored within six (6) months; or the Property Owner has voluntarily demolished ~~a majority more than 50% of the Gross Floor Area of the Structure of the Building~~ that houses the Non-Conforming Use; or if a Building or Structure that contains a Non-Conforming Use is voluntarily razed, or is required by law to be razed, the Non-Conforming Use shall not be resumed, and the Building or Structure shall not be restored unless it is restored to accommodate a conforming Use within a complying Structure.

(G) LEGAL NON-CONFORMING RENTAL HOUSING USE. Enforcement of this Ordinance is not intended to terminate a legal Non-Conforming rental housing Use. No physical changes shall be required to a Structure containing a legal Non-Conforming rental housing Use unless the change is for the following:

- (1) The reasonable installation of a smoke detector that is plugged in or battery operated.
- (2) A ground fault circuit interrupter protected outlet on existing wiring;
- (3) Street addressing;
- (4) An egress bedroom window if the existing bedroom window is smaller than that required by current state building code; unless such change would compromise the structural integrity of the building or could not be completed in accordance with current building codes, including Setbacks and window well requirements.
- (5) An electrical system or plumbing system, if the existing system is not functioning or is unsafe as determined by an independent, licensed electrical or plumbing professional.
- (6) Hand or Guard rails.
- (7) Occupancy separation doors as required by the IBC.
- (8) The abatement of a Structure.

15-9-6. NON-COMPLYING STRUCTURES.

No Non-Complying Structure may be moved, enlarged, or altered, except in the manner provided in this Section or unless required by law.

...

(C) **DAMAGE OR DESTRUCTION OF NON-COMPLYING STRUCTURE.**

If a Non-Complying Structure is allowed to deteriorate to a condition that the Structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice is provided to the Property Owner stating that the Structure is uninhabitable and that the Non-Complying Structure or the Building that houses a Non-Complying Structure shall not be restored unless it is restored to comply with the regulations of the Zoning District in which it is located.

If the Property Owner has voluntarily demolished, or is required by law to demolish, more than 50% of the Gross Floor Area of the Non-Complying Structure, is voluntarily razed or is required by law to be razed, the Structure shall not be restored unless it is restored to comply with the regulations of the ~~zone~~ Zoning District in which it is located.

If a Non-Complying Structure is involuntarily destroyed in whole or in part due to fire or other calamity and the Structure or Use has not been abandoned, the Structure may be restored to its original condition, provided such work is started within six months of such calamity, completed within eighteen (18) months of work commencement, and the intensity of Use is not increased.

15-9-8. APPEALS.

The City or any Person with standing adversely affected by a decision of the Board of Adjustment under this Chapter may petition the District Court in Summit County for a review of the decision. Appeal from a Board of Adjustment decision made pursuant to this Chapter shall be made to the district court and not to City Council. and shall be made according to the requirements of the Utah State Code. -Any Person applying to the district court for review of any decision made under the terms of this Chapter shall apply for review within thirty (30) days after the date the decision is filed with the City Recorder as prescribed by state statute.

6. **Board of Adjustment standard of review and appeals in Chapters 1 and Chapter 10**

Amendments to Chapters 1 and 10 include clarifying the powers and duties of the Board of Adjustment related to 1) appeals of final action by the Planning Staff on Historic District Design Review applications when the Historic Preservation Board (HPB) takes part in the review and 2) appeals of Final Action by the HPB on Determination of Significance applications. **Staff's proposed LMC Amendments are redlined in Exhibits A and F attached.**

15-10-3. POWERS AND DUTIES.

(A) The Board of Adjustment shall hear and decide:

- (1) Appeals from zoning decisions applying Title 15, Land Management Code;
- (2) Variances from the terms of the Land Management Code.

(3) Appeals and call-ups of Final Action by the Planning Commission at the request of the City Council for City Development applications.

(4) Appeals of Final Action by the Planning Staff on Historic District Design Review applications when the Historic Preservation Board takes part in the review and Final Action.

(5) Appeals of Final Action by the Historic Preservation Board on Determination of Significance applications.

(B) The Board of Adjustment shall make determinations regarding the modification of Non-Conforming Uses and shall hear appeals on the determination of Non-Conforming or Non-Complying status by the Director of the Planning Department, as provided in Title 15, Chapter 9.

15-10-7. APPEALS.

Also see Section 15-1-18. The Board shall hear and decide appeals from an Applicant or any other Person or entity, including any officer or board of the City, adversely affected by a final decision administering or interpreting the Land Management Code which alleges that there is an error in any order, requirement, decision or determination of the Land Management Code.

The appeal must be made in writing and submitted to the Planning Department within ten (10) days of the decision. The Board may, in conformity with the provisions of the Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative official, board, or commission from whom the appeal is taken. The Person or entity making the appeal has the burden of proving that an error has been made.

A Person may not appeal, and the Board of Adjustment may not consider, any amendments to the Land Management Code, or appeals of Conditional Use permits or Master Planned Developments, which shall be appealed to the City Council, unless specifically requested by the City Council for City Development. Appeals may not be used to waive or modify the terms or requirements of the Land Management Code.

Appeals shall be considered by the Board of Adjustment on the record made before the Historic Preservation Board or Planning Commission. Appeals to the Board of Adjustment will review factual matters for correctness and determine the correctness of the decision of the land Use authority in its interpretation and application of the land Use ordinance. The scope of review of the Board of Adjustment is limited to issues brought to the land Use authority.

Exception. For appeals to the Board of Adjustment regarding Design Guidelines for Historic Districts and Historic Sites involving City Development projects, the Board of Adjustment shall review factual matters de novo and it shall determine the correctness of

the Planning Director or Planning Staff decision in the interpretation and application of the Guidelines and LMC Title 15 Chapter 11.

Exception. For appeals to the Board of Adjustment regarding Determination of Significance (DOS) applications, the Board of Adjustment shall review factual matters de novo and it shall determine the correctness of the Historic Preservation Board decision in the interpretation and application of LMC Section 15-11-10.

15-10-8. VARIANCE.

...

(F) Variances run with the land.

~~(G) The Board of Adjustment may condition a variance by requiring the Owner to obtain a Building or other necessary permit within one (1) year of issuance of the variance, or the variance shall be null and void.~~

~~(HG)~~ The Board of Adjustment and any other body may not grant a Use variance.

~~(H)~~ In granting a variance, the Board of Adjustment may impose additional requirements on the Applicant that will:

- (1) mitigate any harmful affects of the variance; or
- (2) serve the purpose of the standard or requirement that is waived or modified.

7. Defined Terms in Chapter 15

The following terms are not defined in the current LMC: carports, light industrial use, and mixed use. Staff finds that providing definitions in the code for these terms would be helpful in consistently applying the code. Staff recommends amending Chapter 15-Defined Terms to include the following terms and that the Chapter be appropriately re-numbered.

Carport. A carport is a covered parking space attached to the house, or free standing, which is not completely enclosed by walls and does not include garage doors.

Light Industrial. Uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, Light Industrial shall mean uses such as the manufacture of electronic instruments, preparation of food and beverage products, pharmaceutical manufacturing, research and scientific laboratories or the like. Light Industrial shall not include Uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal or related industries, or manufacturing related to the automobile industry.

Mixed Use Development. A development of one or more buildings that blends a combination of residential, commercial, cultural, institutional, or industrial uses, where those functions are physically and functionally integrated, and that provides pedestrian connections. A Mixed Use development may also include a building, complex of buildings, or district of a town or city that is developed for mixed-use by a private developer, (quasi-) governmental agency, or a combination thereof.

In reviewing the definition for Building Footprint, Staff recommends that the regulatory language that follows the definition should be deleted from the definition in LMC Chapter 15 and should be relocated to the applicable LMC Sections (HRL, HR-1, HR-2, HRM, HRC, and HCB). The Building Footprint of Accessory Buildings that are listed on the Park City Historic Structure Inventory and that are not expanded, enlarged, or incorporated into the Main Building, is not included or calculated in the overall Building Footprint for the lot.

Building Footprint. The total Area of the foundation of the Structure, or the furthest exterior walls of the Structure projected to Natural Grade, not including exterior stairs, patios, and decks and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building.

Staff recommends the following language be included in the HRL, HR-1, HR-2 and RC Zoning Districts, under the Building Footprint Sections (See Exhibit B):

Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building, shall not count in the total Building Footprint of the Lot.

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 public notice websites on May 8, 2015 and published in the Park Record on May 9, 2015 per requirements of the Land Management Code.

Public Input

Public hearings are required to be conducted by the Planning Commission and City Council prior to adoption of Land Management Code amendments. Public input was provided at the February 25th Commission meeting (see Exhibit H). There was public input in opposition to the change in setbacks for hot tubs due to concerns with noise. A public hearing was opened on June 10th and was continued to June 24th due to the lateness of the hour. No public input was provided at the hearing on June 10th.

Alternatives

- The Planning Commission may approve the proposed Land Management Code amendments in whole or in part as presented or amend them at the meeting; or
- The Planning Commission may deny the proposed amendments in whole or in part; or
- The Planning Commission may continue the discussion to a date certain and provide direction to Staff regarding additional information or analysis needed in order to take final action.

Significant Impacts

There are no significant financial or environmental impacts to the City that result from the proposed LMC amendments.

Summary Recommendation

Staff recommends the Planning Commission conduct a public hearing, consider public input, and consider forwarding a positive recommendation to City Council according to the findings of fact and conclusions of law in the Draft Ordinance.

Staff recommends continuation of LMC Amendments to Chapter 2.4 Historic Medium Density (HRM) to the July 22, 2015 meeting. This item was noticed for the June 10th meeting however Staff requests additional time to review proposed redlines.

Exhibits

Draft Ordinance

Exhibit A – Chapter 1- General Provisions and Procedures

Exhibit B – Chapter 2- 2.1 HRL, 2.2 HR-1, 2.3 HR-2, and 2.16 RC

Exhibit C – Chapter 7.1- Subdivision Procedures

Exhibit D – Chapter 8- Annexation

Exhibit E – Chapter 9- Non-conforming Uses and Non-complying Structures

Exhibit F – Chapter 10- Board of Adjustment

Exhibit G – Chapter 15- Defined Terms

Exhibit H– Minutes of February 25, 2015 Planning Commission meeting

Exhibit I – State Code Section 57-8-4.5

Ordinance 15-

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING CHAPTER 1 GENERAL PROVISIONS AND PROCEDURES; CHAPTERS 2.1 HRL, 2.2 HR-1, 2.3 HR-2, 2.16 RC; CHAPTER 7.1 SUBDIVISION PROCEDURES; CHAPTER 8 ANNEXATION; CHAPTER 9 NON-CONFORMING USES AND NON-COMPLYING STRUCTURES; CHAPTER 10 BOARD OF ADJUSTMENT; AND CHAPTER 15 DEFINED TERMS

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 a regular basis and identifies necessary amendments to address planning and zoning issues that have come up; to address specific LMC issues raised by Staff, Planning Commission, and City Council; and to align the Code with the Council's goals; and

WHEREAS, Chapter 1 provides a description of general provisions and procedures of the Park City's land development and management code that the City desires to revise. These revisions are specifically related to the action and appeals table as well as the notice matrix; and

WHEREAS, Chapters 2.1 Historic Residential-Low Density District (HRL), 2.2 Historic Residential (HR-1), 2.3 Historic Residential 2 (HR2), and 2.16 Resort Commercial (RC) provide a description of requirements, provisions and procedures specific to these zoning district that the City desires to revise. These revisions concern setbacks for hot tubs and patios and applicability of the Steep Slope Conditional Use Permit process in these Districts; and

WHEREAS, Chapter 7.1 provides a description of requirements, provisions and procedures specific to various subdivision procedures and classifications that the City desires to revise. These revisions concern the requirements, procedure, and notification related to the combination of existing platted condominium units in accordance with State statute; and

WHEREAS, Chapter 8 provides a description of requirements, provisions and procedures specific to annexation of property into the Park City Municipal Boundary that the City desires to revise in order to be consistent with State statute; and

WHEREAS, Chapter 9 provides a description of requirements, provisions and procedures specific to the regulation and status of existing Non-conforming Uses and qualifying language pertaining to the enforcement of certain non-conforming use and non-complying structure regulations for rental housing and outlines physical changes that can be required to a Structure containing a legal Non-conforming rental housing use. Proposed changes also relate to the maximum percentage of a building that can be voluntarily demolished and still be able to restore the building back to the previous non-conforming use or non-complying condition, and the City desires to revise these regulations to be consistent with State statute; and

WHEREAS, Chapter 10 provides a description of the establishment of the Board of Adjustment, powers and duties, review authority, and other provisions and procedures relative to the Board of Adjustment that the City desires to revise to be consistent with State statute and other sections of the LMC. These revisions concern powers and duties related to appeals of Historic Preservation Board decisions, review of appeals, and judicial review of the BOA decision; and

WHEREAS, Chapter 15 provides a description of defined terms used in the Land Management Code that the City desires to add or revise, including building footprint, carport, light industrial, and mixed use, ; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on February 25th , May 27th , June 10th and June 24th , 2015, and forwarded a recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on July 16, 2015; 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 State of Utah Code and the Park City General Plan and to be consistent with the values and goals of the Park City community and City Council, to protect health and safety, to maintain the quality of life for its residents, to preserve and protect the residential neighborhoods, to ensure compatible development, to preserve historic resources, to protect environmentally sensitive lands, and to 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 One (General Provisions and Procedures). The recitals above are incorporated herein as findings of fact. Chapter 1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit A).

SECTION 2. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.1 (Historic Residential Low Density (HRL)). The recitals above are incorporated herein

as findings of fact. Chapter 2.1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-1).

SECTION 3. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.2 (Historic Residential (HR-1)). The recitals above are incorporated herein as findings of fact. Chapter 2.2 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-2).

SECTION 4. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.3 (Historic Residential 2 (HR-2)). The recitals above are incorporated herein as findings of fact. Chapter 2.3 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-3).

SECTION 5. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.16 (Resort Commercial (RC)). The recitals above are incorporated herein as findings of fact. Chapter 2.24 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-4).

SECTION 6. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 7 (Subdivisions). The recitals above are incorporated herein as findings of fact. Chapter 7 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit C).

SECTION 7. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 8 (Annexations). The recitals above are incorporated herein as findings of fact. Chapter 8 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit D).

SECTION 8. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 9 (Non-conforming Uses and Non-complying Structure). The recitals above are incorporated herein as findings of fact. Chapter 9 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit E).

SECTION 9. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 10 (Board of Adjustment). The recitals above are incorporated herein as findings of fact. Chapter 9 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit F).

SECTION 10. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15 (Defined Terms). The recitals above are incorporated herein as findings of fact. Chapter 15 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit G).

SECTION 11. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ____ day of _____, 2015

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, Mayor

Attest:

Marci Heil, City Recorder

Approved as to form:

Mark Harrington, City Attorney

Exhibits (Redlines of specific LMC Sections)

Exhibit A – LMC Chapter One- General Provisions and Procedures

Exhibit B – LMC Chapter Two Zoning Districts HRL, HR-1, HR2, RC

Exhibit C – LMC Chapter Seven- Subdivision Procedures

Exhibit D – LMC Chapter Eight- Annexation

Exhibit E – LMC Chapter Nine- Non-conforming Uses and Non-complying Structures

Exhibit F – LMC Chapter Ten- Board of Adjustment

Exhibit G – LMC Chapter Fifteen- Defined Terms

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES

Chapter adopted by Ordinance No. 00-25

**CHAPTER 1 - GENERAL PROVISIONS
AND PROCEDURES.**

15-1 -1. SHORT TITLE.

This Title shall be known as the Park City Land Management Code (LMC).

**15-1 -2. STATEMENT OF
PURPOSE.**

The LMC is designed, enacted, restated and reorganized to implement the goals and policies of the Park City General Plan, and for the following purposes:

- (A) To promote the general health, safety and welfare of the present and future inhabitants, Businesses, and visitors of the City,
- (B) To protect and enhance the vitality of the City's resort-based economy, the overall quality of life, the Historic character, and unique mountain town community,
- (C) To protect and preserve peace and good order, comfort, convenience, and aesthetics of the City,

(D) To protect the tax base and to secure economy in governmental expenditures,

(E) To allow Development in a manner that encourages the preservation of scenic vistas, environmentally sensitive lands, Historic Structures, the integrity of Historic Districts, and the unique urban scale of original Park City,

(F) To provide for well-planned commercial and residential centers, safe and efficient traffic and pedestrian circulation, preservation of night skies and efficient delivery of municipal services,

(G) To prevent Development that adds to existing Geologic Hazards, erosion, flooding, degradation of air quality, wildfire danger or other conditions that create potential dangers to life and safety in the community or that detracts from the quality of life in the community,

(H) To protect and ensure access to sunlight for solar energy devices, and

(I) To protect or promote moderate income housing.

It is the intention of the City in adopting this LMC to fully exercise all of the powers

granted to the City by the provisions of the Title 10, Chapter 9a of the Utah Municipal Land Use Development and Management Act. Utah Code Annotated, 1991, as amended, and all other powers granted by statute or by common law for the necessary regulation of the Use and Development of land within the City.

(Amended by Ord. No. 06-22)

15-1 -3. CONFLICT.

The provisions of the LMC are in addition to all other City ordinances, the Laws of the State of Utah, the Laws of the United States, and applicable common law. The LMC shall not supersede any private land Use regulations in deeds or covenants, which are more restrictive than the LMC. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law. The City does not enforce private restrictive covenants, nor shall any such covenant have the effect of modifying the regulations herein.

15-1 -4. DEFINITIONS.

All capitalized proper nouns in the text of the LMC are defined terms. Defined terms are located in LMC Chapter 15-15.

15-1 -5. ZONING MAP ADOPTED.

The zoning map for Park City as adopted by the City Council and executed by the Mayor is the Official Zoning Map for Park City. Upon amendment to the Official Zoning Map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted thereon.

15-1 -6. ZONE DISTRICTS AND ZONE MAP.

In order to carry out the purposes of the LMC, Zoning Districts have been established as set forth in LMC Chapters 15-2 and as identified on the Official Zoning Map. In interpreting the Official Zoning Map, the following standards shall apply:

(A) The zoning boundary lines are intended to conform to existing Property boundary lines when not in a public Right-of-Way, or to follow the center line of public Rights-of-Way, including prescriptive Rights-of-Way, unless the lines are located by specific dimensions, in which case the dimensions shall control.

(B) Where the Zoning District lines appear to have intentionally divided a Lot or Parcel between two (2) or more districts, the applicable zoning for each portion of the Lot or Parcel must be determined by using the scale shown on the map.

(C) There is no minimum Area or diversity of ownership requirement for a zone designation. Neither the size of a Zoning District nor the number of landowners within the district may be used as evidence of the illegality of a Zoning District or of the invalidity of a municipal decision.

(Amended by Ord. No. 06-22)

15-1 -7. AMENDMENTS TO THE LAND MANAGEMENT CODE AND ZONING MAP.

All amendments to the LMC must be made in the following manner:

(A) **APPLICATION**. An Application must be filed first with the Planning Department on a form prescribed for that purpose. The Planning Department, upon its own initiative or at the direction of the City Council, Planning Commission, or Historic Preservation Board may initiate an amendment as provided below.

(B) **HEARINGS BEFORE PLANNING COMMISSION**. The Planning Commission shall hold a public hearing on all amendments to the LMC. Notice of amendment hearings before the Planning Commission shall be given by posting notice in at least three (3) public places within the City and providing at least fourteen (14) days published notice in a newspaper of general circulation within the City. The notice must state generally the nature of the proposed amendment, land affected, and the time, place, and date of the hearing. Once opened, the hearing may be continued, if necessary, without republication of notice until the hearing is closed.

(C) **ACTION BY PLANNING COMMISSION**. Following the hearing, the Planning Commission must adopt formal recommendation(s) to the City Council regarding the matter before it, approving, disapproving, or modifying the proposal. If the Planning Commission fails to take action within thirty (30) days of the public hearing, the City Council may consider the matter forwarded from the Planning Commission with a negative recommendation and may hear the matter.

(D) **HEARING BEFORE CITY COUNCIL**. The City Council must hold a public hearing on all amendments to the LMC. Notice of the hearings shall be given by providing actual notice or posting notice in at least three (3) public places within the City and providing at least fourteen (14) days published notice in a newspaper of general circulation within the City. Once opened the hearing may be continued, if necessary, without republication of notice until the hearing is closed. Following the hearing, the Council must approve, disapprove, or modify and approve the proposal before it. Recommendations of the Planning Commission are advisory only.

(E) **JOINT HEARINGS**. At the option of the City Council, the hearings before the Planning Commission and the Council may be consolidated into a single hearing, provided however, that separate votes are taken by the Commission and the Council. The Commission vote shall be taken first. Notice for any joint hearing shall be given by posting notice in at least three (3) public places within the City and by providing at least fourteen (14) days published notice in a newspaper of general circulation within the City.

(F) **TEMPORARY OR EMERGENCY ZONING**. The City Council may, without prior consideration of or recommendation from the Planning Commission, enact an Ordinance establishing temporary zoning regulations for any part or all of the Area within the municipality if:

- (1) The City Council makes a finding of compelling, countervailing public interest; or

- (2) The area is unregulated.

Those temporary zoning regulations may prohibit or regulate the erection, construction, reconstruction, or alteration of any Building or Structure or Subdivision approval. The City Council shall establish a period of limited effect for the ordinance, not to exceed six (6) months.

(Amended by Ord. No. 06-22)

15-1 -8. REVIEW PROCEDURE UNDER THE CODE.

(A) No Building Permit shall be valid for any Building project unless the plans for the proposed Structure have been submitted to and have been approved by the Planning, Engineering and Building Departments.

(B) No new Use shall be valid on any Property within the City unless the Use is allowed.

(C) No Subdivision shall be valid without preliminary approval of the Planning Commission and final approval by the City Council with all conditions of approval completed.

(D) Proposals submitted to the Planning Department must be reviewed according to the type of Application filed. Unless otherwise provided for in this LMC, only one (1) Application per type, per Property, will be accepted and processed at a time.

(E) The Planning, Engineering and Building Departments review all Allowed Uses, Administrative Lot Line Adjustments,

Administrative Permits, and Administrative Conditional Use permits.

(F) Projects in the Historic Districts and Historic Sites outside the Historic Districts are subject to design review under the Design Guidelines for Historic Districts and Historic Sites.

(G) Conditional Uses and Master Planned Developments are initially reviewed by staff and submitted to the Planning Commission for review, final permitting and approval.

(H) Subdivisions and Plat Amendments are initially reviewed by the Planning Commission and submitted to the City Council for final approval.

(I) Variances, Special Exceptions, Non-Conforming Uses and Non-Complying Structures are reviewed by the Board of Adjustment.

(J) No review may occur until all applicable fees have been paid. Final approval is not effective until all other fees including engineering fees have been paid, and following applicable staff review.

RECOMMENDATION (y) and FINAL ACTION (X) and APPEAL (z)					
	Planning Department	HPB	Board of Adjustment	Planning Commission	City Council
Allowed Use	X				
Allowed-Historic District Design Review (HDDR)	X	z	z (when HPB takes part in the HDDR review)		
Administrative Permits	X			z	
Conditional Use			z (at request of the City Council for City Development applications)	X	z
Conditional Use Admin.	X			z	
Determination of Significance		X	z		
MPD			z (at request of the City Council for City Development applications)	X	z
Determination of Non-Conforming Use and Non-Complying Structures	X		z		
Change of Non-Conforming Use			X		
Plat Amendment				y Recommendation to CC	X
Variance			X		
Subdivision and Condominium				y Recommendation	X

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<u>plats</u>				to CC	
Annexation and Zoning				y Recommendation to CC	X
Zoning Appeal			X		
LMC Amendments				y Recommendation to CC	X

*All Applications shall be filed with the Planning Department. Planning Department staff makes a recommendation to the appropriate decision making body (X).

(Amended by Ord. Nos. 06-22; 09-10; 09-23; 11-05; 12-37)

15-1 -9. ALLOWED USE REVIEW PROCESS.

(A) An Applicant must file a Complete Application, using the forms established by the Planning Department, and include payment of all fees. On any Application to construct a Building or other Improvement to Property which is defined by this Code as an Allowed Use in the Zone in which the Building is proposed, the Planning Department must review the Application to determine whether the proposal:

- (1) is an Allowed Use within the zone for which it is proposed;
- (2) complies with all applicable Development requirements of that zone, including Building Height, Setback, Front, Side, and Rear Yards, and Lot coverage;
- (3) respects Lot Lines of a legally subdivided Lot;

- (4) meets the applicable parking requirements;
- (5) conforms to the Park City Architectural Design Guidelines and/or the Design Guidelines for Historic Districts and Historic Sites, and the architectural review process established for that zone;
- (6) can be adequately serviced by roads, and existing or proposed utility systems or lines; and
- (7) pertains to land in which all tax assessments have been paid.

(B) If approved by the Planning Department Planning Staff, the plans must be forwarded to the Engineering Department and Building Department. The plans shall be reviewed for Building Code compliance and permit issuance procedures. Approval of Allowed Uses must be noted by the issuance of a Building Permit in compliance with the provisions of the Uniform Building Code, as adopted by Park City.

(C) If the Application does not comply with the requirements of the zone, the Planning Department shall notify the Owner of the project or his Agent, if any, stating specifically what requirements of the zone have not been satisfied, and also stating whether the project could be reviewed as submitted as a Conditional Use for that zone.

(D) **DISCLAIMER.** No permit issued shall be valid if any of the criteria listed in this section have not been met.

(Amended by Ord. Nos. 06-22; 09-23; 11-05)

15-1 -10. CONDITIONAL USE REVIEW PROCESS.

There are certain Uses that, because of unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent land Uses, may not be Compatible in some Areas or may be Compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

The Planning Department will evaluate all proposed Conditional Uses and may recommend conditions of approval to preserve the character of the zone, and to mitigate potential adverse effects of the Conditional Use.

A Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the

proposed Use in accordance with applicable standards.

If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, the Conditional Use may be denied.

The City must review all proposed Conditional Uses according to the following procedure, unless a subsequent provision of this LMC specifically sets forth an administrative approval process for a specific Conditional Use, in which case that section shall control:

(A) **PRE-APPLICATION CONFERENCE.** An Applicant may request a pre-Application conference with the Planning Department to discuss the proposed Conditional Use and the conditions that the staff would recommend to mitigate proposed adverse impacts.

(B) **THE APPLICATION.** An Applicant must file a Complete Application on forms provided by the Planning Department for Conditional Uses.

(C) **NOTICE/POSTING.** Upon receipt of a Complete Application, the Planning Department shall provide published notice and posting per Section 15-1 -12. NOTICE.

The Planning Commission shall conduct a public hearing on the proposed Conditional Use permit Application and shall either approve, deny, or modify and approve the permit.

(D) **STANDARDS FOR REVIEW.**

The City shall not issue a Conditional Use permit unless the Planning Commission concludes that:

- (1) the Application complies with all requirements of this LMC;
- (2) the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;
- (3) the Use is consistent with the Park City General Plan, as amended; and
- (4) the effects of any differences in Use or scale have been mitigated through careful planning.

(E) **REVIEW.** The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:

- (1) size and location of the Site;
- (2) traffic considerations including capacity of the existing Streets in the Area;
- (3) utility capacity, including Storm Water run-off;
- (4) emergency vehicle Access;
- (5) location and amount of off-Street parking;

(6) internal vehicular and pedestrian circulation system;

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses;

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

(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) 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 and recycling pickup Areas;

(14) expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities; and

(15) within and adjoining the Site, Environmentally Sensitive Lands,

Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site.

(F) **TRANSFERABILITY**. A Conditional Use permit is transferable with the title to the underlying Property so that an Applicant may convey or assign an approved project without losing the approval. The Applicant may not Transfer the permit off the Site on which the approval was granted.

(G) **EXPIRATION**. Unless otherwise indicated, Conditional Use permits expire one (1) year from the date of Planning Commission approval, unless the Conditional Use has commenced on the project or a Building Permit for the Use has been issued.

The Planning Director may grant an extension of a Conditional Use permit for one (1) additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change of circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the original Conditional Use permit approval per Section 15-1-12. Extension requests must be submitted prior to the expiration of the Conditional Use permit.

The Planning Commission may grant an additional one (1) year extension when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change of circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the original Conditional Use permit approval per Section 15-1.12. Extension requests must be submitted prior to the expiration of the Conditional Use permit.

(H) **APPEALS**. Appeals must be pursuant to Section 15-1 -18 herein.

(Amended by Ord. No. 06-22; 11-05; 12-37)

15-1 -11. SPECIAL APPLICATIONS.

(A) **MASTER PLANNED DEVELOPMENT (MPD) REVIEW PROCESS**. Applications for MPDs shall be reviewed according to LMC Chapter 15-6.

(B) **VARIANCES, EXCEPTIONS, AND NON-CONFORMING USES**. The Board of Adjustment must review Applications for Variances, Special Exceptions and Non-Conforming Uses and Non-Complying Structures in accordance with the regulations set forth in LMC Chapter 15-9. Such approval must be obtained from the Board of Adjustment prior to the issuance of any Conditional Use permit or Master Planned Development, or

other approval by the Planning Commission or Planning Department. All action on an Application shall be stayed upon the determination that a Board of Adjustment approval is required.

(C) **PLAT AMENDMENTS/ SUBDIVISION**. Plat Amendments and Subdivisions must be reviewed pursuant to LMC Chapter 15-7. No Building Permit may be issued prior to such an approval.

(D) **ADMINISTRATIVE CONDITIONAL USE PERMITS**. The Planning Director, or his or her designee, shall review and take Final Action on Administrative Conditional Use permits. Review process shall be consistent with Section 15-1-10(A-H), with the exception that no published notice, as described in 15-1-12(B), shall be required.

(E) **ADMINISTRATIVE PERMITS**. The Planning Department shall review and take Final Action on Administrative Permits. Review process shall be consistent with the requirements herein for those Uses requiring an Administrative Permit, such as temporary tents, Structures, and vendors; temporary Special Event and temporary change of occupancy permits; regulated Accessory Apartments; specified outdoor events and Uses; Family Child Care in specified Zoning Districts; and temporary telecommunication Antennas, where these Uses are designated as requiring Administrative Permits. These Uses may require Administrative Conditional Use permits or Conditional Use permits in some Zoning Districts pursuant to Section 15-2.

(Amended by Ord. Nos. 06-22; 09-10; 12-37)

15-1 -12. NOTICE.

Notice of a public hearing before the City Council, Planning Commission, Board of Adjustment, and Historic Preservation Board must be provided in accordance with this section. All notices, unless otherwise specified in this Code or State law, must describe the proposed action affecting the subject Property or the proposed modification to the Park City General Plan or to the Land Management Code and shall state the time, place and date set for public hearing on the matter. Notice shall be given according to Section 15-1-21 Notice Matrix and as follows:

(A) **POSTED NOTICES**. The Planning Department must post notice on the Property affected by the Application and on the City's official website or in at least three (3) public locations within the municipality.

(B) **PUBLISHED NOTICE**. Published notice shall be given by publication in a newspaper having general circulation in Park City.

(C) **COURTESY NOTICE**. As a courtesy to adjacent Property Owners, the Applicant must provide the Planning Department with stamped and pre-addressed envelopes for each Owner of record of each Parcel located entirely or partly within three hundred feet (300') from all Property Lines of the subject Property, together with a mailing list for those Owners. The addresses for adjacent Owners must be as shown on the most recently available

Summit County tax assessment rolls. If the subject Property is a Condominium, the Owners Association is sufficient in lieu of the address for each unit Owner. Courtesy notice is not a legal requirement, and any defect in courtesy notice shall not affect or invalidate any hearing or action by the City Council or any Board or Commission.

(D) **APPLICANT NOTICE**. For each land Use Application, the Planning Department must notify the Applicant of the date, time and place of each public hearing and public meeting to consider the Application and of any final action on the pending Application.

(E) **EFFECT OF NOTICE**. Proof that notice was given pursuant to subsections (A) and (B), above is prima facie evidence that notice was properly given. If notice given under authority of this section is not challenged as provided for under State law within thirty (30) days after the date of the hearing or action for which the challenged notice was given, the notice is considered adequate and proper. Notice pursuant to subsections (C) and (F) is courtesy only.

(F) **OWNERS ASSOCIATION REGISTRATION AND NOTIFICATION**.

(1) **REGISTRATION**. Owners associations desiring notice of requests for Building Permits within their boundaries must file written registration annually with the Park City Building Department and pay an annual fee of fifty dollars (\$50.00). The registration must consist of a copy of the Owners association's

Utah State Business or corporate registration and the name(s), addresses including post office box numbers, and telephone numbers of at least three (3) authorized representatives of the Owners association and a notarized statement certifying that these individuals are the authorized representatives of said association.

Associations not registered with the City will not be included in the published list of Owners associations and do not receive notice of Building Permit requests prior to their issuance.

Any change(s) in the above information must be forwarded in writing to the Building Department within ten (10) days of the change.

(2) **NOTICE**. Prior to, or at the time of Application for a permit for any Development, the Applicant must file with the City evidence of notification to the appropriate registered Owners association(s). Acceptable evidence of notification shall be the following:

- (a) the properly executed notice form, as approved by the City; or
- (b) a signed return receipt from a certified letter posted to the registered association representative, with a copy of the notice form approved by the City.

(3) **CITY NOT PARTY TO DISPUTES.** The City is not the arbiter of disputes between an Applicant and an Owners association. Nothing herein shall be interpreted to require Owners association consent prior to City Final Action.

(Amended by Ord. Nos. 02-57; 06-22; 09-10; 11-05; 12-37)

15-1-13. COMPLETION OF SITE IMPROVEMENT WORK PRIOR TO THE APPROVAL OF PLATS OR ISSUANCE OF CERTIFICATES OF OCCUPANCY.

(A) **POLICY.**

(1) **GUARANTEE REQUIRED.** In order to protect the City from the financial burdens resulting from damage to or increased maintenance costs for City facilities that may occur as a result of incomplete or inadequate Site or Public Improvements on construction projects, it is the policy of the City to require that Developers either complete all Site or Public Improvements prior to occupancy, or if that is not possible, that adequate financial Guarantees for completion, together with a right of entry to the Property to complete that work be granted to the City. No plat will be approved, where required, and no Certificate of Occupancy granted unless and until an adequate financial Guarantee is posted in accordance

with this section. It is also the policy of the City to require Developers to post a financial Guarantee to ensure compliance with a Historic Preservation Plan whenever a Building project affects a Historic Building, Structure, Site or Object, as defined by this Title.

(2) **NO THIRD PARTY BENEFICIARIES INTENDED.** It is the intention of the City that this financial Guarantee given by the Developer is limited to a contract between the City and the Developer for the express purposes of providing for the protection of City facilities, eliminating conditions which could become public nuisances, and ensuring compliance with a Historic Preservation Plan. It is not intended that this security be available for payment of subcontractors or material suppliers in the nature of a surety bond, or that the security provided become available to the purchasers of Property to correct construction flaws or defects, which are the fault of the Developer.

(B) **CONSTRUCTION ACCORDING TO APPROVED PLANS.** All construction shall be completed according to the approved plans on which the Building permits were issued. The approved plans shall also include the Site and Public Improvements shown on the Site plan. Where applicable, the approved plans shall also include a Historic Preservation Plan. For purposes of this Code, the term "Site Improvement" shall include all roads, sidewalks, curbs, gutters, drains, drainage

works, Grades, walls, landscaping, planting, paving, paths and trails, and similar improvements as shown on the set of plans on which the final approval and Building permits are based. The term "Public Improvement" is defined in Chapter 15 of this Title. The term "Historic Preservation Plan" means a plan approved by the Planning Director and Chief Building Official, or their designees that specifies the Historic character of a Historic Building Structure, Site or Object, and the methods and means a Developer will use to preserve that Historic character during the Building project. Deviations from the approved plans must be approved in advance by the Chief Building Official.

(C) **GUARANTEE FOR COMPLETION**. No Certificate of Occupancy will be issued, nor any plat approved when plats are required by this Code, unless the Building and all required Site or Public Improvements are completed, or the Developer has provided adequate security to Guarantee completion of the Site or Public Improvements. When the Site or Public Improvements and the Building cannot be completed simultaneously due to weather conditions or other factors beyond the control of the Developer, excluding financial inability to complete the project, the City may grant plat approval for recording and/or issue Certificates of Occupancy for the project, provided the following conditions are met:

(1) The Building or Buildings, or portions thereof, on the Property to be platted or occupied have been constructed in accordance with the approved plans for those Buildings,

and are in full compliance with applicable Building and fire codes, and are completed to the extent that only exterior Site or Public Improvement work remains unfinished; and

(2) The Building Official determines that occupancy of the Buildings, or portions thereof, prior to completion of required Site or Public Improvements is safe and that Access for emergency vehicles is adequate with the Site or Public Improvements unfinished; and

(3) The Developer posts an adequate Guarantee for the benefit of the City to insure completion of the Site or Public Improvements in full compliance with the approved plans within one (1) year from the date of plat approval, if required, or issuance of the Certificate of Occupancy, whichever occurs first.

(D) **AMOUNT OF GUARANTEE FOR SITE OR PUBLIC IMPROVEMENTS**. The amount of the Guarantee for Site or Public Improvements to be posted by the Developer, shall be equal to 125% of the amount reasonably estimated by the City Engineer, or his designee, as being necessary to complete remaining Site or Public Improvements as shown on the approved plans. In the event that the Developer disputes the City's cost estimate, the Developer may prove a lower construction cost by providing binding contracts between the Developer and contractor or subcontractor appropriate to perform the required work as a stated, fixed

price. These contracts must be supported by a 100% performance bond, insuring performance by the subcontractor or contractor. Bid proposals are not satisfactory for this purpose. If the contracts submitted are acceptable in form, the amount of security required shall be 125% of the total contract price of all such contracts submitted, plus the estimated reasonable cost of performing any work not covered by the contracts. Specifications in such contracts shall be sufficiently clear to identify the work called for under the contract.

(E) **TERMS OF GUARANTEE.** The terms of any Guarantee arrangement offered to the City shall state a date by which the Developer agrees to have Site or Public Improvement work completed in accordance with the plans, and shall further provide that in the event that the Developer has not completed the required Site or Public Improvements work by that date, the City may at its option and on its schedule, draw on the Guarantee by its own act, and shall not be required to obtain consent of Developer to withdraw funds for completion of the work shown on approved plans. The City's actual costs in administering the completion of work in the event of a default by the Developer shall be reimbursed from the Guarantee.

(F) **FORM OF GUARANTEE.** Guarantee arrangements offered in lieu of simultaneous completion of Buildings and Site or Public Improvements shall be in an amount fixed under the terms of Section 15-1-13(D), and shall be in one or more of the following forms:

(1) An irrevocable letter of credit issued by a bank authorized to do Business in the State of Utah or an out-of-state bank, provided that a bank authorized to do Business in Utah confirms in writing that it will honor the letter of credit, naming Park City Municipal Corporation as the payee of funds drawn against that letter of credit and Guaranteeing the availability of funds for one (1) year, or

(2) A deposit of cash with a third party Escrow, or

(3) A deposit of cash with the City, or

(4) Some combination of the above as approved by the City or an approved equal.

(G) **RETAINED AMOUNT.** The amount in excess of the actual construction costs, but in no event more than ten percent (10%) of the lesser of the engineer's original estimated cost of completion or the actual construction cost, shall be held for a period of one (1) year following final inspection and approval of the Site or Public Improvement work by the City. The retained amount may be provided in any of the ways described in Section 15-1-13(F). If the Developer fails to provide a new Guarantee sixty (60) days prior to the expiration of the Guarantee instruments provided for the initial construction under Section 15-1-13(F), the City shall make a demand or draw on that Guarantee to the extent of the required retained amount, and hold the proceeds in cash until and unless

other adequate Guarantee, as provided in this Code, is posted by the Developer. The retained amount will be used to replace or repair any Site or Public Improvements, which fail or appear to be defective during the one (1) year period. The corrective work may be done by the City or the Developer. At the completion of that work, the retained amount, or so much of it remains, shall be released. Retained amounts may be drawn and applied to any outstanding fees owed by the Developer to the City, provided that such fees are imposed by ordinance and the amount of the fees is not contested by the Developer.

(Amended by Ord. No. 14-35)

(H) **MODIFICATION OF PLANS.** A Developer may, at its option, request modifications to plans covering Site or Public Improvement work by submitting revised plans to the City for review and action. Until the revised plans have received approval by the City, the Developer shall be required to offer a Guarantee for the performance of the Site or Public Improvement work as shown on the last set of plans to have received City approval. Upon acceptance of revised plans by the Department, the City shall release any cash, credit or other Guarantee held, which is in excess of 125% of the completion cost, estimated, of work shown on the most recently revised plan. If the modification of the plans increases the cost of required Site or Public Improvements, additional Guarantee must be provided by the Developer to cover the increased costs.

(I) **PAYMENT OF INTEREST.** The City shall not be required to pay interest to

the Developer on any funds in escrow or on cash held by the City as a Guarantee.

(J) **DETAILED SITE PLANS.** A detailed Site plan shall be presented, showing the location and nature of drainage works, Grade changes, retaining walls, and landscaping, together with any trails, paths, or walkways that may be included or required under other provisions of the Land Management Code.

(K) **SINGLE FAMILY HOMES.** This provision shall apply to all construction in Park City, including single family homes, provided, however, that the amount of Guarantee required for single family homes shall be the reasonably estimated cost to complete construction of any Site or Public Improvements on a labor and materials basis, and the estimated cost to complete landscaping, to the extent necessary to hold the soil in place, on the basis of materials only.

(L) **PHASED PROJECTS.** Site or Public Improvements applicable to each phase of a phased project or Development shall be completed or Guarantee for completion provided as each phase is constructed and either platted or occupied. Site or Public Improvements on other phases of the project shall be completed or Guarantee offered as those phases are completed.

(Amended by Ord. Nos. 02-07; 06-22; 09-09; 11-05)

15-1 -14. TERMINATION OF APPLICATIONS FOR INACTION.

Recognizing the length of the planning review process will vary with the size and complexity of each proposal, Applicants must move their Applications either to approval or to denial in a reasonably expeditious manner. The Planning Director may formally deny Applications, which remain inactive for a period of 180 days, or longer, due to acts or omissions of the Applicant.

(A) **TERMINATION OF APPLICATIONS.** When the Planning Director finds an Application to be inactive, the Planning Director may deny the Application and close the files with respect to that project. No Application shall be denied on the basis of Inaction without giving fourteen (14) days written notice to the Applicant. Such notice must state the intent of the Planning Director to have the Application denied because of Inaction and the right to contest said denial to the Planning Commission.

Delays occasioned by the City shall not constitute cause for terminating an Application.

(B) **REINSTATEMENT.** An Applicant may appeal the Planning Director's denial of an Application for Inaction to the Planning Commission in the same manner as any other appeal. The Planning Commission may reinstate said Application subject to payment of full or partial submission fees, reinstate subject to specific ordinance changes, or deny reinstatement. If reinstatement is denied, the Application is considered formally denied. If the Applicant desires to proceed with the project, the Applicant must submit a new Application

and pay new submission fees, and the new Application shall be subject to all ordinances then in effect.

(Amended by Ord. No. 06-22; 11-05)

15-1 -15. PENALTIES.

Any Person, firm, partnership, or corporation, and the principals or Agents thereof violating or causing the violation of this LMC shall be guilty of a Class "C" misdemeanor and punished upon conviction by a fine and/or imprisonment described in the current Park City Criminal Code. In addition, the City shall be entitled to bring a civil action to enjoin and/or abate the continuation of the violation.

Private citizens of Park City or Property Owners have the right to file actions to enjoin the continuation of a violation affecting their interests, provided that the plaintiff in such action gives notice of the action to the City Recorder prior to filing the action.

15-1 -16. LICENSING.

Licenses or permits issued in violation of this LMC are null and void.

15-1 -17. VESTING.

(A) An Applicant is entitled to approval of a land Use Application if the Application conforms to the requirements of an applicable land Use ordinance in effect when a Complete Application is submitted and all fees have been paid, unless:

(1) the land Use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the Application; or

(2) in the manner provided by local ordinance and before the Application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the Application as submitted.

(B) The municipality shall process an Application without regard to proceedings initiated to amend the municipality's ordinances if:

(1) 180 days have passed since the proceedings were initiated; and

(2) the proceedings have not resulted in an enactment that prohibits approval of the Application as submitted.

(C) An Application for a land Use approval is considered submitted and complete when the Application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(D) The continuing validity of an approval of a land Use Application is conditioned upon the Applicant proceeding after approval to implement the approval with reasonable diligence.

(B) A municipality is bound by the terms and standards of applicable land Use ordinances and shall comply with mandatory provisions of those ordinances.

(Amended by Ord. No. 06-22)

15-1 -18. APPEALS AND RECONSIDERATION PROCESS.

(A) **STAFF**. Any decision by either the Planning Director or Planning Staff regarding Application of this LMC to a Property may be appealed to the Planning Commission. Appeals of decisions regarding the Design Guidelines for Historic Districts and Historic Sites shall be reviewed by the Historic Preservation Board as described in 15-11-12(E) unless the Historic Preservation Board participated in the Design Review of a City Development project, pursuant to 15-11-6, in which case any appeal of the decision shall be reviewed by the Board of Adjustment. The Board of Adjustment in such an appeal will have the same scope of authority and standard of review as the Historic Preservation Board would have in such an appeal.

(B) **HISTORIC PRESERVATION BOARD (HPB)**. The City or any Person with standing adversely affected by any decision of the Historic Preservation Board regarding the Design Guidelines for Historic Districts and Historic Sites may petition the District Court in Summit County for a review of the decision. Appeal of all other Final Action by the Historic Preservation Board may be appealed to the Board of Adjustment.

(C) **PLANNING COMMISSION.** The City or any Person with standing adversely affected by a Final Action by the Planning Commission on appeals of Staff action may petition the District Court in Summit County for a review of the decision. Final Action by the Planning Commission on Conditional Use permits and Master Planned Developments (MPDs) involving City Development may be appealed to the Board of Adjustment at the City Council's request. All other Final Action by the Planning Commission concerning Conditional Use permits (excluding those Conditional Use permits decided by Staff and appealed to the Planning Commission; final action on such an appeal shall be appealed to the District Court) and MPDs may be appealed to the City Council. When the City Council determines it necessary to ensure fair due process for all affected parties or to otherwise preserve the appearance of fairness in any appeal, the City Council may appoint an appeal panel as appeal authority to hear any appeal or call up that the Council would otherwise have jurisdiction to hear. The appeal panel will have the same scope of authority and standard of review as the City Council. Only those decisions in which the Planning Commission has applied a land Use ordinance to a particular Application, Person, or Parcel may be appealed to an appeal authority.

(1) **APPEAL PANEL MEMBERSHIP AND QUALIFICATIONS.**

The appeal panel shall have three (3) members. The decision to appoint and the appointment of an appeal panel shall be made by the City Council at a duly noticed public meeting after

publicly noticed request for qualifications. Qualifications shall include a weighted priority for the following: Park City or Area residency, five years or more of prior experience in an adjudicative position, and/or a legal or planning degree. Each member of the appeal panel shall have the ability to:

- (a) Conduct quasi-judicial administrative hearings in an orderly, impartial and highly professional manner.
- (b) Follow complex oral and written arguments and identify key issues of local concern.
- (c) Master non-legal concepts required to analyze specific situations, render findings and determinations.
- (d) Absent any conflict of interest, render findings and determinations on cases heard, based on neutral consideration of the issues, sound legal reasoning, and good judgment.

(2) **PROCESS.** Any hearing before an appeal panel shall be publicly noticed, include a public hearing, and meet all requirements of the Utah Open and Public Meetings Act. The appeal panel shall have the same authority and follow the same procedures as designated for the

“City Council” in this section 15-1-18 (G-I). The City Council may decide to appoint an appeal panel for a particular matter at any time an application is pending but the appointment of the individual members of the panel shall not occur until an actual appeal or call up is pending.

(Amended by Ord. No. 10-15; 12-37; 14-37)

(D) **STANDING TO APPEAL.** The following has standing to appeal a Final Action:

- (1) Any Person who submitted written comment or testified on a proposal before the Planning Department, Historic Preservation Board or Planning Commission;
- (2) The Owner of any Property within three hundred feet (300') of the boundary of the subject site;
- (3) Any City official, Board or Commission having jurisdiction over the matter; and
- (4) The Owner of the subject Property.

(E) **TIMING.** All appeals must be made within ten (10) calendar days of the Final Action. The reviewing body, with the consultation of the appellant, shall set a date for the appeal. All appeals shall be heard by the reviewing body within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

(F) **FORM OF APPEALS.** Appeals to the Planning Commission, Board of Adjustment, or Historic Preservation Board must be filed with the Planning Department. Appeals to the City Council must be filed with the City Recorder. Appeals must be by letter or petition, and must contain the name, address, and telephone number of the petitioner; his or her relationship to the project or subject Property; and must have a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken. The Appellant shall pay the applicable fee established by resolution when filing the appeal. The Appellant shall present to the appeal authority every theory of relief that it can raise in district court. The Appellant shall provide required envelopes within fourteen (14) days of filing the appeal.

(G) **BURDEN OF PROOF AND STANDARD OF REVIEW.** The appeal authority shall act in a quasi-judicial manner. The appellant has the burden of proving that the land Use authority erred. The appeal authority shall review factual matters de novo and it shall determine the correctness of a decision of the land Use authority in its interpretation and application of the land Use ordinance.

Exception. For appeals to the Board of Adjustment, the Board shall review factual matters for correctness and determine the correctness of a decision of the land Use authority in its interpretation and application of the land Use ordinance. The scope of review of the Board of Adjustment is limited to issues brought to the land Use authority.

Exception. For appeals to the Board of Adjustment regarding Design Guidelines for Historic Districts and Historic Sites involving City Development projects, the Board shall review factual matters de novo and it shall determine the correctness of the Planning Director or Planning Staff decision in the interpretation and application of the Historic District Design Guidelines for Historic Districts and Historic Sites [and LMC Title 15, Chapter 11](#).

(H) **WRITTEN FINDINGS REQUIRED.** The appeal authority shall direct staff to prepare detailed written Findings of Fact, Conclusions of Law and the Order.

(I) **CITY COUNCIL ACTION ON APPEALS.**

- (1) The City Council, with the consultation of the appellant, shall set a date for the appeal.
- (2) The City Recorder shall notify the Owner of the appeal date. The City Recorder shall obtain the findings, conclusions and all other pertinent information from the Planning Department and shall transmit them to the Council.
- (3) The City Council may affirm, reverse, or affirm in part and reverse in part any properly appealed decision of the Planning Commission. The City Council may remand the matter to the appropriate body with directions for specific Areas of review or clarification. City

Council review of petitions of appeal shall include a public hearing and be limited to consideration of only those matters raised by the petition(s), unless the Council by motion, enlarges the scope of the appeal to accept information on other matters.

(4) Staff must prepare written findings within fifteen (15) working days of the City Council vote on the matter.

(J) **CITY COUNCIL CALL-UP.** Within fifteen (15) calendar days of Final Action on any project, the City Council, on its own motion, may call up any Final Action taken by the Planning Commission or Planning Director for review by the Council. Call-ups involving City Development may be heard by the Board of Adjustment at the City Council's request. The call-up shall require the majority vote of the Council. Notice of the call-up shall be given to the Chairman of the Commission and/or Planning Director by the Recorder, together with the date set by the Council for consideration of the merits of the matter. The Recorder shall also provide notice as required by Section 15-1 -12 herein. In calling a matter up, the Council may limit the scope of the call-up hearing to certain issues. The City Council, with the consultation of the Applicant, shall set a date for the call-up. The City Recorder shall notify the Applicant of the call-up date. The City Recorder shall obtain the findings, and all other pertinent information and transmit them to the Council.

(K) **NOTICE.** There shall be no additional notice for appeals of Staff

determination other than listing the matter on the agenda, unless notice of the Staff review was provided, in which case the same notice must be given for the appeal.

Notice of appeals of Final Action by the Planning Commission and Historic Preservation Board and notice of all appeals to City Council or call-ups shall be given by:

- (1) Publishing the matter once at least seven (7) days prior to the hearing in a newspaper having general circulation in Park City;
- (2) By mailing courtesy notice at least seven (7) days prior to the hearing to all parties who received mailed courtesy notice for the original action. The City Recorder shall provide noticing for Council call-ups; and
- (3) By posting the property at least seven (7) days prior to the hearing.

Notice of appeals to the Board of Adjustment, except for appeals of staff determination regarding Historic District Design Guidelines for City Development projects where the Historic Preservation Board participated in the design review, shall be given by:

- (1) Publishing the matter once at least fourteen (14) days prior to the hearing in a newspaper having a general circulation in Park City;
- (2) By mailing courtesy notice at least fourteen (14) days prior to the

hearing to all parties who received mailed courtesy notice for the original action; and

- (3) By posting the property at least fourteen (14) days prior to the hearing.

(L) **STAY OF APPROVAL PENDING REVIEW OF APPEAL.** Upon the filing of an appeal, any approval granted under this Chapter will be suspended until the appeal body, pursuant to this Section 15-1-18 has acted on the appeal.

(M) **APPEAL FROM THE CITY COUNCIL.** The Applicant or any Person aggrieved by City action on the project may appeal the Final Action by the City Council to a court of competent jurisdiction. The decision of the Council stands, and those affected by the decision may act in reliance on it unless and until the court enters an interlocutory or final order modifying the decision.

(N) **RECONSIDERATION.** The City Council, and any Board or Commission, may reconsider at any time any legislative decision upon an affirmative vote of a majority of that body. The City Council, and any Board or Commission, may reconsider any quasi-judicial decision upon an affirmative vote of a majority of that body at any time prior to Final Action. Any action taken by the deciding body shall not be reconsidered or rescinded at a special meeting unless the number of members of the deciding body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

(O) No participating member of the appeal panel may entertain an appeal in which he or she acted as the land Use authority.

(Amended by Ord. Nos. 06-22; 09-10; 09-23; 10-15; 14-37)

15-1 -19. CONSTITUTIONAL TAKINGS REVIEW AND APPEAL.

In order to promote the protection of private Property rights and to prevent the physical taking or exaction of private Property without just compensation, the City Council and all Commissions and Boards shall adhere to the following before authorizing the seizure or exaction of Property:

(A) **TAKINGS REVIEW PROCEDURE**. Prior to any proposed action to exact or seize Property by the City, the City Attorney shall review the proposed action to determine if a constitutional taking requiring "just compensation" would occur. The City Attorney shall review all such matters pursuant to the guidelines established in subsection (B) below. Upon identifying a possible constitutional taking, the City Attorney shall, in a confidential, protected writing, inform the Council, commission or board of the possible consequences of its action. This opinion shall be advisory only. No liability shall be attributed to the City for failure to follow the recommendation of the City Attorney.

(B) **TAKINGS GUIDELINES**. The City Attorney shall review whether the action constitutes a constitutional taking under the Fifth or Fourteenth Amendments

to the Constitution of the United States, or under Article I, Section 22 of the Utah Constitution. The City Attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental interest. The City Attorney shall also determine whether the action deprives the private Property Owner of all reasonable Use of the Property. These guidelines are advisory only and shall not expand nor limit the scope of the City's liability for a constitutional taking.

(C) **APPEAL**. Any Owner of private Property who believes that his/her Property is proposed to be "taken" by an otherwise Final Action of the City may appeal the City's decision to the Takings Appeal Board within thirty (30) days after the decision is made. The appeal must be filed in writing with the City Recorder. The Takings Appeal Board shall hear and approve and remand or reject the appeal within fourteen (14) calendar days after the appeal is filed. The Takings Appeal Board, with advice from the City Attorney, shall review the appeal pursuant to the guidelines in subsection (B) herein. The decision of the Takings Appeal Board shall be in writing and a copy given to the appellant and to the City Council, Commission or Board that took the initial action. The Takings Appeal Board's rejection of an Appeal constitutes exhaustion of administrative remedies rendering the matter suitable for appeal to a court of competent jurisdiction.

(D) **TAKINGS APPEAL BOARD**. There is hereby created a three (3) member

Takings Appeal Board. The City Manager shall appoint three (3) current members of the Board of Adjustment to serve on the Takings Appeal Board. If, at any time, three (3) members of the Board of Adjustment cannot meet to satisfy the time requirements stated in subsection (C), the City Manager shall appoint a member or sufficient members to fill the vacancies.

15-1 -20. EXACTIONS.

Exaction or exactions may be imposed on Development proposed in a land Use Application if:

(A) An essential link exists between a legitimate governmental interest and each exaction; and

(B) Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed Development.

(Created by Ord. No. 06-22)

15-1 -21. NOTICE MATRIX.

(See following pages)

NOTICE MATRIX

ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Zoning and Rezoning	14 days prior to each hearing before the Planning Commission and City Council	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
LMC Amendments	14 days prior to each hearing before the Planning Commission and City Council.	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
General Plan Amendments	14 days prior to each hearing before the Planning Commission and City Council.	14 days to each affected entity.	Once 14 days prior to each hearing before the Planning Commission and City Council.
Master Planned Developments (MPD)	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Appeals of Planning Director, Historic Preservation Board, or Planning Commission decisions or City Council Call-Up	7 days prior to the date set for the appeal or call-up hearing.	To all parties who received mailed notice for the original Administrative or Planning Commission hearing 7 days prior to the hearing.	Once 7 days before the date set for the appeal or call-up hearing.

NOTICE MATRIX

ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Conditional Use Permit	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Administrative Conditional Use Permit	10 days prior to Final Action.	10 days prior to Final Action, to adjacent Property Owners.	No published notice required.
Administrative Permit	10 days prior to Final Action.	10 days prior to Final Action, to adjacent affected Property Owners.	No published notice required.
Variance Requests, Non-conforming Use Modifications and Appeals to Board of Adjustment	14 days prior to the hearing before the Board of Adjustment.	14 days prior to the hearing before the Board of Adjustment, to owners within 300 ft.	Once 14 days prior to hearing before the Board of Adjustment.
Certificate of Appropriateness for Demolition (CAD)	45 days on the Property upon refusal of the City to issue a CAD; 14 days prior to the hearing before the Historic Preservation Board.	14 days prior to the hearing before the Historic Preservation Board, to Owners within 300 ft.	Once 14 days prior to the hearing before the Historic Preservation Board.
Designation of Sites to the Historic Sites Inventory	7 days prior to hearing before the Historic Preservation Board.	-----	Once 7 days prior to hearing before the Historic Preservation Board.

NOTICE MATRIX

ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Historic District or Historic Site Design Review	<p>First Posting: The Property shall be posted for a 14 day period once a Complete Application has been received. The date of the public hearing shall be indicated in the first posting. Other posted legal notice not required.</p> <p>Second Posting: For a 10 day period once the Planning Department has determined the proposed plans comply or does not comply with the Design Guidelines for Historic Districts and Historic Sites. Other posted legal notice not required.</p>	<p>First Mailing: To Owners within 100 feet once a Complete Application has been received, establishing a 14 day period in which written public comment on the Application may be taken. The date of the public hearing shall be indicated.</p> <p>Second Mailing: To Owners within 100 feet and individuals who provided written comment on the Application during the 14 day initial public comment period. The second mailing occurs once the Planning Department determines whether the proposed plans comply or do not comply with the Design Guidelines for Historic Districts and Historic Sites and no later than 45 days after the end of the initial public comment period. This establishes a 10 day period after which the Planning Department's decision may be appealed.</p>	<p>If appealed, then once 7 days before the date set for the appeal</p>
Annexations	<p>Varies, depending on number of Owners and current State law. Consult with the Legal Department.</p>		
Termination of Project	<p>-----</p>	<p>Mailed Notice: To Owner/Applicant and</p>	<p>-----</p>

NOTICE MATRIX

ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Applications		certified Agent by certified mail 14 days prior to the Planning Director's termination and closure of files.	
Lot Line Adjustments: Between 2 Lots without a plat amendment.	10 days prior to Final Action on the Property. Other posted legal notice not required.	To Owners within 300 ft. at time of initial Application for Lot line adjustment. Need consent letters, as described on the Planning Department Application form, from adjacent Owners.	-----
Preliminary and Final Subdivision Plat Applications	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Condominium Applications; Record of Survey Plats	14 days prior to the hearing before the Planning Commission.	14 days prior to the hearing before the Planning Commission, to Owners within 300 ft.	Once 14 days prior to the hearing before the Planning Commission.
Record of Survey Amendments	14 days prior to the hearing.	14 days prior to the hearing, to Owners within 300 ft.	Once 14 days prior to the hearing.
Subdivision Plat Amendments	14 days prior to the hearing.	14 days prior to the hearing, to Owners within 300 ft.	Once 14 days prior to the hearing.

NOTICE MATRIX			
ACTION:	POSTED:	COURTESY MAILING:	PUBLISHED:
Vacating or Changing a Street	-----	14 days prior to the hearing before the City Council, to Owners within 300 ft. and to affected entities.	Once a week for 4 consecutive weeks prior to the hearing before the City Council.
Extension of approvals	Posted notice shall be the same as required for the original application.	Courtesy mailing shall be the same as required for the original application.	Published notice shall be the same as required for the original application.
<p>Note: For all Applications, notice will be given to the Applicant of date, time, and place of the public hearing and public meeting to consider the Application and of any Final Action on a pending Application.</p> <p>Appendix A – Official Zoning Map (Refer to the Planning Department)</p>			

(Amended by Ord. Nos. 06-22; 09-10; 09-23; 11-05; 12-37)

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.1 - HISTORIC RESIDENTIAL-LOW DENSITY (HRL) DISTRICT .1

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.1 - HISTORIC RESIDENTIAL-LOW DENSITY (HRL) DISTRICT

Chapter adopted by Ordinance No. 00-15

15-2.1-1. PURPOSE.

The purpose of the Historic Residential Low-Density (HRL) District is to:

- (A) reduce density that is accessible only by substandard Streets so these Streets are not impacted beyond their reasonable carrying capacity,
- (B) provide an Area of lower density Residential Use within the old portion of Park City,
- (C) preserve the character of Historic residential Development in Park City,
- (D) encourage the preservation of Historic Structures,
- (E) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods.
- (F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment, and

- (G) define Development parameters that are consistent with the General Plan policies for the Historic core.

(Amended by Ord. No. 09-14)

15-2.1-2. USES.

(A) **ALLOWED USES.**

- (1) Single Family Dwelling
- (2) Home Occupation
- (3) Child Care, In-Home Babysitting
- (4) Child Care, Family¹
- (5) Child Care, Family Group¹
- (6) Accessory Building and Use
- (7) Conservation Activity
- (8) Agriculture
- (9) Residential Parking Area or Structure with four (4) or fewer spaces

(B) **CONDITIONAL USES.**

- (1) Nightly Rentals
- (2) Lockout Unit
- (3) Accessory Apartment²

¹See LMC Chapter 15-4-9 for Child Care Regulations

²See LMC Chapter 15-4-7,

- (4) Child Care Center¹
- (5) Essential Municipal and Public Utility Use, ~~F~~Facility, ~~S~~Service, and ~~Structure~~~~Building~~
- (6) Telecommunication Antenna³
- (7) Satellite dish greater than thirty-nine inches (39") in diameter⁴
- (8) Residential Parking Area or Structure five (5) or more spaces
- (9) Temporary Improvement⁵
- (10) Passenger Tramway Station and Ski Base Facility⁶
- (11) Ski Tow Rope, Ski Lift, Ski Run, and Ski Bridge⁶
- (12) Recreation Facility, Private
- (13) Fences greater than six feet (6') in height from Final Grade^{5,7}

(C) **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

Supplemental Regulations for Accessory Apartments

³See LMC Chapter 15-4-14, Telecommunications Facilities

⁴See LMC Chapter 15-4-13, Satellite Receiving Antennas

⁵Subject to Administrative or Administrative Conditional Use permit, see LMC Chapter 15-4.

⁶ See LMC Chapter 15-4-18, Passenger Tramways and Ski-Base Facilities

⁷ See LMC Chapter 15-4-2, Fences and Walls

(Amended by Ord. Nos. 06-56; 09-10)

15-2.1-3. LOT AND SITE REQUIREMENTS.

Except as may otherwise be provided in this Code, no Building Permit shall be issued for a Lot unless such Lot has the Area, width, and depth as required, and Frontage on a Street shown as a City Street on the Streets Master Plan, or on a private easement connecting the Lot to a Street shown on the Streets Master Plan.

Minimum Lot and Site requirements are as follows:

(A) **LOT SIZE.** The minimum Lot Area is 3,750 square feet. The minimum width of a Lot is thirty-five feet (35'), measured fifteen feet (15') back from the Front Lot Line. In the case of unusual Lot configurations, Lot width measurements shall be determined by the Planning Director

(B) **BUILDING ENVELOPE (HRL DISTRICT).** The Building Pad, Building Footprint, and height restrictions define the maximum Building Envelope in which all Development must occur, with exceptions as allowed by Section 15-2.1-3(C).

(C) **BUILDING PAD (HRL DISTRICT).** The Building Pad is the Lot Area minus required Front, Rear and Side Yard Areas.

- (1) The Building Footprint must be within the Building Pad. The remainder of the Building Pad must be open and free of any other Structure except:

- (a) Porches or decks, with or without roofs;
- (b) At Grade patios;
- (c) Upper level decks, with or without roofs;
- (d) Bay Windows;
- (e) Chimneys;
- (f) Sidewalks, pathways, and steps;
- (g) Screened hot tubs; and
- (h) Landscaping.

(2) Exceptions to the Building Pad Area, excluding Bay Windows, are not included in the Building Footprint calculations, and are subject to Planning Department approval based on a determination that the proposed exceptions result in a design that:

- (a) provides increased architectural interest consistent with the Historic District Design Guidelines;
- (b) maintains the intent of this section to provide horizontal and vertical Building articulation.

(D) BUILDING FOOTPRINT (HRL DISTRICT). The maximum Building

Footprint of any Structure shall be located on a Lot, or combination of Lots, not exceeding 18,750 square feet in Lot Area, shall be calculated according to the following formula for Building Footprint, illustrated in Table 15-2.1. 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; with an exemption allowance of 400 square feet per dwelling unit for garage floor area. A Conditional Use Permit is required for all Structures with a proposed footprint of greater than 3,500 square feet

[Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building, shall not count in the total Building Footprint of the Lot.](#)

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP= maximum Building Footprint and A= Lot Area.

Example: 3,750 sq. ft. Lot: $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = \underline{1,519 \text{ sq. ft.}}$

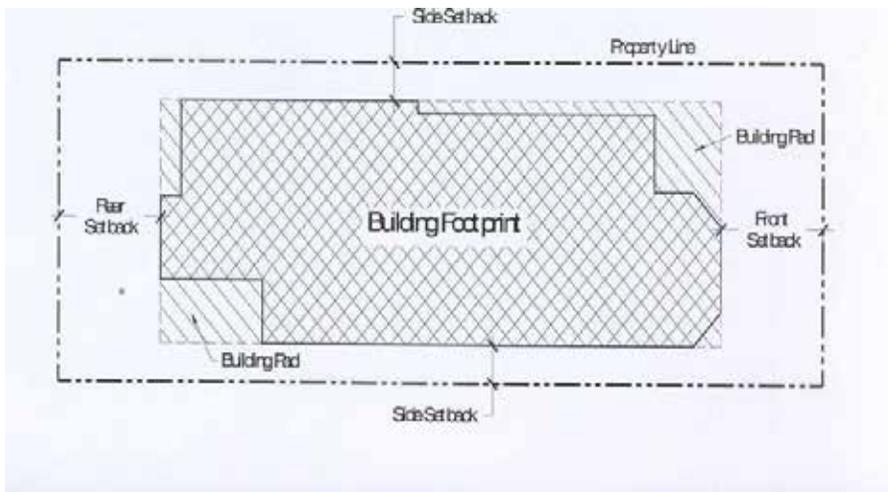
See the following Table 15-2.1. for a schedule equivalent of this formula.

TABLE 15-2.1.

Lot Depth <= ft. **	Lot Width, ft. up to:	Side Yards Min. Total		Lot Area Sq. ft.	Bldg. Pad Sq. ft.	Max. Bldg. Footprint Sq. ft.
75 ft.	37.5*	3 ft.	6 ft.	2,813	1,733	1,201
75 ft.	50.0	5 ft.	10 ft.	3,750	2,200	1,519
75 ft.	62.5	5 ft.	14 ft.	4,688	2,668	1,801
75 ft.	75.0	5 ft.	18 ft.	5,625	3,135	2,050
75 ft.	87.5	10 ft.	24 ft.	6,563	3,493	2,269
75 ft.	100.0	10 ft.	24 ft.	7,500	4,180	2,460
75 ft.	Greater than 100.0	10 ft.	30 ft.	Greater than 7,500	Per Setbacks and Lot Area	Per Formula

* for existing 25' wide lots, Use HR-1 standards.

** for lots > 75' in depth use Footprint formula and Table 15-2.1a for Front and Rear Setbacks.



(E) **FRONT AND REAR YARDS.** Front and Rear Yards are as follows:

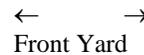
TABLE 15-2.1a

Lot Depth	Minimum Front/Rear Setback	Total of Setbacks
Up to 75 ft., inclusive	10 ft.	20 ft.
From 75 ft. to 100 ft.	12 ft.	25 ft.
Over 100 ft.	15 ft.	30 ft.

(F) **FRONT YARD EXCEPTIONS.**
 The Front Yard must be open and free of any Structure except:

(1) Fences and walls not more than four feet (4') in height, or as permitted in Section 15-4-2 Fences and Walls. On Corner Lots, Fences more than three feet (3') in height are prohibited within twenty-five feet (25') of the intersection, at back of curb.

(2) Uncovered steps leading to the Main Building, provided the steps are not more than four feet (4') in height from Final Grade, not including any required handrail, and do not cause any danger or hazard to traffic by obstructing the view of the Street or intersection.



(3) Decks, porches, or Bay Windows not more than ten feet (10') wide, projecting not more than three feet (3') into the Front Yard.

(4) Roof overhangs, eaves, or

cornices projecting not more than three feet (3') into the Front Yard.

(5) Sidewalks and pathways.

(6) Driveways leading to a garage or Parking Area. No portion of a Front Yard, except for patios, driveways, allowed Parking Areas and sidewalks, may be Hard-Surfaced or graveled.

(G) **REAR YARD EXCEPTIONS.** The Rear Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, projecting not more than two feet (2') into the Rear Yard.

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Rear Yard.

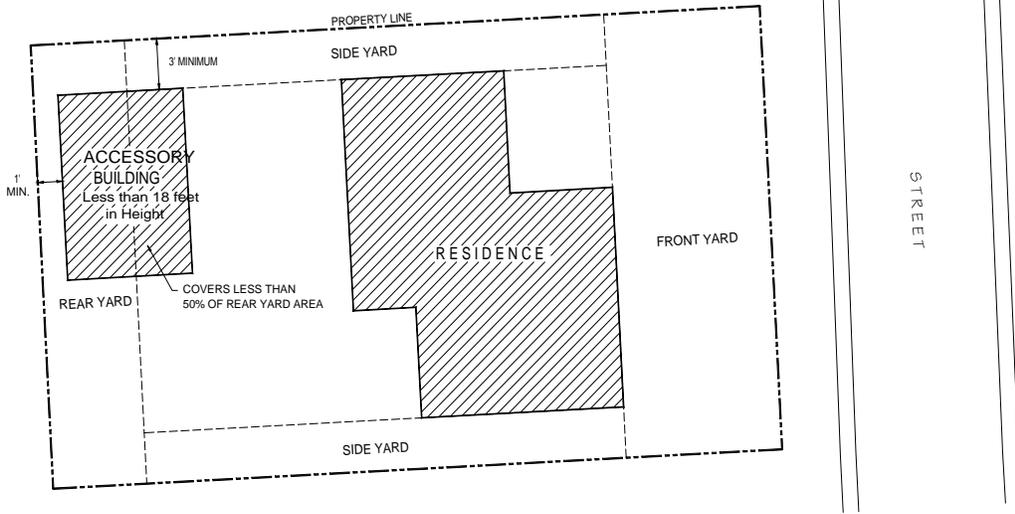
(3) Window wells or light wells extending not more than four feet (4') into the Rear Yard.

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Rear Yard.

(5) Window sills, belt courses, cornices, trim, exterior siding, or other ornamental features projecting not more than six inches (6") into the Rear Yard.

(6) A detached Accessory Building not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade

of the Main Building, and maintaining a minimum Rear Yard Setback of one foot (1'). Such Structure must not cover over fifty percent (50%) of the Rear Yard. See the following illustration:



(7) Hard-Surfaced Parking Areas subject to the same location requirements as a Detached Accessory Building.

(8) Screened mechanical equipment, hot tubs, ~~or~~ and similar Structures located at least three feet (3') ~~five feet (5')~~ from the Rear Lot Line.

(9) Fences or walls as permitted in Section 15-4-2 Fences and Walls.

(10) Patios, decks, pathways, steps, or similar Structures not more

than thirty inches (30") above Final Grade, located at least one foot (1') from the Rear Lot Line.

(11) Pathways or Steps connecting to a City staircase or pathway.

(H) **SIDE YARDS.**

(1) The minimum Side Yard is three feet (3'), but increases for Lots greater than thirty seven and one-half feet (37.5') in Width, as per Table 15-2.1.above.

(2) On Corner Lots, the

minimum Side Yard that faces a side or platted Right-of-Way is five feet (5').

(I) **SIDE YARD EXCEPTIONS.** The Side Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide projecting not more than two feet (2') into the Side Yard.⁸

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Side Yard.⁸

(3) Window wells or light wells projecting not more than four feet (4') into the Side Yard.⁸

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Side Yard. A one foot (1') eave overhang is permitted on Lots with a side Yard less than five feet (5').⁸

(5) Window sills, belt courses, trim, exterior siding, cornices, or other ornamental features projecting not more than six inches (6") into the Side Yard.

(6) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") in height from Final Grade.

⁸ Applies only to Lots with a Side Yard of five feet (5') or greater.

(7) Fences or walls, as permitted in Section 15-4-2 Fences and Walls.

(8) A driveway leading to a garage or Parking Area.

(9) Pathways or steps connecting to a City staircase or pathway.

(10) A detached Accessory Building, not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front Facade of the Main Building, maintaining a minimum Side Yard Setback of three feet (3').

(11) Screened mechanical equipment, hot tubs, ~~or and~~ similar Structures, located at ~~least minimum~~ of three feet (3') five feet (5') from the Side Lot Line.

(K) **CLEAR VIEW OF INTERSECTION.** No visual obstruction in excess of two feet (2') in height above road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

(Amended by Ord. Nos. 06-56; 09-10)

15-2.1-4. EXISTING HISTORIC STRUCTURES.

Historic 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.

(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 Uniform 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 shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

(B) A ten foot (10') minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish grade on all sides of the Structure. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

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

- (1) A Structure containing a flat roof shall have a maximum height of thirty-five feet (35') measured from the lowest floor plan to the highest wall top plate that supports the ceiling joists or roof rafters. The

height of the green roof, including the parapets, railing, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

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(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.

(Amended by Ord. Nos. 06-56; 09-10; 09-14; 09-40; 13-48)

15-2.1-6. DEVELOPMENT ON STEEP SLOPES.

Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Historic District Design Guidelines for Park City's Historic Districts and Historic Sites and Chapter 5.

~~(A) **ALLOWED USE.** An allowed residential Structure and/or Access to said Structure located upon an existing Slope of thirty percent (30%) or greater must not exceed a total square footage of one thousand square feet (1,000 sq. ft.) including the garage.~~

~~(B) **CONDITIONAL USE.** A Conditional Use permit is required for any Structure in excess of one thousand square feet (1000 sq. ft.) if said Structure, and/or Access, is located upon any existing Slope of thirty percent (30%) or greater.~~

(1) A Steep Slope Conditional Use permit is required for construction of any Structure with a Building Footprint in excess of two hundred (200 sq. ft) if said Building Footprint is located upon an existing Slope of thirty percent (30%) or greater.

(2) A Steep Slope Conditional Use permit is required for construction of any addition to an existing Structure, when the addition has a new Building Footprint in excess of two hundred (200 sq. ft.), if the new Building Footprint is located upon an

existing Slope of thirty (30%) or greater.

(3) A Steep Slope Conditional Use permit is required for any Access driveway located upon an existing Slope of thirty (30%) or greater.

For the purpose of measuring Slope, the measurement shall include a minimum horizontal distance of fifteen feet (15') measured perpendicular to the contour lines on the certified topographic survey. The measurement shall quantify the steepest Slope within the Building Footprint and any Access driveway.

The Planning Department shall review all Steep Slope Conditional Use permit Applications and forward a recommendation to the Planning Commission. The Planning Commission may review Steep Slope Conditional Use permit Applications as Consent Calendar items. Steep Slope Conditional Use permit Applications shall be subject to the following criteria:

(1) **LOCATION OF DEVELOPMENT.** Development is located and designed to reduce visual and environmental impacts of the Structure.

(2) **VISUAL ANALYSIS.** The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points:

(a) To determine potential impacts of the proposed Access, and Building mass and design;

and

(b) To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities.

(3) **ACCESS.** Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible.

(4) **TERRACING.** The project may include terraced retaining Structures if necessary to regain Natural Grade.

(5) **BUILDING LOCATION.** Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent Properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.

(6) **BUILDING FORM AND SCALE.** Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller

components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Director and/or Planning Commission may require a garage separate from the main Structure or no garage.

(7) **SETBACKS.** The Planning Director and/or Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.

(8) **DWELLING VOLUME.** The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Director and/or Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.

(9) **BUILDING HEIGHT (STEEP SLOPE).** The Zone Height in the HRL District is twenty-seven feet (27') and is restricted as stated above in Section 15-2.1-5. The Planning Director and/or Planning

Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures.

~~(C) — **EXCEPTION.** In conjunction with a Subdivision or Plat Amendment, several Property Owners have undergone a review process comparable to that listed in the Conditional Use Section B above and the City does not seek to subject those Owners to additional Planning Commission review. Therefore, at the request of the Owner, the Planning Director may exempt an allowed residential Structure in excess of one thousand square feet (1,000 sq. ft.) from the Conditional Use process upon finding the following:~~

~~(1) — The Lot resulted from a Subdivision or Plat Amendment after January 1, 1995;~~

~~(2) — The conditions of approval or required Plat notes reflect a maximum house size or Building Footprint; and~~

~~(3) — The conditions of approval or required Plat notes include a requirement for Planning, Engineering, and Building Department review of Grading, excavation, erosion, or similar criteria as found in the foregoing Section B, prior to Building Permit issuance.~~

~~The findings shall be in writing, filed with~~

~~the Owner and City Planning Department, and shall state that the maximum house size and all other applicable regulations continue to apply, and the Owner is not vested for the maximum.~~

~~(Amended by Ord. Nos. 06-56; 09-10; 09-14)~~

15-2.1-7. PARKING REGULATIONS.

(A) Tandem Parking is allowed in the Historic District.

(B) Common driveways are allowed along shared Side Lot Lines to provide Access to Parking in the rear of the Main Building or below Grade if both Properties are deed restricted to allow for the perpetual Use of the shared drive.

(C) 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.

(D) A common Parking Structure may occupy below Grade Side Yards between participating Developments if the Structure maintains all Setbacks above Grade. Common Parking Structures are subject to a Conditional Use review, Chapter 15-1-10.

(E) 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.

(F) Turning radii are subject to review by the City Engineer as to function and design.

(G) See Section 15-3 Off Street Parking for additional parking requirements.

(Amended by Ord. Nos. 06-56; 09-10)

15-2.1-8. ARCHITECTURAL REVIEW.

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board as outlined in Section 15-1-18 of the Code.

(Amended by Ord. Nos. 06-56; 09-23)

15-2.1-9. VEGETATION PROTECTION.

The Property Owner must protect

Significant Vegetation during any Development activity. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4 ½ ') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

Development plans must show all Significant Vegetation within twenty feet (20') of a proposed Development. The Property Owner must demonstrate the health and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation consistent with Landscape Criteria in LMC Chapter 15-3-3 and Title 14.

(Amended by Ord. No. 06-56)

15-2.1-10. SIGNS.

Signs are allowed in the HRL District as provided in the Park City Sign Code, Title 12.

15-2.1-11. RELATED PROVISIONS.

- Fences and Walls. LMC Chapter 15-4-2.
- Accessory Apartment. LMC Chapter 15-4-7.
- Satellite Receiving Antenna. LMC Chapter 15-4-13.
- Telecommunication Facility. LMC Chapter 15-4-14.
- Parking. LMC Chapter 15-3.
- Landscaping. Title 14; LMC Chapter 15-3-3(D).

- Lighting. LMC Chapters 15-3-3(C), 15-5-5(I).
- Historic Preservation. LMC Chapter 15-11.
- Park City Sign Code. Title 12.
- Architectural Review. LMC Chapter 15-5.
- Snow Storage. LMC Chapter 15-3-3(E)
- Parking Ratio Requirements. LMC Chapter 15-3-6.

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.2 - HISTORIC RESIDENTIAL (HR-1) DISTRICT

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.2 - HISTORIC RESIDENTIAL (HR-1) DISTRICT

Chapter adopted by Ordinance No. 00-15

15-2.2-1. 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.

(Amended by Ord. No. 09-14)

15-2.2-2. USES.

Uses in the HR-1 District are limited to the following:

(A) **ALLOWED USES.**

- (1) Single Family Dwelling
- (2) Lockout Unit¹
- (3) Nightly Rental¹
- (4) Home Occupation
- (5) Child Care, In-Home Babysitting²
- (6) Child Care, Family²
- (7) Child Care, Family Group²
- (8) Accessory Building and Use
- (9) Conservation Activity
- (10) Agriculture
- (11) Residential Parking Area or Structure, with four (4) or fewer spaces

(B) **CONDITIONAL USES.**

- (1) Duplex Dwelling

¹Nightly Rental of a Lockout Unit requires a Conditional Use permit

²See LMC Chapter 15-4-9 for Child Care Regulations

- (2) Guest House on Lots one (1) acre or greater
- (3) Secondary Living Quarters
- (4) Accessory Apartment³
- (5) Group Care Facility
- (6) Child Care Center
- (7) Public and Quasi-Public Institution, church and school
- (8) Essential Municipal and Public Utility Use, Facility, Service, and Structure
- (9) Telecommunication Antenna⁴
- (10) Satellite Dish, greater than thirty-nine inches (39") diameter⁵
- (11) Bed and Breakfast Inn⁶
- (12) Boarding House, hostel⁶
- (13) Hotel, Minor, (fewer than sixteen (16) rooms)⁶
- (14) Residential Parking Area or Structure with five (5) or more spaces.
- (15) Temporary Improvement⁷
- (16) Passenger Tramway Station and Ski Base Facility⁸

³See LMC Chapter 15-4, Supplemental Regulations for Accessory Apartments

⁴See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

⁵See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

⁶In Historic Structures only. Parking requirements of Chapter 15-3 shall apply.

⁷Subject to Administrative or Administrative Conditional Use permit

⁸ See LMC Chapter 15-4-18, Passenger Tramways and Ski-Base Facilities

- (17) Ski Tow, Ski Lift, Ski Run, and Ski Bridge⁸
- (18) Recreation Facility, Private
- (19) Fences greater than six feet (6') in height from Final Grade^{7,9}

(C) **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

(Amended by Ord. Nos. 06-56; 07-25; 09-10)

15-2.2-3 LOT AND SITE REQUIREMENTS.

Except as may otherwise be provided in this Code, no Building Permit shall be issued for a Lot unless such Lot has the Area, width, and depth as required, and Frontage on a Street shown as a private or Public Street on the Streets Master Plan, or on a private easement connecting the Lot to a Street shown on the Streets Master Plan.

Minimum Lot and Site requirements are as follows:

(A) **LOT SIZE.** The minimum Lot Area is 1,875 square feet for a Single Family Dwelling and 3,750 square feet for a Duplex. The minimum width of a Lot is twenty five feet (25'), measured fifteen feet (15') back from the Front Lot Line. In the case of unusual Lot configurations, Lot width measurements shall be determined by the Planning Director.

⁹ See LMC Chapter 15-4-2, Fences and Walls

(B) **BUILDING ENVELOPE (HR-1 DISTRICT)**. The Building Pad, Building Footprint and height restrictions define the maximum Building envelope within which all Development must occur, with exceptions as allowed by Section 15-2.2-3(C).

(C) **BUILDING PAD (HR-1 DISTRICT)**. The Building Pad is the Lot Area minus required Front, Rear, and Side Yard Areas.

(1) The Building Footprint must be within the Building Pad. The Building Pad must be open and free of any other Structure except:

- (a) Porches or decks with or without roofs;
- (b) At Grade patios;
- (c) Upper level decks, with or without roofs;
- (d) Bay Windows;
- (e) Chimneys;
- (f) Sidewalks, pathways, and steps;
- (g) Screened hot tubs; and
- (h) Landscaping.

(2) Exceptions to the Building Pad Area, excluding Bay Windows, are not included in the Building Footprint calculations, and are

subject to Planning Director approval based on a determination that the proposed exceptions result in a design that:

- (a) provides increased architectural interest consistent with the Historic District Design Guidelines;
- (b) maintains the intent of this section to provide horizontal and vertical Building articulation.

(D) **BUILDING FOOTPRINT (HR-1 DISTRICT)**. The maximum Building Footprint of any Structure located on a Lot or combination of Lots, not exceeding 18,750 square feet in Lot Area, shall be calculated according to the following formula for Building Footprint, illustrated in Table 15-2.2. 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; with an exemption allowance of 400 square feet, per Dwelling Unit, for garage floor area. A Conditional Use permit is required for all Structures with a proposed footprint of greater than 3,500 square feet.

[Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building, shall not count in the total Building Footprint of the Lot.](#)

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP= maximum Building Footprint and A= Lot Area.

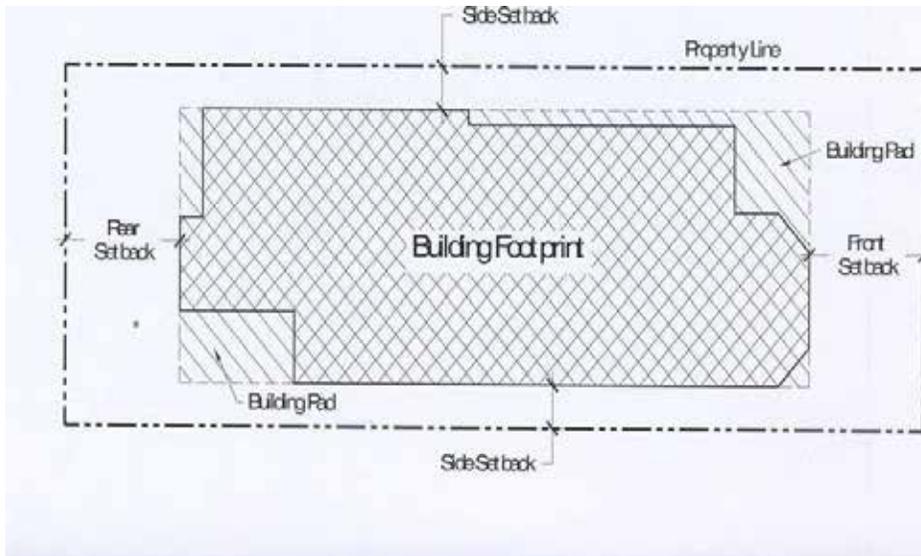
Example: 3,750 sq. ft. lot: $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = \underline{1,519 \text{ sq. ft.}}$

See the following Table 15-2.2. for a schedule equivalent of this formula.

TABLE 15-2.2.

Lot Depth, \leq ft. *	Lot Width, ft. Up to:	Side Yards		Lot Area Sq. ft.	Bldg. Pad Sq. ft.	Max. Bldg. Footprint
		Min.	Total, ft.			
75 ft.	25.0	3 ft.	6 ft.	1,875	1,045	844
75 ft.	37.5	3 ft.	6 ft.	2,813	1,733	1,201
75 ft.	50.0	5 ft.	10 ft.	3,750	2,200	1,519
75 ft.	62.5	5 ft.	14 ft.	4,688	2,668	1,801
75 ft.	75.0	5 ft.	18 ft.	5,625	3,135	2,050
75 ft.	87.5	10 ft.	24 ft.	6,563	3,493	2,269
75 ft.	100.0	10 ft.	24 ft.	7,500	4,180	2,460
75 ft.	Greater than 100.0	10 ft.	30 ft.	Greater than 75 ft.	Per Setbacks and Lot Area	Per formula

* for Lots > 75' in depth use footprint formula and Table 15-2.2a for front and rear Setbacks.



(E) **FRONT AND REAR YARDS.** Front and Rear Yards are as follows:

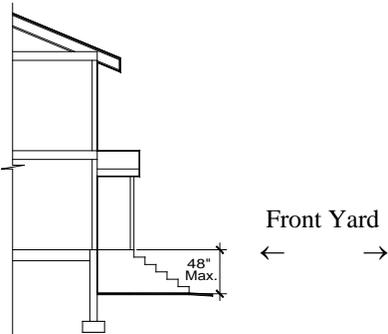
TABLE 15-2.2a

Lot Depth	Minimum Front/Rear Setback	Total of Setbacks
Up to 75 ft., inclusive	10 ft.	20 ft.
From 75 ft. to 100 ft.	12 ft.	25 ft.
Over 100 ft.	15 ft.	30 ft.

(F) **FRONT YARD EXCEPTIONS.**
The Front Yard must be open and free of any Structure except:

(1) Fences or walls not more than four feet (4') in height, or as permitted in Section 15-4-2, Fences and Walls. On Corner Lots, Fences more than three feet (3') in height are prohibited within twenty-five feet (25') of the intersection, at back of curb.

(2) Uncovered steps leading to the Main Building; provided the steps are not more than four feet (4') in height from Final Grade, not including any required handrail, and do not cause any danger or hazard to traffic by obstructing the view of the Street or intersection.



(3) Decks, porches, or Bay Windows not more than ten feet (10') wide, projecting not more than three feet (3') into the Front Yard.

(4) Roof overhangs, eaves or cornices projecting not more than three feet (3') into the Front Yard.

(5) Sidewalks and pathways.

(6) Driveways leading to a Garage or Parking Area. No portion of a Front Yard, except for patios, driveways, allowed Parking Areas and sidewalks, may be Hard-Surfaced or graveled.

(G) **REAR YARD EXCEPTIONS.**
The Rear Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, and projecting not more than two feet (2') into the Rear Yard.

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Rear Yard.

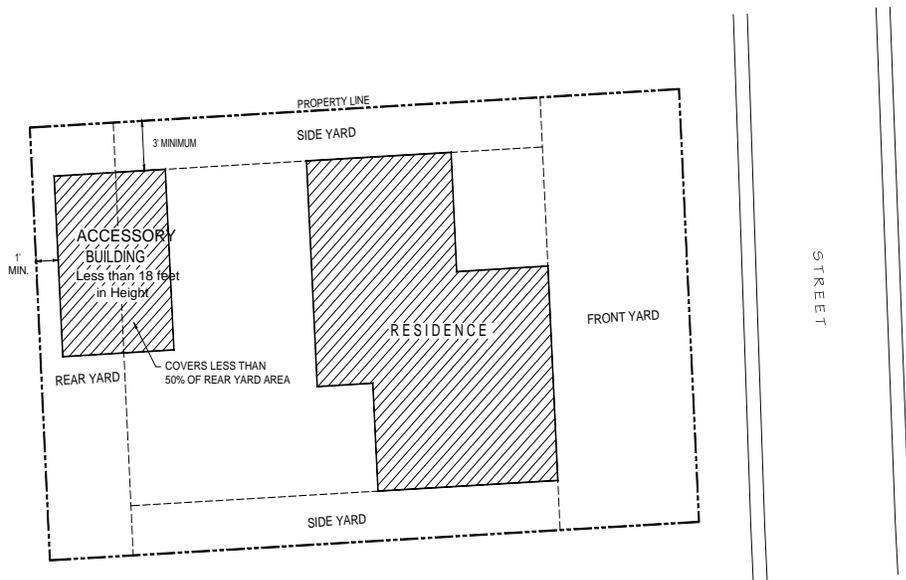
(3) Window wells or light wells extending not more than four feet (4') into the Rear Yard.

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Rear Yard.

(5) Window sills, belt courses, cornices, trim, exterior siding, or other ornamental features projecting not more than six inches (6") into the Rear Yard.

(6) A detached Accessory Building not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, and maintaining a minimum Rear Yard

Setback of one foot (1'). Such Structure must not cover over fifty percent (50%) of the Rear Yard. See the following illustration:



(7) A Hard-Surfaced Parking Area subject to the same location requirements as a Detached Accessory Building.

(8) Screened mechanical equipment, hot tubs, ~~or and~~ similar Structures located at least three feet (3') ~~five feet (5')~~ from the Rear Lot Line.

(9) Fences or walls as permitted in Section 15-4-2, Fences and Walls.

(10) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") above Final Grade, located at least one foot (1') from the Rear Lot Line.

(11) Pathways or steps connecting to a City staircase or pathway.

(H) **SIDE YARD.**

(1) The minimum Side Yard is three feet (3'), but increases for Lots greater than thirty seven and one-half feet (37.5') in Width, as per Table 15-2.2.above.

(2) On Corner Lots, the minimum Side Yard that faces a side Street or platted Right-of-Way is five feet (5').

(I) **SIDE YARD EXCEPTIONS.** The Side Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, and projecting not

more than two feet (2') into the Side Yard.¹⁰

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Side Yard.¹⁰

(3) Window wells or light wells projecting not more than four feet (4') into the Side Yard.¹⁰

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Side Yard. A one foot (1') roof or eave overhang is permitted on Lots with a Side Yard of less than five feet (5').¹⁰

(5) Window sills, belt courses, trim, cornices, exterior siding, or other ornamental features projecting not more than six inches (6") into the Side Yard.

(6) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") in height above Final Grade.

(7) Fences, walls, or retaining walls as permitted in Section 15-4-2, Fences and Walls.

(8) Driveways leading to a garage or Parking Area.

(9) Pathways or steps connecting to a City staircase or pathway.

¹⁰ Applies only to Lots with a minimum Side Yard of five feet (5').

(10) Detached Accessory Buildings not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the Front facade of the Main Building, maintaining a minimum Side Yard Setback of three feet (3').

(11) Screened mechanical equipment, hot tubs, or similar Structures located at ~~least minimum~~ ~~of three feet (3') five feet (5')~~ from the Side Lot Line.

(J) **SNOW RELEASE.** Site plans and Building designs must resolve snow release issues to the satisfaction of the Chief Building Official.

(K) **CLEAR VIEW OF INTERSECTION.** No visual obstruction in excess of two feet (2') in height above road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

(Amended by Ord. Nos. 06-56; 09-10)

15-2.2-4. EXISTING HISTORIC STRUCTURES.

Historic Structures that do not comply with 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.

(Amended by Ord. Nos. 06-56; 07-25)

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 requirements must be met:

(A) 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.

(B) A ten foot (10') minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish Grade on all sides of the Structure. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

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

(1) A Structure containing a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The

height of the green roof, including parapets, railing, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

•

(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 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.

(Amended by Ord. Nos. 06-56; 09-10; 09-14; 09-40; 13-48)

15-2.1-6. DEVELOPMENT ON STEEP SLOPES.

Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the [Historic District Design Guidelines for Park City's Historic Districts and Historic Sites and Chapter 5.](#)

~~(A) **ALLOWED USE.** An allowed residential Structure and/or Access to said Structure located upon an existing Slope of thirty percent (30%) or greater must not exceed a total square footage of one thousand square feet (1,000 sq. ft.) including the garage.~~

~~(B) **CONDITIONAL USE.**~~ **A**

~~Conditional Use permit is required for any Structure in excess of one thousand square feet (1000 sq. ft.) if said Structure, and/or Access, is located upon any existing Slope of thirty percent (30%) or greater.~~

(1) A Steep Slope Conditional Use permit is required for construction of any Structure with a Building Footprint in excess of two hundred (200 sq. ft) if said Building Footprint is located upon an existing Slope of thirty percent (30%) or greater.

(2) A Steep Slope Conditional Use permit is required for construction of any addition to an existing Structure, when the addition has a new Building Footprint in excess of two hundred (200 sq. ft.), if the new Building Footprint is located upon an

[existing Slope of thirty \(30%\) or greater.](#)

[\(3\) A Steep Slope Conditional Use permit is required for any Access driveway located upon an existing Slope of thirty \(30%\) or greater.](#)

For the purpose of measuring Slope, the measurement shall include a minimum horizontal distance of fifteen feet (15') measured perpendicular to the contour lines on the certified topographic survey. The measurement shall quantify the steepest Slope within the Building Footprint and [any Access](#) driveway.

The Planning Department shall review all [Steep Slope](#) Conditional Use permit Applications and forward a recommendation to the Planning Commission. The Planning Commission may review [Steep Slope](#) Conditional Use permit Applications as Consent Calendar items. [Steep Slope](#) Conditional Use permit Applications shall be subject to the following criteria:

(1) **LOCATION OF DEVELOPMENT.** Development is located and designed to reduce visual and environmental impacts of the Structure.

(2) **VISUAL ANALYSIS.** The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points:

(a) To determine potential impacts of the proposed Access, and

Building mass and design; and

(b) To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities.

(3) **ACCESS.** Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged.

(4) **TERRACING.** The project may include terraced retaining Structures if necessary to regain Natural Grade.

(5) **BUILDING LOCATION.** Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.

(6) **BUILDING FORM AND SCALE.** Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller

components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Director and/or Planning Commission may require a garage separate from the main Structure or no garage.

(7) **SETBACKS.** The Planning Department and/or Planning Commission may require an increase in one or more Setbacks to minimize the creation of a “wall effect” along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.

(8) **DWELLING VOLUME.** The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Department and/or Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.

(9) **BUILDING HEIGHT (STEEP SLOPE).** The Zone Height in the HR-1 District is twenty-seven feet (27') and is restricted as stated above in Section 15-2.2-5. The Planning Department and/or Planning Commission may require a

reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures.

(C) **EXCEPTION.** In conjunction with a Subdivision or Plat Amendment, several Property Owners have undergone a review process comparable to that listed in the Conditional Use Section B above and the City does not seek to subject those Owners to additional Planning Commission review. Therefore, at the request of the Owner, the Planning Director may exempt an allowed residential Structure in excess of one thousand square feet (1,000 sq. ft.) from the Conditional Use process upon finding the following:

- (1) The Lot resulted from a Subdivision or Plat Amendment after January 1, 1995;
- (2) The conditions of approval or required Plat notes reflect a maximum house size or Building Footprint; and
- (3) The conditions of approval or required Plat notes include a requirement for Planning, Engineering and Building Department review of Grading, excavation, erosion, or similar criteria as found in the foregoing Section B, prior to Building Permit issuance.

The findings shall be in writing, filed with the Owner and City Planning Department, and shall state that the maximum house size

and all other applicable regulations continue to apply, the Owner is not vested for the maximum.

(Amended by Ord. Nos. 06-56; 09-10; 09-14)

15-2.2-7. PARKING REGULATIONS.

(A) Tandem Parking is allowed in the Historic District.

(B) Common driveways are allowed along shared Side Yard Property Lines to provide Access to Parking in the rear of the Main Building or below Grade if both Properties are deed restricted to allow for the perpetual Use of the shared drive.

(C) Common Parking Structures are allowed as a Conditional Use permit where it facilities:

(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.

(D) A Parking Structure may occupy below Grade Side Yards between participating Developments if the Structure maintains all Setbacks above Grade. Common Parking Structures requiring a Conditional Use permit are subject to a Conditional Use review, Chapter 15-1-10.

(E) 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.

(F) Turning radii are subject to review by the City Engineer as to function and design.

(G) See Section 15-3 Off Street Parking for additional parking requirements.

(Amended by Ord. Nos. 06-56; 09-10)

15-2.2-8. ARCHITECTURAL REVIEW.

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board as outlined in Section 15-1-18 of the Code.

(Amended by Ord. Nos. 06-56; 09-23)

15-2.2-9. CRITERIA FOR BED AND BREAKFAST INNS.

A Bed and Breakfast Inn is a Conditional Use. No Conditional Use permit may be

issued unless the following criteria are met:

- (A) The Use is in a Historic Structure, or an addition thereto.
- (B) The Applicant will make every attempt to rehabilitate the Historic portion of the Structure.
- (C) The Structure has at least two (2) rentable rooms. The maximum number of rooms will be determined by the Applicant's ability to mitigate neighborhood impacts.
- (D) The size and configuration of the rooms are Compatible with the Historic character of the Building and neighborhood.
- (E) The rooms are available for Nightly Rental only.
- (F) An Owner/manager is living on-Site, or in Historic Structures there must be twenty-four (24) hour on-Site management and check-in.
- (G) Food service is for the benefit of overnight guests only.
- (H) No Kitchen is permitted within rental room(s).
- (I) Parking on-Site is required at a rate of one (1) space per rentable room.
- (J) The Use complies with Chapter 15-1-10, Conditional Use review process.

(Amended by Ord. No. 07-25)

15-2.2-10. VEGETATION PROTECTION.

The Property Owner must protect Significant Vegetation during any Development activity. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

Development plans must show all Significant Vegetation within twenty feet (20') of a proposed Development. The Property Owner must demonstrate the health and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation consistent with Landscape Criteria in LMC Chapter 15-3-3 and Title 14.

(Amended by Ord. No. 06-56)

15-2.2-11. SIGNS.

Signs are allowed in the HR-1 District as provided in the Park City Sign Code (Title 12).

15-2.2-12. RELATED PROVISIONS.

- Fences and Walls. LMC Chapter 15-4-2.
- Accessory Apartment. LMC Chapter 15-4-7.
- Satellite Receiving Antenna. LMC Chapter 15-4-13.
- Telecommunication Facility. LMC Chapter 15-4-14.
- Parking. LMC Chapter 15-3.

- Landscaping. Title 14; LMC Chapter 15-3.3(D).
- Lighting. LMC Chapters 15-3-3(C), 15-5-5(I).
- Historic Preservation. LMC Chapter 15-11.
- Park City Sign Code. Title 12.
- Architectural Review. LMC Chapter 15-5.
- Snow Storage. LMC Chapter 15-3-3(E).
- Parking Ratio Requirements. LMC Chapter 15-3-6.

(Amended by Ord. No. 06-56)

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.3 - HISTORIC RESIDENTIAL (HR-2) DISTRICT

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.3 - HISTORIC RESIDENTIAL (HR-2) DISTRICT

Chapter adopted by Ordinance 00-51

15-2.3-1. PURPOSE.

The purpose of the HR-2 District is to:

(A) allow for adaptive reuse of Historic Structures by allowing commercial and office Uses in Historic Structures in the following Areas:

- (1) Upper Main Street;
- (2) Upper Swede Alley; and
- (3) Grant Avenue,

(B) encourage and provide incentives for the preservation and renovation of Historic Structures,

(C) establish a transition in Use and scale between the HCB, HR-1, and HR-2 Districts, by allowing Master Planned Developments in the HR-2, Subzone A,

(D) encourage the preservation of Historic Structures and construction of historically Compatible additions and new construction that contributes to the unique character of the Historic District,

(E) define Development parameters that are consistent with the General Plan policies for the Historic core that result in Development that is Compatible with Historic Structures and the Historic character of surrounding residential neighborhoods and consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites and the HR-1 regulations for Lot size, coverage, and Building Height, and

(F) provide opportunities for small scale, pedestrian oriented, incubator retail space in Historic Structures on Upper Main Street, Swede Alley, and Grant Avenue,

(G) ensure improved livability of residential areas around the historic commercial core,

(H) encourage and promote Development that supports and completes upper Park Avenue as a pedestrian friendly residential street in Use, scale, character and design that is Compatible with the historic character of the surrounding residential neighborhood,

(I) encourage residential development that provides a range of housing opportunities consistent with the

community's housing, transportation, and historic preservation objectives,

(J) minimize visual impacts of the automobile and parking by encouraging alternative parking solutions,

(K) minimize impacts of Commercial Uses on surrounding residential neighborhood.

15-2.3-2. USES.

Uses in the HR-2 District are limited to the following:

(A) ALLOWED USES.

- (1) Single Family Dwelling
- (2) Lockout Unit¹
- (3) Nightly Rental²
- (4) Home Occupation
- (5) Child Care, In-Home Babysitting³
- (6) Child Care, Family³
- (7) Child Care, Family Group³
- (8) Accessory Building and Use
- (9) Conservation Activity
- (10) Agriculture
- (11) Residential Parking Area or Structure with four (4) or fewer spaces
- (12) Recreation Facility, Private

¹Nightly Rental of Lockout Units requires a Conditional Use Permit

²Nightly Rental does not include the use of dwellings for Commercial Uses

³See LMC Chapter 15-4-9 for Child Care Regulations

(B) CONDITIONAL USES.

- (1) Duplex Dwelling
- (2) Secondary Living Quarters
- (3) Accessory Apartment⁴
- (4) Group Care Facility
- (5) Child Care Center
- (6) Public or Quasi-Public Institution, church or School
- (7) Essential Municipal and Public Utility Use, Facility, Service, and Structure
- (8) Telecommunication Antenna⁵
- (9) Satellite Dish Antenna greater than thirty-nine inches (39") in diameter⁶
- (10) Bed & Breakfast Inn⁷
- (11) Boarding House, Hostel⁷
- (12) Hotel, Minor, fewer than sixteen (16) rooms⁷
- (13) Office, General⁸
- (14) Office, Moderate Intensive⁸
- (15) Office and Clinic, Medical⁸
- (16) Retail and Service Commercial, Minor⁸

⁴See LMC Chapter 15-4, Supplemental Regulations for Accessory Apartments

⁵See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

⁶See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

⁷In Historic Structures only

⁸In Historic Structures and within Sub-Zones A and B subject to compliance with all criteria and requirements of Section 15-2.3-8 for Sub-Zone A and Section 15-2.3-9 for Sub-Zone B.

- (17) Retail and Service Commercial, personal improvement⁸
- (18) Cafe or Deli⁸
- (19) Restaurant, General⁸
- (20) Restaurant, Outdoor Dining⁹
- (21) Outdoor Events
- (22) Residential Parking Area or Structure with five (5) or more spaces, associated with a residential Building on the same Lot
- (23) Temporary Improvement
- (24) Passenger Tramway Station and Ski Base Facility¹⁰
- (25) Ski tow rope, ski lift, ski run, and ski bridge¹⁰
- (26) Recreation Facility, Private
- (27) Fences greater than six feet (6') in height from Final Grade¹¹
- (28) Limited Commercial expansion necessary for compliance with Building/Fire Code egress and Accessibility requirements and support Uses associated with HCB Commercial Use¹²
- (29) Bar⁸
- (30) Special Events⁸

⁹Subject to an Administrative Conditional Use Permit, and permitted in Sub-Zone B only, subject to requirements in Section 15-2.3-9.

¹⁰ See LMC Chapter 15-4-18, Passenger Tramways and Ski-Base Facilities

¹¹ See LMC Chapter 15-4-2, Fences and Walls

¹² Subject to compliance with the criteria set forth in Section 15-2.3-8(B).

(Amended by Ord. Nos. 06-56; 09-10; 10-14; 12-37)

(C) **PROHIBITED USES.**

Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

(Amended by Ord. No. 04-08; 12-37)

15-2.3-3. CONDITIONAL USE PERMIT REVIEW.

The Planning Commission shall review any Conditional Use permit (CUP) Application in the HR-2 District according to Conditional Use permit criteria set forth in Section 15-1-10 as well as the following:

(A) Consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites, Section 15-4.

(B) The Applicant may not alter an Historic Structure to minimize the residential character of the Building.

(C) Dedication of a Facade Preservation Easement for Historic Structures is required to assure preservation of Historic Structures and the Historic fabric of the surrounding neighborhood.

(D) New Buildings and additions must be in scale and Compatible with the mass, height, width, and historic character of the surrounding residential neighborhood and existing Historic Structures in the neighborhood. Larger Building masses should be located to rear of the Structure to minimize the perceived mass from the Street.

(E) Parking requirements of Section 15-3 shall be met. The Planning Commission may waive parking requirements for Historic Structures and may consider in-lieu fees for all or a portion of parking requirements for Master Planned Developments. Calculation of in-lieu fees shall be based on the Park City Municipal Code Section 11-12-16 and any adopted City Council fees in effect at the time a complete application is received. The Planning Commission may allow on-Street parallel parking adjacent to the Front Yard to count as parking for Historic Structures, if the Applicant can document that the on-Street Parking will not impact adjacent Uses or create traffic circulation hazards. A traffic study, prepared by a registered Engineer, may be required.

(F) All Yards must be designed and maintained in a residential manner. Existing mature landscaping shall be preserved wherever possible. The Use of native plants and trees is strongly encouraged.

(G) Fencing and Screening between residential and Commercial Uses may be required along common Property Lines.

(H) All utility equipment and service areas must be fully Screened to prevent visual and noise impacts on adjacent residential Properties and on pedestrians.

(Amended by Ord. No. 06-56; 10-14; 12-37)

15-2.3-4. LOT AND SITE REQUIREMENTS.

Except as may otherwise be provided in this Code, no Building Permit shall be issued for

a Lot unless such Lot has Area, width, and depth as required, and Frontage on a private or Public Street shown on the Streets Master Plan, or on a private easement connecting the Lot to a Street shown on the Streets Master Plan.

All Development must comply with the following:

(A) **LOT SIZE.** The minimum Lot Area is 1,875 square feet for a Single Family Dwelling and 3,750 square feet for a Duplex Dwelling. The Minimum Lot Area for all other Uses shall be determined by the Planning Commission during the Conditional Use or Master Planned Development review process. The minimum width of a Lot is twenty five feet (25'), measured fifteen feet (15') back from the Front Lot Line. In the case of unusual Lot configurations, Lot width measurements shall be determined by the Planning Director.

(B) **BUILDING ENVELOPE (HR-2 DISTRICT).** The Building Pad, Building Footprint and height restrictions define the maximum Building Envelope within which all Development must occur with exceptions as allowed in Section 15-2.3-4.

(C) **BUILDING PAD (HR-2 DISTRICT).** The Building Pad is the Lot Area minus required Front, Rear, and Side Yard Areas.

(1) The Building Footprint must be within the Building Pad. The remainder of the Building Pad must be open and free of any Structure except:

- (a) Porches or decks, with or without roofs;
- (b) At Grade patios;
- (c) Upper level decks, with or without roofs;
- (d) Bay Windows;
- (e) Chimneys;
- (f) Sidewalks, pathways, and steps;
- (g) Screened hot tubs; and
- (h) Landscaping.

(2) Exceptions to the Building Pad Area, excluding Bay Windows, are not included in the Building Footprint calculations, and are subject to Planning Director approval based on a determination that the proposed exceptions result in a design that:

- (a) provides increased architectural interest consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites; and
- (b) maintains the intent of this section to provide

horizontal and vertical
Building articulation.

(D) BUILDING FOOTPRINT (HR-2 DISTRICT).

- (1) The maximum Building Footprint for any Structure located on a Lot, or combination of Lots, not exceeding 18,750 square feet in Lot Area, shall be calculated according to the following formula for Building Footprint, illustrated in Table 15-2.3.
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; with an exemption allowance of 400 square feet per Dwelling Unit for garage floor area. A Conditional Use permit is required for all Structures with a proposed footprint greater than 3,500 square feet.

Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building, shall not count in the total Building Footprint of the Lot.

- (2) See Section 15-6-5(B) for maximum allowed Building footprint for Master Planned Developments within the HR-2 District.

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP= maximum Building Footprint and A= Lot Area.

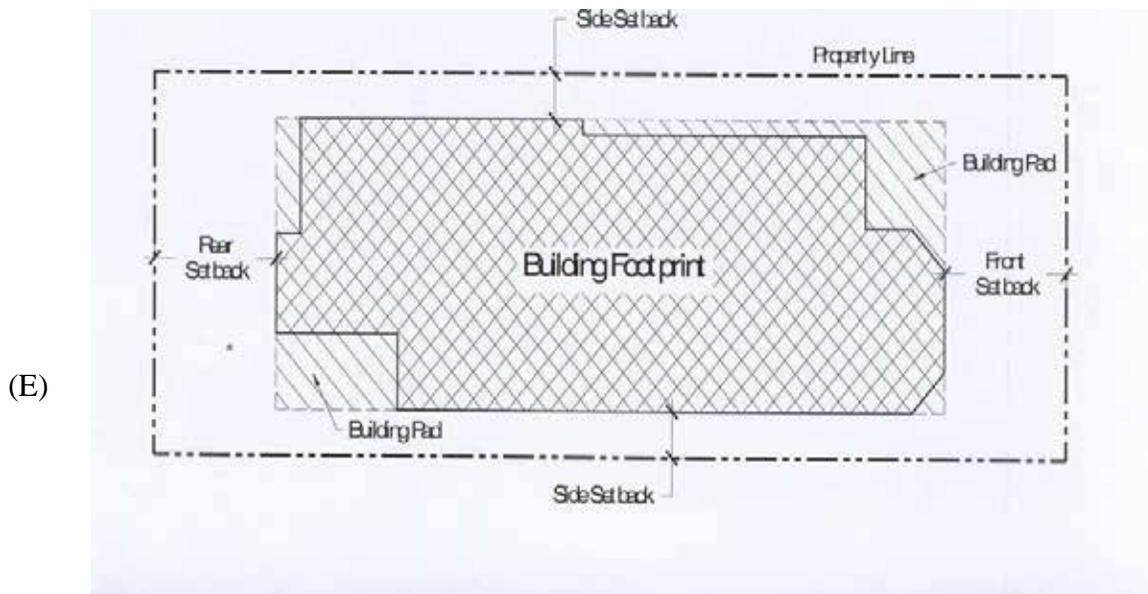
Example: 3,750 sq. ft. lot: $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = \underline{1,519 \text{ sq. ft.}}$

See the following Table 15-2.3. for a schedule equivalent of this formula.

TABLE 15-2.3.

Lot Depth, </= ft. *	Lot Width, ft. Up to:	Side Yards Min. Total, ft.		Lot Area Sq. ft.	Bldg. Pad Sq. ft.	Max. Bldg. Footprint
75 ft.	25.0	3 ft.	6 ft.	1,875	1,045	844
75 ft.	37.5	3 ft.	6 ft.	2,813	1,733	1,201
75 ft.	50.0	5 ft.	10 ft.	3,750	2,200	1,519
75 ft.	62.5	5 ft.	14 ft.	4,688	2,668	1,801
75 ft.	75.0	5 ft.	18 ft.	5,625	3,135	2,050
75 ft.	87.5	10 ft.	24 ft.	6,563	3,493	2,270
75 ft.	100.0	10 ft.	24 ft.	7,500	4,180	2,460
75 ft.	Greater than 100.0	10 ft.	30 ft.	Greater than 7,500 ft.	Per Setbacks and Lot Area	Per formula

* for Lots > 75' in depth use footprint formula and Table 15-2.3a for Front and Rear Setbacks.



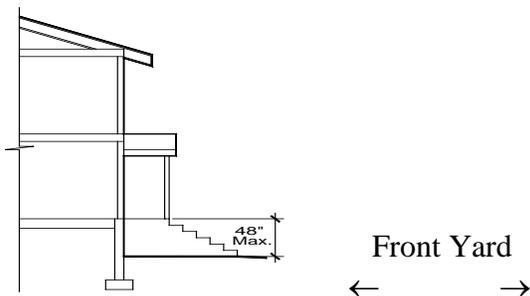
Lot Depth	Min. Front/Rear Setback	Total of Setbacks
Up to 75 ft., inclusive	10 ft.	20 ft.
From 75 ft. to 100 ft.	12 ft.	25 ft.
Over 100 ft.	15 ft.	30 ft.

(F) **FRONT YARD EXCEPTIONS.**

The Front Yard must be open and free of any Structure except:

(1) Fences or walls not more than four feet (4') in height or as permitted in Section 15-4-2, Fences and Walls. On Corner Lots, Fences more than three feet (3') in height are prohibited within twenty-five feet (25') of the intersection, at the back of curb.

(2) Uncovered steps leading to the Main Building; provided, the steps are not more than four feet (4') in height from Final Grade, not including any required handrail, and do not cause any danger or hazard to traffic by obstructing the view of the Street or intersection.



(3) Decks, porches, or Bay Windows not more than ten feet (10') wide projecting not more than three feet (3') into the Front Yard.

(4) Roof overhangs, eaves or cornices projecting not more than three feet (3') into the Front Yard.

(5) Sidewalks and pathways.

(6) Driveways leading to a Garage or Parking Area. No portion of a Front Yard except for driveways, allowed Parking Areas and sidewalks, may be Hard-Surfaced or graveled.

(7) Single car detached Garages approved as part of a Master Planned Development in Subzone A.

(G) **REAR YARD EXCEPTIONS.**

The Rear Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, and projecting not more than two feet (2') into the Rear Yard.

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Rear Yard.

(3) Window wells or light wells projecting not more than four feet (4') into the Rear Yard.

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Rear Yard.

(5) Window sills, belt courses, cornices, trim, exterior siding, or other ornamental features projecting not more than six inches (6") into the Rear Yard.

(6) Detached Accessory Buildings not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, and maintaining a minimum Rear Yard Setback of one foot (1'). Such Structure must not cover over fifty percent (50%) of the Rear Yard. See the following illustration:



(7) Hard-Surfaced Parking Areas subject to the same location requirements as a detached Accessory Building.

(8) Screened mechanical equipment, hot tubs, or similar Structures located at least three feet (3') ~~five feet (5')~~ from the Rear Lot Line.

(9) Fences or walls not more than six feet (6') in height or as permitted in Section 15-4-2.

(10) Patios, decks, steps, pathways, or similar Structures not more than thirty inches (30") above Final Grade, located at least one foot (1') from the Rear Lot Line.

(11) Pathways or steps connecting to a City staircase or pathway.

(H) **SIDE YARD.**

(1) The minimum Side Yard is three feet (3'), but increases for Lots greater than thirty-seven and one-half feet (37.5') in width, as per Table 15-2.3 above.

(2) On Corner Lots, the minimum Side Yard that faces a side Street or platted Right-of-Way is five feet (5').

(I) **SIDE YARD EXCEPTIONS.** The Side Yard must be open and free of any Structure except:

(1) Bay Windows not more than

ten feet (10') wide, and projecting not more than two feet (2') into the Side Yard.¹²

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Side Yard.¹²

(3) Window wells or light wells projecting not more than four feet (4') into the Side Yard.¹²

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Side Yard. A one foot (1') roof or eave overhang is permitted on Lots with a Side Yard of less than five feet (5').¹²

(5) Window sills, belt courses, trim, cornices, exterior siding, or other ornamental features projecting not more than six inches (6") into the Side Yard.

(6) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") in height from Final Grade.

(7) Fences or walls not more than six feet (6') in height or as permitted in Section 15-4-2.

(8) Driveways leading to a garage or Parking Area.

(9) Pathway or steps connecting

¹² Applies only to Lots with a minimum Side Yard of five feet (5')

to a City staircase or pathway.

(10) Detached Accessory Buildings not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, maintaining a minimum Side Yard Setback of three feet (3').

(11) Screened mechanical equipment, hot tubs, or similar Structures located at ~~least minimum of three feet (3')~~ ~~five feet (5')~~ from the Side Lot Line.

(J) **SNOW RELEASE**. Site plans and Building designs must resolve snow release issues to the satisfaction of the Chief Building Official.

(K) **CLEAR VIEW OF INTERSECTION**. No visual obstruction in excess of two feet (2') in height above Road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

(L) **MASTER PLANNED DEVELOPMENTS**. The Planning Commission may increase or decrease Setbacks in Master Planned Developments in accordance with Section 15-6-5 (C); however the above Grade spacing between houses shall be consistent with the spacing that would result from required Setbacks of the Zone and shall be Compatible with the historic character of the surrounding residential neighborhood. The Planning

Commission may increase or decrease Maximum Building Footprint in Master Planned Developments in accordance with Section 15-6-5 (B).

(Amended by Ord. Nos. 06-56; 09-10; 10-14)

15-2.3-5. EXISTING HISTORIC STRUCTURES.

Historic 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 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 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. 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.

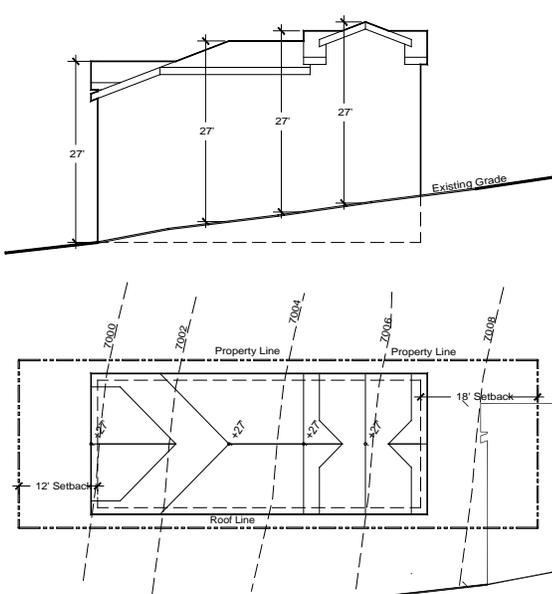
(B) A ten foot (10') minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish Grade on all sides of the Structure.

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). The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade.

Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

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

(1) A Structure containing a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the Green Roof, including the parapets, railings, or similar features shall not exceed twenty four (24") above the highest top plate mentioned above.



(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.

(Amended by Ord. Nos. 06-56; 09-10; 09-14; 09-40; 10-14; 13-48)

15-2.1-6. DEVELOPMENT ON STEEP SLOPES.

Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the [Historic District Design Guidelines for Park City's Historic Districts](#)

and Historic Sites and Chapter 5.

(A) ~~ALLOWED USE. An allowed residential Structure and/or Access to said Structure located upon an existing Slope of thirty percent (30%) or greater must not exceed a total square footage of one thousand square feet (1,000 sq. ft.) including the garage.~~

(BA) CONDITIONAL USE. A Conditional Use permit is required for any Structure in excess of one thousand square feet (1000 sq. ft.) if said Structure, and/or Access, is located upon any existing Slope of thirty percent (30%) or greater.

(1) A Steep Slope Conditional Use permit is required for construction of any Structure with a Building Footprint in excess of two hundred (200 sq. ft) if said Building Footprint is located upon an existing Slope of thirty percent (30%) or greater.

(2) A Steep Slope Conditional Use permit is required for construction of any addition to an existing Structure, when the addition has a new Building Footprint in excess of two hundred (200 sq. ft.), if the new Building Footprint is located upon an existing Slope of thirty (30%) or greater.

(3) A Steep Slope Conditional Use permit is required for any Access driveway located upon an existing Slope of thirty (30%) or greater.

For the purpose of measuring Slope, the

measurement shall include a minimum horizontal distance of fifteen feet (15') measured perpendicular to the contour lines on the certified topographic survey. The measurement shall quantify the steepest Slope within the Building Footprint and any Access driveway.

The Planning Department shall review all Steep Slope Conditional Use permit Applications and forward a recommendation to the Planning Commission. The Planning Commission may review Steep Slope Conditional Use permit Applications as Consent Calendar items. Steep Slope Conditional Use permit Applications shall be subject to the following criteria:

(1) **LOCATION OF DEVELOPMENT.** Development is located and designed to reduce visual and environmental impacts of the Structure.

(2) **VISUAL ANALYSIS.** The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points:

(a) To determine potential impacts of the proposed Access, and Building mass and design; and

(b) To identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities.

(3) **ACCESS.** Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged.

(4) **TERRACING.** The project may include terraced retaining Structures if necessary to regain Natural Grade.

(5) **BUILDING LOCATION.** Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent Properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.

(6) **BUILDING FORM AND SCALE.** Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Director and/or Planning Commission may

require a garage separate from the main Structure or no garage.

(7) **SETBACKS.** The Planning Department and/or Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.

(8) **DWELLING VOLUME.** The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Department and/or Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.

(9) **BUILDING HEIGHT (STEEP SLOPE).** The Zone Height in the HR-2 District is twenty-seven feet (27') and is restricted as stated above in Section 15-2.3-6. The Planning Department and/or Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between the proposed Structure and the historic character of the neighborhood's existing residential Structures.

(C) **EXCEPTION.** In conjunction with a Subdivision or Plat Amendment, several Property Owners have undergone a review process comparable to that listed in the Conditional Use Section B above and the City does not seek to subject those Owners to additional Planning Commission review. Therefore, at the request of the Owner, the Planning Director may exempt an allowed residential Structure in excess of one thousand square feet (1,000 sq. ft.) from the Conditional Use process upon finding the following:

- (1) The Lot resulted from a Subdivision or Plat Amendment after January 1, 1995;
- (2) The conditions of approval or required Plat notes reflect a maximum house size or Building Footprint; and
- (3) The conditions of approval or required Plat notes include a requirement for Planning, Engineering and Building Department review of Grading, excavation, erosion, or similar criteria as found in the foregoing Section B, prior to Building Permit issuance.

The findings shall be in writing, filed with the Owner and City Planning Department, and shall state that the maximum house size and all other applicable regulations continue to apply. The Owner is not vested for the maximum.

(Amended by Ord. Nos. 06-56; 09-10; 10-14)

15-2.3-8. SPECIAL REQUIREMENTS FOR MASTER PLANNED DEVELOPMENTS AND CONDITIONAL USE PERMITS IN SUB-ZONE A.

(A) **SUB-ZONE A.** Sub-Zone A consists of Lots in the HR-2 District that are west of Main Street, excluding those Lots within Block 13.

(B) The following special requirements apply only to Lots in Sub-Zone A that are part of a Master Planned Development, a Conditional Use Permit, or a Plat Amendment that combines a Main Street, HCB zoned, Lot with an adjacent Park Avenue, HR-2 zoned, Lot or portion of a Lot, for the purpose of restoring an Historic Structure, constructing an approved addition to an Historic Structure, constructing a residential dwelling or Garage on Park Avenue, or expanding a Main Street Business into the HR-2 zoned Lot:

- (1) All Commercial Uses extending from Main Street into the HR-2 Zone are subject to the Conditional Use Permit review requirements of Section 15-1-10 and the Master Planned Development requirements of Section 15-6 if the development is part of a Master Planned Development. These Commercial Uses must be located below the Grade of Park Avenue projected across the HR-2 Lot and beneath the Main Floor of a residential Structure or Structures

facing Park Avenue. Occupancy of the below Grade Floor Area is conditioned upon completion of the residential structure on the HR-2 Lot.

- (2) All Buildings within the HR-2 portion of the development must meet the minimum Side and Front Yard Setbacks of the HR-2 District as stated in Section 15-2.3-4, unless the Planning Commission grants an exception to this requirement during the MPD review and the development is consistent with the MPD Section 15-6-5(C). Below Grade Structures, such as parking structures and Commercial Floor Area extending from Main Street beneath a residential Structure or Structures on Park Avenue may occupy Side Yard Setbacks subject to Building and Fire Codes and trespass agreements.
- (3) All Buildings within the HR-2 portion of the development must meet the Building Height requirements of the HR-2 District as stated in Section 15-2.3-6.
- (4) Existing and new Structures fronting on Park Avenue may not contain Commercial Uses, except as permitted in Section 15-2.3-8 (B) (1).
- (5) A Floor Area Ratio of 4.0 shall be used to calculate the total Commercial Floor Area. Only the Lot Area within the HCB Lot may be used to calculate the Commercial Floor Area.

- (6) The number of residential units allowed on the HR-2 portion of the Development is limited by the Lot and Site Requirements of the HR-2 District as stated in Section 15-2.3-4.

- (7) All entrances and Access, including service and delivery, for the Commercial Use must be off of a Street or easement within the HCB District. The Commercial Structure must be designed to preclude any traffic generation on residential Streets, such as Park Avenue. Any emergency Access, as required by the Uniform Building Code (UBC), onto the HR-2 portion of the Property must be designed in such a manner as to absolutely prohibit non-emergency Use. Alarms shall be installed on all emergency doors that provide access to Park Avenue.

- (8) Commercial portions of a Structure extending from the HCB to the HR-2 District must be designed to minimize the Commercial character of the Building and Use and must mitigate all impacts on the adjacent Residential Uses. Impacts include such things as noise, odor and glare, intensity of activity, parking, signs, lighting, Access and aesthetics.

- (9) No loading docks, service yards, exterior mechanical equipment, exterior trash compounds, outdoor storage, ADA Access, or other similar Uses associated with the HCB Uses are

allowed within the HR-2 portion of the Property, and all such Uses shall be screened for visual and noise impacts.

(10) The Property Owner must donate a Preservation Easement to the City for any Historic Structures included in the Development.

(11) Any Historic Structures included in the development shall be restored or rehabilitated according to the requirements of the LMC Chapter 11- Historic Preservation.

(12) Any adjoining Historic Structures under common ownership or control must be considered a part of the Property for review purposes of the Conditional Use permit and/or Master Planned Development.

(13) The allowed Building Width of any Structure above Final Grade is up to forty (40) feet. Building Widths shall reflect the typical variation, pattern and Historic character of the surrounding residential neighborhood.

(14) Residential Density Transfers between the HCB and HR-2 Zoning Districts are not permitted. A portion of the Gross Floor Area generated by the Floor Area Ratio of the HCB Zoning District and applied only to Lot Area in the HCB Zone, may be located in the HR-2 Zone as allowed by this Section.

(15) Maximum allowed Building

Footprint for the HR-2 Lot is subject to Section 15-6-5(B).

(Amended by Ord. No. 10-14)

15-2.3-9. SPECIAL REQUIREMENTS FOR SUB-ZONE B

(A) Sub Zone B consists of Lots in the HR-2 District that are located in the following Areas:

(1) East of Main Street, including Properties fronting on Main Street, Swede Alley, and Grant Avenue; and

(2) West of Main Street within Block 13 and fronting on Main Street.

(B) The following special requirements apply only to those Commercial Uses as listed in Section 15-2.3-2 for Sub Zone B:

(1) These Commercial Uses are allowed as a Conditional Use permit review requirements in Section 15-1-10.

(2) New additions and alterations to Historic Structures must not destroy the Architectural Detail of the Structure. The new work must be Compatible with the massing, size, scale, and architectural features to protect the Historic integrity of the Property and its environment. New additions shall be subordinate to the existing Structure.

(3) Adaptive reuse of residential

Historic Structures for commercial Uses may impose only minimal changes to the defining Architectural Detail.

(4) New Construction must be residential in character and comply with the Design Guidelines for Park City's Historic Districts and Historic Sites for residential construction and all Lot and Site requirements of Section 15-2.3-4.

(5) Parking must be provided on-Site in accordance with this Code or Off-Site by paying the HCB "in lieu fee" multiplied by the parking obligation.

(6) The Historic Structure shall be restored or rehabilitated according to the requirements of LMC Chapter 4 as a condition precedent to approval of the Conditional Use permit.

(7) Any adjoining Historic Structures, under common ownership or control must be considered a part of the Property for review purposes of the Conditional Use permit.

(8) The Property Owner must donate a Preservation Easement to the City for the Historic Structure as a condition precedent to approval of the Conditional Use permit.

15-2.3-10. PARKING REGULATIONS.

(A) Tandem Parking is allowed in the

Historic District.

(B) Common driveways are allowed along shared Side Lot Lines to provide Access to Parking in the rear of the Main Building or below Grade if both Properties are deed restricted to allow for the perpetual Use of the shared drive.

(C) 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.

(D) A common Parking Structure may occupy below Grade Side Yards between participating Developments if the Structure maintains all Setbacks above Grade. Common Parking Structures are subject to a Conditional Use review, Section 15-1-10.

(E) 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.

(F) Turning radii are subject to review by the City Engineer as to function and design.

(G) See Section 15-3 Off Street Parking

for additional parking requirements.

(H) Parking Areas with five (5) or more spaces within Subzone A shall be accessed from a Street other than Park Avenue if the Parking Area also serves HCB Uses, and such Parking Areas shall be below the Grade of Park Avenue and beneath residential structures facing and fronting on Park Avenue.

(Amended by Ord. Nos. 06-56; 09-10; 10-14)

15-2.3-11. ARCHITECTURAL REVIEW.

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board as outlined in 15-1-18 of the Code.

(Amended by Ord. Nos. 06-56; 09-10; 09-23; 10-14)

15-2.3-12. CRITERIA FOR BED AND BREAKFAST INNS.

A Bed and Breakfast Inn is a Conditional Use. No Conditional Use permit may be issued unless the following criteria are met:

- (A) The Use is in a Historic Structure or addition thereto.
- (B) The Applicant will make every attempt to rehabilitate the Historic portion of the Structure.
- (C) The Structure has at least two (2) rentable rooms. The maximum number of rooms will be determined by the Applicant's ability to mitigate neighborhood impacts.
- (D) The size and configuration of the rooms are Compatible with the Historic character of the Building and neighborhood.
- (E) The rooms are available for Nightly Rental only.
- (F) An Owner/manager is living on-Site, or in Historic Structures there must be twenty-four (24) hour on-Site management and check-in.
- (G) Food service is for the benefit of overnight guests only.
- (H) No Kitchen is permitted within rental room(s).
- (I) Parking on-Site is required at a rate of one (1) space per rentable room. If no on-Site parking is possible, the Applicant must provide parking in close proximity to the inn. The Planning Commission may waive the parking requirement for Historic Structures, if the Applicant proves that:
 - (1) no on-Site parking is possible without compromising the Historic Structures or Site, including removal of existing Significant Vegetation,

and all alternatives for proximate parking have been explored and exhausted; and

(2) the Structure is not economically feasible to restore or maintain without the adaptive Use.

(J) The Use complies with Section 15-1-10, Conditional Use review.

15-2.3-13. MECHANICAL SERVICE.

No free standing mechanical equipment is allowed in the HR-2 zone with the exception of individual residential mechanical units serving Single family and Duplex Dwelling units within the HR-2 District, subject to the Lot and Site Requirements of Section 15-2.3-4. The Planning Department will review all Development Applications to assure that all Mechanical equipment attached to or on the roofs of Buildings is Screened so that it is not open to view and does not exceed the allowable decibel levels of the City's Noise Ordinance from nearby residential Properties.

Mechanical equipment in the HR-2 zone must be Screened to minimize noise infiltration to adjoining Properties. Refuse collection and storage Areas must be fully enclosed and properly ventilated so that a nuisance is not created by odors or sanitation problems.

(Amended by Ord. Nos. 06-56; 10-14)

15-2.3-14. GOODS AND USES TO BE WITHIN ENCLOSED BUILDING.

(A) **OUTDOOR DISPLAY OF**

GOODS PROHIBITED. Unless expressly allowed as an Allowed or Conditional Use, all goods, including food, beverage and cigarette vending machines, must be within a completely enclosed Structure. New construction of enclosures for the storage of goods shall not have windows and/or other fenestration that exceeds a wall to window ratio of thirty percent (30%). This section does not preclude temporary sales in conjunction with a Master Festival License, sidewalk sale, or seasonal plant sale. See Section 15-2.3-14(B)(3) for outdoor display of bicycles, kayaks, and canoes.

(B) **OUTDOOR USES PROHIBITED/ EXCEPTIONS.** The following outdoor Uses may be allowed by the Planning Department upon the issuance of an Administrative Permit. The Applicant must submit the required application, pay all applicable fees, and provide all required materials and plans. Appeals of Departmental actions are heard by the Planning Commission. These Commercial outdoor Uses are not allowed within Subzone A

(1) **OUTDOOR DINING.** Outdoor Dining is subject to the following criteria:

(a) The proposed outdoor dining is located within Sub-Zone B only, and is associated with an approved Restaurant, Café, or Deli Use.

(b) The proposed seating Area is located on private Property or leased public Property and does not

diminish parking or landscaping.

(c) The proposed seating Area does not impede pedestrian circulation.

(d) The proposed seating Area does not impede emergency Access or circulation.

(e) The proposed furniture is Compatible with the Streetscape.

(f) No music or noise in excess of the City Noise Ordinance, Title 6.

(g) No Use after 10:00 p.m.

(h) No net increase in the Restaurant's seating capacity without adequate mitigation of the increased parking demand.

(2) **OUTDOOR GRILLS/ BEVERAGE SERVICE STATIONS.** Commercial Outdoor grills and/or beverage service stations are subject to the following criteria:

(a) The Use is located within Sub-Zone B only.

(b) The Use is on private Property or leased public Property and does not

diminish parking or landscaping.

(c) The Use is only for the sale of food or beverages in a form suited for immediate consumption.

(d) The Use is Compatible with the neighborhood.

(e) The proposed service station does not impede pedestrian circulation.

(f) The proposed service station does not impede emergency Access or circulation.

(g) Design of the service station is Compatible with adjacent Buildings and Streetscape.

(h) No violation of the City Noise Ordinance, Title 6.

(i) Compliance with the City Sign Code, Title 12.

(3) **COMMERCIAL OUTDOOR STORAGE AND DISPLAY OF BICYCLES, KAYAKS, MOTORIZED SCOOTERS, AND CANOES.** Outdoor storage and display of bicycles, kayaks, motorized scooters, and canoes for Commercial purposes is subject to the following criteria:

- (a) Located within the Sub-Zone B only.
- (b) The Area of the proposed bicycle, kayak, motorized scooters, and canoe storage or display is on private Property and not in Areas of required parking or landscaped planting beds.
- (c) Bicycles, kayaks, and canoes may be hung on Buildings if sufficient Site Area is not available, provided the display does not impact or alter the architectural integrity or character of the Structure.
- (d) No more than a total of three (3) pieces of equipment may be displayed.
- (e) Outdoor display is allowed only during Business hours.
- (f) Additional outdoor storage Areas may be considered for rental bicycles or motorized scooters provided there are no or only minimal impacts on landscaped Areas, Parking Spaces, and pedestrian and emergency circulation.

(4) OUTDOOR EVENTS AND MUSIC. Located in Sub-Zone B only. Outdoor events and music

require an Administrative Conditional Use permit. The Use must also comply with Section 15-1-10, Conditional Use review. The Applicant must submit a Site plan and written description of the event, addressing the following:

- (a) Notification of adjacent Property Owners.
- (b) No violation of the City Noise Ordinance, Title 6.
- (c) Impacts on adjacent Residential Uses.
- (d) Proposed plans for music, lighting, Structures, electrical, signs, etc needs.
- (e) Parking demand and impacts on neighboring Properties.
- (f) Duration and hours of operation.
- (g) Impacts on emergency Access and circulation.

(5) DISPLAY OF MERCHANDISE. Display of outdoor merchandise is subject to the following criteria:

- (a) The display is immediately available for purchase at the Business displaying the item.

(b) The merchandise is displayed on private Property directly in front of or appurtenant to the Business which displays it, so long as the private Area is in an alcove, recess, patio, or similar location that provides a physical separation from the public sidewalk. Allowed in Subzone B only. No item of merchandise may be displayed on publicly owned Property including any sidewalk or prescriptive Right-of-Way regardless if the Property Line extends into the public sidewalk. An item of merchandise may be displayed on commonly owned Property; however, written permission for the display of the merchandise must be obtained from the Owner's association.

(c) The display is prohibited from being permanently affixed to any Building. Temporary fixtures may not be affixed to any Historic Building in a manner that compromises the Historic integrity or Façade Easement of the Building as determined by the Planning Director.

(d) The display does not diminish parking or landscaping.

(e) The Use does not violate the Summit County Health Code, the Fire Code, or International Building Code. The display does not impede pedestrian circulation, sidewalks, emergency Access, or circulation. At minimum, forty-four inches (44") of clear and unobstructed Access to all fire hydrants, egress and Access points must be maintained. Merchandise may not be placed so as to block visibility of or Access to any adjacent Property.

(f) The merchandise must be removed if it becomes a hazard due to wind or weather conditions, or if it is in a state of disrepair, as determined by either the Planning Director or Building Official.

(g) The display shall not create a hazard to the public due to moving parts, sharp edges, or extension into public Rights-of-Way, including sidewalks, or pedestrian and vehicular Areas; nor shall the display restrict vision at intersections.

(h) No inflatable devices other than decorative balloons smaller than eighteen inches (18") in

diameter are permitted. Balloon height may not exceed the finished floor elevation of the second floor of the Building.

(i) No additional signs are allowed. A sales tag, four square inches (4 sq. in.) or smaller may appear on each display item, as well as an informational plaque or associated artwork not to exceed twelve square inches (12 sq. in.). The proposed display shall be in compliance with the City Sign Code, Municipal Code Title 12, the City's licensing Code, Municipal Code Title 4, and all other requisite City codes.

(Amended by Ord. Nos. 05-49; 06-56; 10-14)

15-2.3-15. VEGETATION PROTECTION.

The Property Owner must protect Significant Vegetation during any Development activity. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4 ½ ') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

Development plans must show all Significant Vegetation within twenty feet (20') of a proposed Development. The Property Owner must demonstrate the health

and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation consistent with Landscape Criteria in LMC Chapter 5.

(Amended by Ord. Nos. 06-56;10-14)

15-2.3-16. SIGNS.

Signs are allowed in the HR-2 District as provided in the Park City Sign Code, Title 12.

15-2.3-17. RELATED PROVISIONS.

- Fences and Walls. LMC Chapter 15-4-2.
- Accessory Apartment. LMC Chapter 15-4-7.
- Satellite Receiving Antenna. LMC Chapter 15-4-13.
- Telecommunication Facility. LMC Chapter 15-4-14.
- Parking. LMC Chapter 15-3.
- Landscaping. Title 14; LMC Chapter 15-3-3(D) and 15-5.
- Lighting. LMC Chapters 15-3-3(C), 15-5-5(I).
- Historic Preservation. LMC Chapter 15-11.
- Park City Sign Code. Title 12.
- Architectural Review. LMC Chapter 15-11.
- Snow Storage. LMC Chapter 15-3-3(E).
- Parking Ratio Requirements. Section 15-3-6.

(Amended by Ord. Nos. 06-56;10-14)

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.16 - RECREATION COMMERCIAL (RC) DISTRICT

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.16 - RECREATION COMMERCIAL (RC) DISTRICT

Chapter adopted by Ordinance No. 00-51

15-2.16-1. PURPOSE.

The purpose of the Recreation Commercial RC District is to:

- (A) allow for the Development of hotel and convention accommodations in close proximity to major recreation facilities,
- (B) allow for resort-related transient housing with appropriate supporting commercial and service activities,
- (C) encourage the clustering of Development to preserve Open Space, minimize Site disturbance and impacts of Development, and minimize the cost of construction and municipal services,
- (D) limit new Development on visible hillsides and sensitive view Areas,
- (E) provide opportunities for variation in architectural design and housing types,
- (F) promote pedestrian connections within Developments and to adjacent Areas,

(G) minimize architectural impacts of the automobile,

(H) promote the Development of Buildings with designs that reflect traditional Park City architectural patterns, character, and Site designs,

(I) promote Park City's mountain and Historic character by designing projects that relate to the mining and Historic architectural heritage of the City, and

(J) promote the preservation and rehabilitation of Historic Buildings.

15-2.16-2. USES.

Uses in the RC District are limited to the following:

(A) **ALLOWED USES.**

- (1) Single Family Dwelling
- (2) Duplex Dwelling
- (3) Triplex Dwelling
- (4) Secondary Living Quarters
- (5) Lockout Unit¹

¹Nightly Rental of Lockout Units requires a Conditional Use permit

- (6) Accessory Apartment²
- (7) Nightly Rental³
- (8) Home Occupation
- (9) Child Care, In-Home Babysitting⁴
- (10) Child Care, Family⁴
- (11) Child Care, Family Group⁴
- (12) Child Care Center⁴
- (13) Accessory Building and Use
- (14) Conservation Activity
- (15) Agriculture
- (16) Bed & Breakfast Inn
- (17) Boarding House, Hostel
- (18) Hotel, Minor
- (19) Parking Area or Structure with four (4) or fewer spaces
- (20) Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays⁵

(B) **CONDITIONAL USES.**

- (1) Multi-Unit Dwelling
- (2) Group Care Facility

²See LMC Chapter 15-4, Supplemental Regulations for Accessory Apartments

³Nightly Rentals do not include the Use of dwellings for Commercial Uses

⁴See LMC Chapter 15-4-9, Child Care Regulations

⁵Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed on the original Property set forth in the services agreement and/or Master Festival License. Requires an Administrative Permit.

- (3) Public and Quasi-Public Institution, Church, and School
- (4) Essential Municipal and Public Utility Use, Facility, Service, and Structure
- (5) Telecommunications Antenna⁶
- (6) Satellite Dish Antenna, greater than thirty-nine inches (39") in diameter⁷
- (7) Raising, grazing of horses
- (8) Cemetery
- (9) Hotel, Major
- (10) Timeshare Project and Conversion
- (11) Timeshare Sales Office
- (12) Private Residence Club Project and Conversion⁹
- (13) Office, General⁸
- (14) Office, Moderate⁸
- (15) Office and Clinic, Medical⁸
- (16) Financial Institution without drive-up window⁸
- (17) Minor Retail and Service Commercial⁸
- (18) Retail and Service Commercial, personal improvement⁸

⁶See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

⁷See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

⁸As support Use to primary Development or Use, subject to provisions of LMC Chapter 15-6, Master Planned Development

- (19) Transportation Service⁸
- (20) Neighborhood Market, without gasoline sales⁸
- (21) Café or Deli⁸
- (22) Restaurant, General⁸
- (23) Restaurant, Outdoor Dining^{8, 9}
- (24) Bar⁸
- (25) Hospital, Limited Care Facility⁸
- (26) Parking Area or Structure with five (5) or more spaces
- (27) Temporary Improvement⁹
- (28) Passenger Tramway Station and Ski Base Facility¹⁰
- (29) Ski Tow Rope, Ski Lift, Ski Run, and Ski Bridge¹⁰
- (30) Outdoor Events and Uses⁹
- (31) Recreation Facility, Public and Private⁸
- (32) Recreation Facility, Commercial⁸
- (33) Entertainment Facility, Indoor⁸
- (34) Commercial Stables, Riding Academy⁸
- (35) Master Planned Developments
- (36) Heliport⁸
- (37) Special Events⁹
- (38) Amenities Club

(C) **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

⁹Requires an Administrative or Administrative Conditional Use permit, see Section 15-4

¹⁰ As part of an approved Ski Area Master Plan

(Amended by Ord. Nos. 02-38; 04-39; 06-76; 09-10; 11-05)

15-2.16-3. LOT AND SITE REQUIREMENTS.

Except as may otherwise be provided in this Code, no Building Permit shall be issued for a Lot unless such Lot has Frontage on a Street shown as a private or Public Street on the Streets Master Plan, or on a private easement connecting the Lot to a Street shown on the Streets Master Plan. All Development must comply with the following:

(A) **SINGLE FAMILY AND DUPLEX DWELLINGS.** For Single Family and Duplex Dwellings see Section 15-2.16-5.

(B) **DEVELOPMENT FLOOR AREA RATIO.** For all Development, except Single Family and Duplex Dwellings, the maximum Floor Area Ratio is one (1.0), not including underground Parking Structures.

(C) **FRONT YARD.** The minimum Front Yard is twenty feet (20'). See Section 15-2.16-5 for Front Yard requirements for Single Family and Duplex Dwellings.

(D) **FRONT YARD EXCEPTIONS.** The Front Yard must be open and free of any Structure except:

- (1) Fences, walls, and retaining walls not more than four feet (4') in height, or as permitted in Section 15-4-2. On Corner Lots, Fences more than three feet (3') in height are

prohibited within twenty-five feet (25') of the intersection at back of curb.

(2) Uncovered steps leading to the Main Building, provided the steps are not more than four feet (4') in height from Final Grade, not including any required handrail, and do not cause any danger or hazard to traffic by obstructing the view of a Street or intersection.

(3) Decks, porches, and Bay Windows not more than ten feet (10') wide, projecting not more than five feet (5') into the Front Yard.

(4) Roof overhangs, eaves and cornices projecting not more than three feet (3') into the Front Yard.

(5) Sidewalks, patios, and pathways.

(6) Driveways leading to a garage or Parking Area. No portion of a Front Yard except for approved driveways, allowed Parking Areas, and sidewalks may be Hard-Surfaced or graveled.

(7) Circular driveways meeting all requirements stated in Section 15-3-4 herein.

(E) **REAR YARD.** The minimum Rear Yard is ten feet (10'). See Section 15-2.16-5

for Rear Yard requirements for Single Family and Duplex Dwellings.

(F) **REAR YARD EXCEPTIONS.**

The Rear Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide projecting not more than two feet (2') into the Rear Yard.

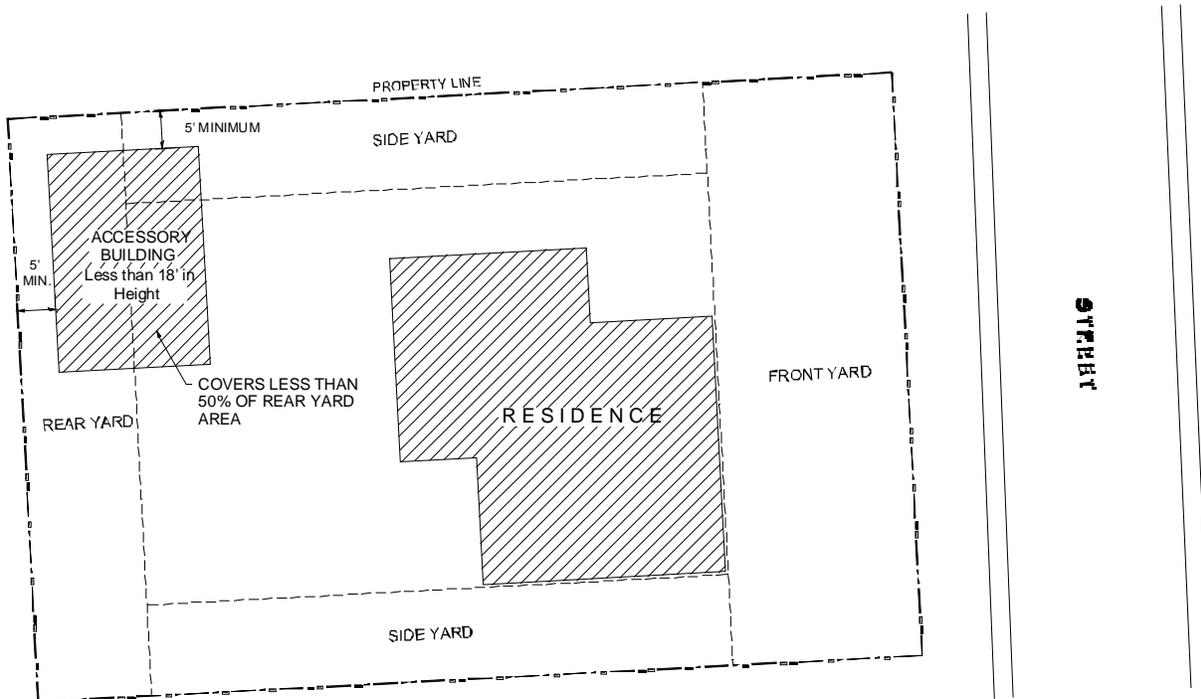
(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Rear Yard.

(3) Window wells and light wells projecting not more than four feet (4') into the Rear Yard.

(4) Roof overhangs and eaves projecting not more than three feet (3') into the Rear Yard.

(5) Window sills, belt courses, cornices, trim, exterior siding, and other ornamental features projecting not more than six inches (6") beyond the window or main Structure to which it is attached.

(6) Detached Accessory Buildings not more than eighteen feet (18') in height and maintaining a minimum Rear Yard Setback of five feet (5'). Such Structures must not cover more than fifty percent (50%) of the Rear Yard. See the following illustration:



(7) Hard-Surfaced Parking Areas subject to the same location requirements as a detached Accessory Building.

(8) Screened mechanical equipment, hot tubs, and similar Structures located at least **three feet (3')** ~~five feet (5')~~ from the Rear Lot Line.

(9) Fences, walls, and retaining walls not more than six feet (6') in height, or as permitted in Section 15-4-2. Retaining walls may have multiple steps, however, each exposed face cannot exceed six feet (6') in height and the horizontal distance between the walls, front face to rear face, must be at least three feet (3') and planted with

approved vegetation. The Planning Director may approve minor deviations to the height and stepping requirements based on Site specific review.

(10) Patios, decks, pathways, steps, and similar Structures not more than thirty inches (30") above Final Grade, located at least **one foot (1')** ~~five feet (5')~~ from the Rear Lot Line.

(G) **SIDE YARD.**

(1) The minimum Side Yard is ten feet (10'). See Section 15-2.16-5 for Side Yard requirements for Single Family and Duplex Dwellings.

(2) A Side Yard between connected Structures is not required where Structures are designed with a common wall on a Property Line and the Lots are burdened with a party wall agreement in a form approved by the City Attorney and Chief Building Official.

(H) **SIDE YARD EXCEPTIONS.** The Side Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, projecting not more than two feet (2') into the Side Yard.

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Side Yard.

(3) Window wells and light wells projecting not more than four feet (4') into the Side Yard.

(4) Roof overhangs and eaves projecting not more than three feet (3') into the Side Yard.

(5) Window sills, belt courses, cornices, trim, and other ornamental features projecting not more than six inches (6") beyond the window or main Structure to which it is attached.

(6) Patios, decks, pathways, steps, and similar Structures not more than thirty inches (30") in height above Final Grade, ~~provided~~

~~there is at least a one foot (1')
Setback to the Side Lot Line.~~

(7) Fences, walls, and retaining walls not more than six feet (6') in height, or as permitted in Section 15-4-2. Retaining walls may have multiple steps, however, each exposed face cannot exceed six feet (6') in height and the horizontal distance between the walls, front face to rear face, must be at least three feet (3') and planted with approved vegetation. The Planning Director may approve minor deviations to the height and stepping requirements based on Site specific review.

(8) Driveways leading to a garage or Parking Area maintaining a three foot (3') landscaped Setback to the Side Lot Line.

(9) Detached Accessory Buildings not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building and maintaining a minimum Side Yard Setback of five feet (5').

(10) Screened mechanical equipment, hot tubs, and similar Structures ~~provided it is located~~ located at least a minimum of three feet (3') five feet (5') from the Side Lot Line.

(I) **SNOW RELEASE.** Site plans and Building design must resolve snow release

issues to the satisfaction of the Chief Building Official.

(J) **OPEN SPACE.** On any Lot greater than 25,000 sq. ft. in Area, at least sixty percent (60%) of the Lot must be devoted to Open Space if the Lot is not developed as Master Planned Development. If the Lot is developed as a Master Planned Development then the Open Space requirements of Section 15-6-5.(D) shall apply.

(Amended by Ord. Nos. 06-76; 09-10; 12-37)

15-2.16-4. BUILDING HEIGHT.

No Structure shall be erected to a height greater than thirty-five feet (35') from Existing Grade. This is the Zone Height. See Section 15-2.16-5 Building Height for Single Family Dwellings and Duplexes.

(A) **MAXIMUM BUILDING VOLUME AND BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

- (1) Gable, hip, and similar pitched roofs may extend up to five feet (5') above the Zone Height, if the roof pitch is 4:12 or greater.
- (2) 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.
- (3) Water towers, mechanical

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

(4) Church spires, bell towers, and like architectural features, subject to LMC Chapter 15-5 Architectural Guidelines, may extend up to fifty percent (50%) above the Zone Height, but may not contain Habitable Space above the Zone Height. Such exception requires approval by the Planning Director.

(5) Elevator Penthouses may extend up to eight feet (8') above the Zone Height.

(6) Ski Lifts and Tramway towers may extend above the Zone Height subject to a visual analysis and administrative approval by the Planning Commission.

(7) Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays, including Olympic way-finding towers, are permitted to a height of sixty-five feet (65').

(Amended by Ord. Nos. 02-38; 06-76; 07-25)

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

Except as may otherwise be provided in this Code, no Building Permit shall be issued for a Lot unless such Lot has Area, width, and

depth as required, and Frontage on a Street shown as a private or Public Street on the Streets Master Plan, or on a private easement connecting the Lot to a Street shown on the Streets Master Plan.

The following minimum Lot and Site requirements apply to Single Family and Duplex Dwellings in the RC District:

(A) **LOT SIZE.** The minimum Lot Area is 1,875 square feet for a Single Family Dwelling and 3,750 square feet for a Duplex. The minimum width of a Lot is twenty five feet (25'); measured fifteen feet (15') back from the Front Lot Line. In the case of unusual Lot configurations, Lot Width measurements shall be determined by the Planning Director.

(B) **BUILDING ENVELOPE - RC DISTRICT.** The Building Pad, Building Footprint and height restrictions define the maximum Building Envelope within which all Development must occur, with exceptions as allowed by Section 2-16-5(C).

(C) **BUILDING PAD - RC DISTRICT.** The Building Pad is the Lot Area minus required Front, Rear and Side Yard Areas.

(1) The Building Footprint must be within the Building Pad. The remainder of the Building Pad must be open and free of any other Structure except:

(a) Porches or decks, with or without roofs;

- (b) At Grade patios;
- (c) Upper level decks, with or without roofs;
- (d) Bay Windows;
- (e) Chimneys;
- (f) Sidewalks, pathways, and steps;
- (g) Screened hot tubs; and
- (h) Landscaping.

(2) Exceptions to the Building Pad Area, excluding Bay Windows, are not included in the Building Footprint calculations, and are subject to Planning Director approval based on a determination that the proposed exceptions result in a design that:

- (a) provides increased architectural interest consistent with the Design Guidelines for Historic Districts and Sites; and
- (b) maintains the intent of this section to provide horizontal and vertical Building articulation.

(D) **BUILDING FOOTPRINT – RC DISTRICT.** The maximum Building Footprint of any Single Family or Duplex Structure located on a Lot, or

combination of Lots, not exceeding 18,750 square feet in Lot Area, shall be calculated according to the following formula for Building Footprint, illustrated in Table 15-2.16.

Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building, shall not count in the total Building Footprint of the Lot.

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; with an exemption allowance of 400 square feet, per Dwelling Unit, for garage floor area. A Conditional Use permit is required for all Structures with a proposed footprint of greater than 3,500 square feet.

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP= maximum Building Footprint and A= Lot Area.

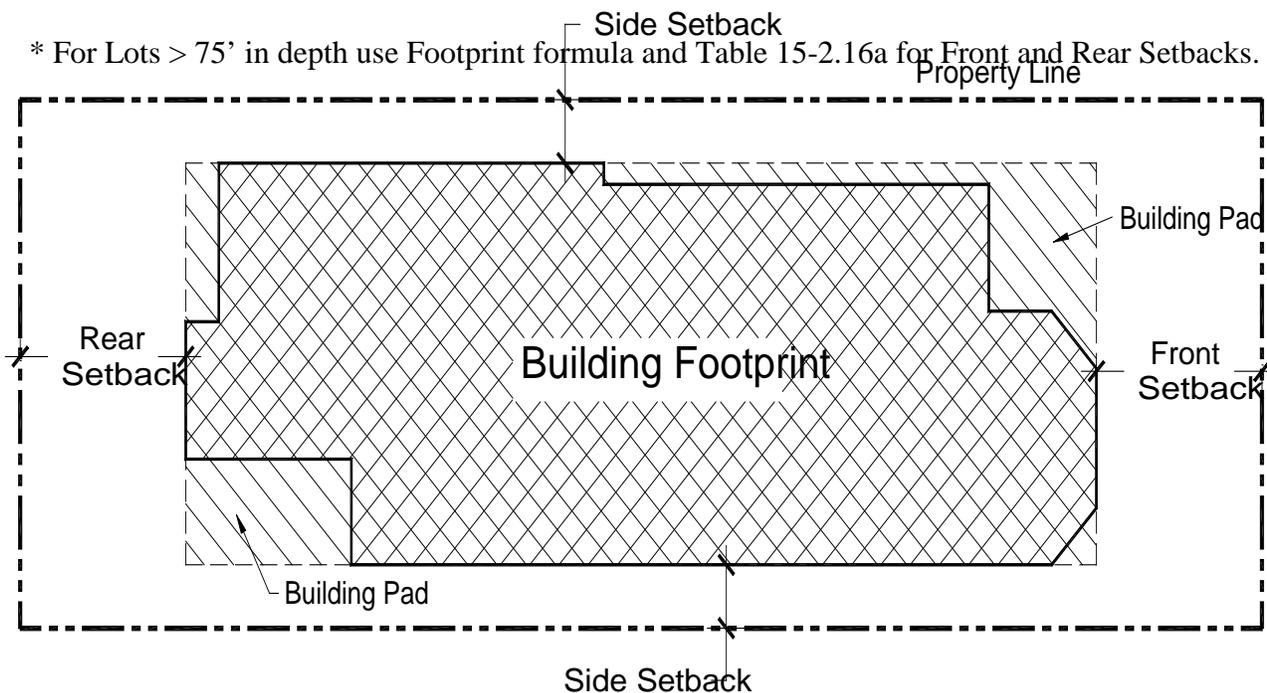
Example: 3,750 sq. ft. lot: $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = \underline{1,519 \text{ sq. ft.}}$

See the following Table 15-2.16- below for a schedule equivalent of this formula.

TABLE 15-2.16

Lot Depth, <=/= ft. *	Lot Width, ft. Up to:	Side Yards Min. Total, ft.		Lot Area Sq. ft.	Bldg. Pad Sq. ft.	Max. Bldg. Footprint
75 ft.	25.0	3 ft.	6 ft.	1,875	1,045	844
75 ft.	37.5	3 ft.	6 ft.	2,813	1,733	1,201
75 ft.	50.0	5 ft.	10 ft.	3,750	2,200	1,519
75 ft.	62.5	5 ft.	14 ft.	4,688	2,668	1,801
75 ft.	75.0	5 ft.	18 ft.	5,625	3,135	2,050
75 ft.	87.5	10 ft.	24 ft.	6,563	3,493	2,270
75 ft.	100.0	10 ft.	24 ft.	7,500	4,180	2,460
75 ft.	Greater than 100.0	10 ft.	30 ft.	Greater than 75 ft.	Per Setbacks and Lot Area	Per formula

* For Lots > 75' in depth use Footprint formula and Table 15-2.16a for Front and Rear Setbacks.



(E) **FRONT AND REAR YARDS.** Front and Rear Yards are as follows:

Table 15-2.16a

Lot Depth	Min. Front/Rear Setback	Total of Setbacks
Up to 75 ft., inclusive	10 ft.	20 ft.
From 75 ft. to 100 ft.	12 ft.	25 ft.
Over 100 ft.	15 ft.	30 ft.

(F) **FRONT YARD EXCEPTIONS.**

The Front Yard must be open and free of any Structure except:

- (1) Fences or walls not more than four feet (4') in height, or as permitted in Section 15-4-2. Fences and Walls. On Corner Lots, Fences more than three feet (3') in height are prohibited within twenty-five feet (25') of the intersection at back of

curb.

- (2) Uncovered steps leading to the Main Building; provided the steps are not more than four feet (4') in height from Final Grade, not including any required handrail, and do not cause any danger or hazard to traffic by obstructing the view of the Street or intersection.

(3) Decks, porches, and Bay Windows not more than ten feet (10') wide, projecting not more than three feet (3') into the Front Yard.

(4) Roof overhangs, eaves, and cornices projecting not more than three feet (3') into the Front Yard.

(5) Sidewalks, patios, and pathways.

(6) A driveway leading to a garage or Parking Area. No portion of a Front Yard, except for patios, driveways, allowed Parking Areas and sidewalks may be Hard-Surfaced or graveled.

(G) **REAR YARD EXCEPTIONS.**

The Rear Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, projecting not more than two feet (2') into the Rear Yard.

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Rear Yard.

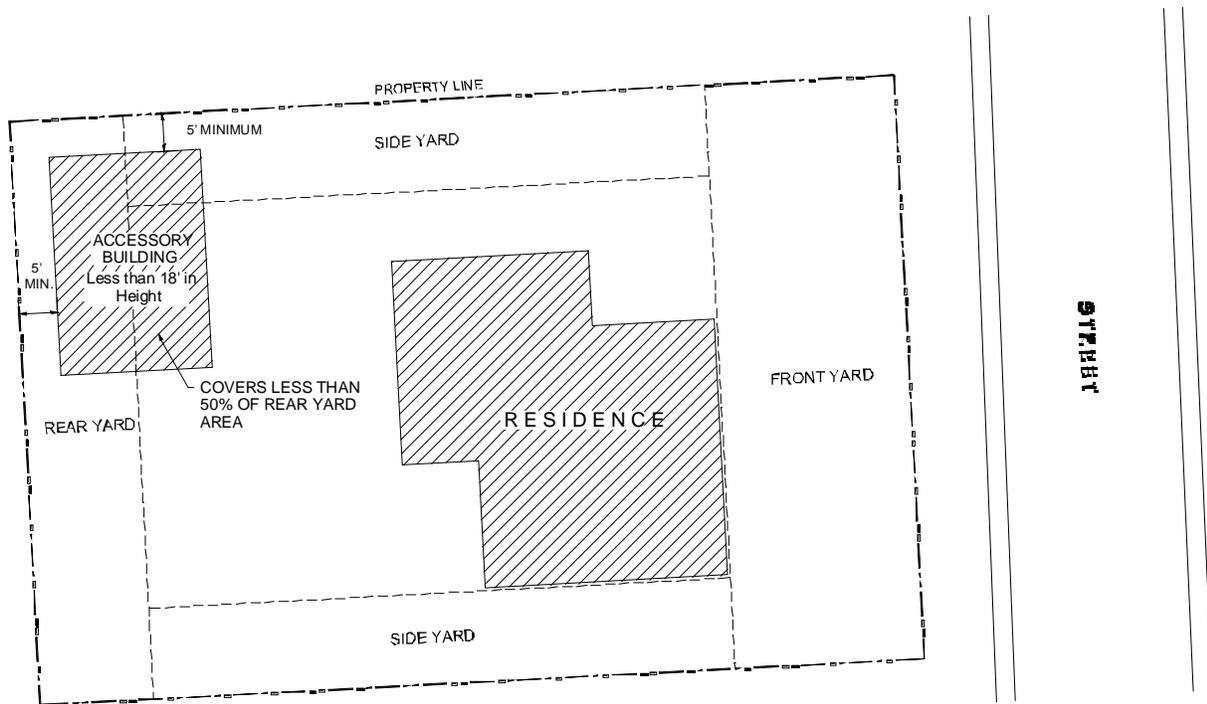
(3) Window wells and light wells projecting not more than four feet (4') into the Rear Yard.

(4) Roof overhangs and eaves projecting not more than two feet (2') into the Rear Yard.

(5) Window sills, belt courses,

cornices, trim, exterior siding, and other ornamental features projecting not more than six inches (6") beyond the window or main Structure to which it is attached.

(6) Detached Accessory Buildings not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front façade of the Main Building, and maintaining a minimum Rear Yard Setback of one foot (1'). Such Structures may not cover more than fifty percent (50%) of the Rear Yard. See the following illustration:



(7) Hard-Surfaced Parking Areas subject to the same location requirements as a detached Accessory Building.

(8) Screened mechanical equipment, hot tubs, and similar Structures located at least **three feet (3')** ~~five feet (5')~~ from the Rear Lot Line.

(9) Fences and walls as permitted in Section 15-4-2, Fences and Walls.

(10) Patios, decks, pathways, steps, and similar Structures not more than thirty inches (30") above Final Grade, located at least one foot (1') from the Rear Lot Line.

(11) Pathways and steps

connecting to a City staircase or pathway.

(H) **SIDE YARD.**

(1) The minimum Side Yard is three feet (3'), but increases for Lots greater than thirty-seven and one-half feet (37.5') in Width, as per Table 15-2.16 above.

(2) Site plans and Building designs must resolve snow release issues to the satisfaction of the Chief Building Official.

(3) On Corner Lots, the minimum Side Yard that faces a side Street or platted Right-of-Way is five feet (5').

(I) **SIDE YARD EXCEPTIONS.** The Side Yard must be open and free of any Structure except:

- (1) Bay Windows not more than ten feet (10') wide projecting not more than two feet (2') into the Side Yard.¹¹
- (2) Chimneys not more than five Feet (5') wide projecting not more than two feet (2') into the Side Yard.¹¹
- (3) Window wells and light wells Projecting not more than four feet (4') into the Side Yard.¹¹
- (4) Roof overhangs and eaves projecting not more than two feet (2') into the Side Yard. A one foot (1') roof or eave overhang is permitted on Lots with a Side Yard of less than five feet (5').¹¹
- (5) Window sills, belt courses, trim, cornices, exterior siding, and other ornamental features projecting not more than six inches (6") beyond the window or main Structure to which it is attached.
- (6) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") in height from Final Grade.

¹¹ Applies only to Lots with a minimum Side Yard of five feet (5') or greater

(7) Fences and walls as permitted in Section 15-4-2.

(8) Driveways leading to a garage or approved Parking Area.

(9) Pathways and steps connecting to a City staircase or pathway.

(10) A detached Accessory Building, not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, and maintaining a minimum Side Yard Setback of three feet (3').

(11) Screened mechanical equipment, hot tubs, or similar Structures located a minimum of ~~three feet (3')~~ ~~five feet (5')~~ from the Side Lot Line.

(J) **SNOW RELEASE.** Site plans and Building designs must resolve snow release issues to the satisfaction of the Chief Building Official.

(K) **CLEAR VIEW OF INTERSECTION.** No visual obstruction in excess of two feet (2') in height above Road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

(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 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.
- (2) A ten foot (10') minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finished Grade on all sides of the Structure. The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.
- (3) Roof Pitch. The primary roof

pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

- (a) A structure containing a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the Green Roof, including the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.

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(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.

(Amended by Ord. Nos. 06-76; 09-10; 11-05; 13-48)

15-2.16-6. EXISTING HISTORIC STRUCTURES.

Historic 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 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.

(Amended by Ord. Nos. 06-76;11-05)

15-2.16-7. ARCHITECTURAL REVIEW.

(A) **ALL DEVELOPMENT.** Prior to the issuance of Building Permits for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Architectural Design Guidelines, LMC Chapter 15-5.

Appeals of departmental actions on architectural compliance are heard by the Planning Commission.

(B) **SINGLE FAMILY AND DUPLEX DWELLINGS NEAR SENSITIVE HISTORIC AREAS.**

- (1) Prior to the issuance of Building Permits for any Single Family or Duplex Dwellings within the Area specified below:

- (a) Any residential Development that is within a two (2) Block radius of the HR-1 District, and
- (b) Any residential Development that is located along or Accessed off of Park Avenue.

The Planning Department shall review the proposed plans for compliance with the Design Guidelines for Historic Districts and Sites.

- (2) Appeals of departmental determinations of compliance with the Design Guidelines for Historic Districts and Sites, LMC Section 15-11 and Section 15-5 are heard by the Historic Preservation Board as outlined in Section 15-1-18 of this Code.

(Amended by Ord. Nos. 06-76; 09-10;11-05)

15-2.16-8. PARKING REGULATIONS.

(A) Tandem Parking is allowed for Single Family and Duplex Dwellings in the RC District.

(B) Common driveways are allowed along shared Side Yard Property Lines to provide Access to parking in the rear of the Main Building or below Grade if both Properties are deed restricted to allow for the

perpetual Use of such a shared drive.

(C) 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.

(D) A Parking Structure may occupy below Grade Side and Rear Yards if the Structure maintains all Setbacks above Grade. Common Parking Structures requiring a Conditional Use permit are subject to a Conditional Use review, Chapter 15-1-10.

(E) 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. Driveway widths are regulated in Section 15-3.

(F) Turning radii are subject to review by the City Engineer as to function and design.

(G) See Section 15-3 Off Street Parking for additional parking requirements.

(Amended by Ord. Nos. 06-76; 09-1; 11-05)

15-2.16-9. GOODS AND USES TO BE WITHIN ENCLOSED BUILDING.

(A) **OUTDOOR DISPLAY OF GOODS PROHIBITED.** Unless expressly allowed as an Allowed or Conditional Use, or allowed with an Administrative Permit, all goods including food, beverage and cigarette vending machines must be within a completely enclosed Structure. New construction of enclosures for the storage of goods shall not have windows and/or other fenestration that exceeds a wall-to-window ratio of thirty percent (30%). This section does not preclude temporary sales in conjunction with a Master Festival License, sidewalk sale, or seasonal plant sale. See Section 15-2.16-9(B)(3) for outdoor display of bicycles, kayaks, and canoes.

(B) **OUTDOOR USES PROHIBITED/EXCEPTIONS.** The following outdoor Uses may be allowed by the Planning Department upon the issuance of an Administrative Conditional Use permit or an Administrative Permit as described herein. The Applicant must submit the required Application, pay all applicable fees, and provide all required materials and plans. Appeals of Departmental actions are heard by the Planning Commission.

(1) **OUTDOOR DINING.** Outdoor dining requires an Administrative Conditional Use permit and is subject to the following criteria:

- (a) The proposed seating Area is located on private Property or leased public

Property and does not diminish parking or landscaping.

(b) The proposed seating Area does not impede pedestrian circulation.

(c) The proposed seating Area does not impede emergency Access or circulation.

(d) The proposed furniture is Compatible with the Streetscape.

(e) No music or noise in excess of the City Noise Ordinance.

(f) No Use after 10:00 p.m.

(g) Review of the restaurant's seating capacity to determine appropriate mitigation measures in the event of increased parking demand.

(2) **OUTDOOR GRILLS/BEVERAGE SERVICE STATIONS.** Outdoor grills and/or beverage service stations require an Administrative Permit and are subject to the following criteria:

(a) The Use is on private Property or leased public Property, and does not diminish parking or

landscaping.

(b) The Use is only for the sale of food or beverages in a form suited for immediate consumption.

(c) The Use is Compatible with the neighborhood.

(d) The proposed service station does not impede pedestrian circulation.

(e) The proposed service station does not impede emergency Access or circulation.

(f) Design of the service station is Compatible with the adjacent Buildings and Streetscape.

(g) No violation of the City Noise Ordinance.

(h) Compliance with the City Sign Code, Title 12.

(3) **OUTDOOR STORAGE AND DISPLAY OF BICYCLES, KAYAKS, MOTORIZED SCOOTERS, AND CANOES.**

Outdoor storage and display of bicycles, kayaks, motorized scooters, and canoes requires an Administrative Permit and is subject to the following criteria:

(a) The Area of the proposed bicycle, kayak, motorized scooters, and canoe storage or display is on private Property and not in Areas of required parking or landscaped planting beds.

(b) Bicycles, kayaks, and canoes may be hung on Buildings if sufficient Site Area is not available, provided the display does not impact or alter the architectural integrity or character of the Structure.

(c) No more than a total of fifteen (15) pieces of equipment may be displayed.

(d) Outdoor display is only allowed during Business hours.

(e) Additional outdoor bicycle storage Areas may be considered for rental bicycles or motorized scooters, provided there are no or only minimal impacts on landscaped Areas, parking spaces, and pedestrian and emergency circulation.

(4) **OUTDOOR EVENTS AND MUSIC.** Outdoor events and music require an Administrative Conditional Use permit. The Use must also comply with Section 15-1-10, Conditional Use Review. An

Applicant must submit a Site plan and written description of the event, addressing the following:

(a) Notification of adjacent Property Owners.

(b) No violation of the City's Noise Ordinance.

(c) Impacts on adjacent Residential Uses.

(d) Proposed plans for music, lighting, Structures, electrical signs, etc.

(e) Parking demand and impacts on neighboring Properties.

(f) Duration and hours of operation.

(g) Impacts on emergency Access and circulation.

(5) **DISPLAY OF MERCHANDISE.** Display of outdoor merchandise requires an Administrative Permit and is subject to the following criteria:

(a) The display is immediately available for purchase at the Business displaying the item.

(b) The merchandise is displayed on private Property directly in front of or

appurtenant to the Business which displays it, so long as the private Area is in an alcove, recess, patio, or similar location that provides a physical separation from the public sidewalk. No item of merchandise may be displayed on publicly owned Property including any sidewalk or prescriptive Right-of-Way regardless if the Property Line extends into the public sidewalk. An item of merchandise may be displayed on commonly owned Property; however, written permission for the display of the merchandise must be obtained from the Owner's association.

(c) The display is prohibited from being permanently affixed to any Building. Temporary fixtures may not be affixed to any Historic Building in a manner that compromises the Historic integrity or Façade Easement of the Building as determined by the Planning Director.

(d) The display does not diminish parking or landscaping.

(e) The Use does not violate the Summit County Health Code, the Fire Code,

or International Building Code. The display does not impede pedestrian circulation, sidewalks, emergency Access, or circulation. At minimum, forty-four inches (44") of clear and unobstructed Access to all fire hydrants, egress and Access points must be maintained. Merchandise may not be placed so as to block visibility of or Access to any adjacent Property.

(f) The merchandise must be removed if it becomes a hazard due to wind or weather conditions, or if it is in a state of disrepair, as determined by either the Planning Director or Building Official.

(Amended by Ord. Nos. 05-49; 06-76; 09-10)

15-2.16-10. CRITERIA FOR BED AND BREAKFAST INNS.

A Bed and Breakfast Inn is an Allowed Use subject to an Administrative Conditional Use permit. No permit may be issued unless the following criteria are met:

(A) If the Use is in a Historic Structure, the Applicant will make every attempt to rehabilitate the Historic portion of the Structure to its original condition.

(B) The Structure has at least two (2) rentable rooms. The maximum number of rooms will be determined by the Applicant's ability to mitigate neighborhood impacts.

(C) In Historic Structures, the size and configuration of the rooms are Compatible with the Historic character of the Building and neighborhood.

(D) The rooms are available for Nightly Rental only.

(E) An Owner/manager is living on-Site, or in Historic Structures there must be twenty-four (24) hour on-Site management and check-in.

(F) Food service is for the benefit of overnight guests only.

(G) No Kitchen is permitted within rental room(s).

(H) Parking on-Site is required at a rate of one (1) space per rentable room. The Planning Director may waive the parking requirement for Historic Structures if the Applicant proves that:

(1) no on-Site parking is possible without compromising the Historic Structure or Site, including removal of existing Significant Vegetation, and all alternatives for proximate parking have been explored and exhausted; and

(2) the Structure is not economically feasible to restore or maintain without the adaptive Use.

(I) The Use complies with Section 15-1-10, Conditional Use review.

(Amended by Ord. No. 06-76)

15-2.16-11. CRITERIA FOR RAISING AND GRAZING OF HORSES.

The raising and grazing of horses may be approved as a Conditional Use by the Planning Commission. In making a determination whether raising and grazing of horses is appropriate, the Planning Commission shall consider the following criteria:

(A) Any barn must be located a minimum of seventy-five feet (75') from the nearest neighboring Dwelling Unit.

(B) There shall be a maximum of two (2) horses per acre.

(C) Terrain and Slope of the Property must be suitable for horses.

(D) The Applicant must submit an Animal Management Plan outlining the following:

(1) waste removal/odors;

(2) drainage and runoff;

(3) bedding materials;

(4) flies; and

(5) feed/hay.

15-2.16-12. VEGETATION

PROTECTION.

The Property Owner must protect Significant Vegetation during any Development activity. Significant vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

Development plans must show all Significant Vegetation within twenty feet (20') of a proposed Development. The Property Owner must demonstrate the health and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation consistent with landscape criteria in LMC Chapter 15-3-3(D) and Title 14.

(Amended by Ord. No. 06-76)

15-2.16-13. SIGNS.

Signs are allowed in the RC District as provided in the Park City Sign Code, Title 12.

15-2.16-14. RELATED PROVISIONS.

- Fences and Walls. LMC Chapter 15-4-2.
- Accessory Apartment. LMC Chapter 15-4.
- Satellite Receiving Antenna. LMC Chapter 15-4-13.
- Telecommunication Facility. LMC Chapter 15-4-14.

- Parking. Section 15-3.
- Landscaping. Title 14; LMC Chapter 15-3-3(D)
- Lighting. LMC Chapters 15-3-3(C), 15-5-5(I).
- Historic Preservation Board. LMC Chapter 15-11.
- Park City Sign Code. Title 12.
- Architectural Review. LMC Chapter 15-5.
- Snow Storage. Section 15-3-3.(E)
- Parking Ratio Requirements. Section 15-3-6.

TITLE 15 - LAND MANAGEMENT CODE

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 7.1 - SUBDIVISION PROCEDURES

Chapter adopted by Ordinance No. 01-17

**CHAPTER 7.1 - SUBDIVISION
PROCEDURES.**

15-7.1-1. JURISDICTION.

These Subdivision regulations shall apply to all Subdivisions or Re-subdivisions of land, and to Lot Line Adjustments, as defined herein, located within the corporate limits of Park City.

Whenever any Subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a Structure in such proposed Subdivision shall be granted, the subdividing Owner, or his authorized Agent, shall apply for and secure approval of such proposed Subdivision in accordance with the following procedure.

15-7.1-2. PROCEDURE.

No land shall be subdivided within the corporate limits of Park City until:

(A) The Owner, Applicant and/or Developer or his/her Agent submit an

Application for Subdivision to the Planning Commission through the Park City Planning Department;

(B) The Planning Commission holds a public hearing and makes a final recommendation to the City Council; and

(C) Approval of the Subdivision is obtained by the Planning Commission and City Council, or approval by the Planning Director under proper authority; and

(D) The approved Subdivision Plat is filed with the County Recorder.

(Amended by Ord. No. 06-22)

**15-7.1-3. CLASSIFICATION OF
SUBDIVISIONS.**

(A) **SUBDIVISION**. At its discretion, the Planning Commission may waive one or more of the steps in the approval process by allowing the Applicant and/or Developer to combine the requirements of the Preliminary Plat and final Subdivision Plat into a single submittal.

(1) **MINOR SUBDIVISION.** A Subdivision containing not more than three (3) Lots fronting on an existing Street, not involving any new Street or road, or the extension of municipal facilities, or the creation of public improvements.

(a) **Final Plat.** A Final Plat shall be approved in accordance with these regulations.

(2) **MAJOR SUBDIVISION.** A Subdivision of land into four (4) or more Lots, or any size Subdivision requiring any new Street.

(a) **Preliminary Plat.** A Preliminary Plat may be approved in accordance with these regulations.

(b) **Final Plat.** A Final Plat shall be approved in accordance with these regulations.

(B) **PLAT AMENDMENT.** The combining of existing subdivided Lots into one or more Lots or the amendment of plat notes or other platted elements including but not limited to easements, limits of disturbance boundaries or areas, building pads, and house size limitations. Plat Amendments shall be reviewed according to the requirements of Section 15-7.1-6 Final Subdivision Plat and approval shall require a finding of Good Cause.

(1) **FINAL PLAT.** A Final Plat shall be approved in accordance with these regulations.

(C) **RECORD OF SURVEY.**

(1) **FINAL PLAT.** A Final Plat shall be approved in accordance with these regulations.

(D) **LOT LINE ADJUSTMENT.** The relocation of the Property boundary line between two adjoining Lots.

(1) **FINAL PLAT.** A Final Plat shall be approved in accordance with these regulations.

15-7.1-4. GENERAL PROCEDURE.

(A) **OFFICIAL SUBMISSION DATES.** At its discretion, the Planning Commission may waive one or more of the steps in the approval process by allowing the Applicant and Developer to combine the requirements of both preliminary and final Subdivision Plats into a single submittal. For the purpose of these regulations, for both major and minor Subdivisions, the date of the regular meetings of the Planning Commission at which the public hearings on final approval of the Subdivision Plat, including any adjourned date thereof, is closed, shall constitute the official submittal date of the plat at which the statutory period required for formal approval or disapproval of the plat shall commence to run.

(B) **PHASING PLAN REQUIRED.** All residential Subdivisions with more than twenty (20) Lots or Condominiums shall

include a phasing plan, which specifies the timing of public improvements and residential construction.

(1) **PHASING PLAN REQUIREMENTS.** A phasing plan shall include:

(a) The number of units or Parcels to be developed in each phase and the timing of each phase.

(b) The timing of construction of public improvements and Subdivision amenities to serve each phase.

(c) The relationship between the public improvements in the current Subdivision and contiguous land previously subdivided and yet to be subdivided.

(2) **MASTER PLANNED DEVELOPMENT.** If the Subdivision is in an Area covered by an approved Master Planned Development, which has a phasing plan, the phasing plan for the Subdivision shall be consistent with the phasing plan for the Master Planned Development.

(3) **REVISIONS.** An Applicant may request a revision of the phasing plan, which may be necessary due to such conditions as changing market

conditions, inclement weather or other factors.

(C) **COORDINATION OF MULTIPLE APPLICATIONS.** It is the intent of these regulations that Subdivision review be carried out simultaneously with the review of Master Planned Developments. Required Applications shall be submitted in a form to satisfy both the requirements of the Subdivision regulations and Master Planned Development provisions of the Land Management Code. Any project falling within the Sensitive Lands Area Overlay Zone may be subject to additional requirements and regulations as outlined in the Sensitive Area Overlay Zone Regulations.

15-7.1-5. PRELIMINARY SUBDIVISION PLAT.

(A) **PREAPPLICATION REQUIREMENTS.** Before preparing the Preliminary Plat for a Subdivision, the Applicant should arrange for a pre-Application conference with the Planning Department to discuss the procedure for approval of a Subdivision Plat and the requirements as to general layout of Streets and for reservations of land, Street improvements, drainage, sewerage, fire protection, mitigation of environmental impacts as determined, and similar matters, as well as the availability of existing services. The Planning Department shall also advise the Applicant, where appropriate, to discuss the proposed Subdivision with those agencies who must eventually approve those aspects of the Subdivision coming within their

jurisdiction; such as, the Snyderville Basin Sewer Improvement District, the Park City Fire Service District, the Park City School District, and the various utility service providers.

(B) **APPLICATION PROCEDURE AND REQUIREMENTS.** Prior to subdividing land in a manner, which requires a Preliminary Plat, an Owner of the land or his representative shall file an Application for approval of a Preliminary Plat. The Application shall:

- (1) Be made on a form available at the office of the Planning Department and determined complete. A complete Application shall include all elements of the Subdivision and shall produce all information required by the Subdivision Application.
- (2) Include all contiguous holdings of the Owner, unless specifically waived by the Planning Department and Planning Commission, including land in the "same ownership," as defined herein, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance to the present Owner as recorded in the County Recorder's office. The affidavit shall advise as to the legal Owner of the Property, the contract Owner of the Property, the date a

contract of sale was executed, and, if any corporations are involved, a copy of the resolution legally empowering the Applicant to make the Application.

(C) **REVIEW OF PRELIMINARY PLAT.** The Planning Department staff shall schedule the Preliminary Plat for review by the Development Review Committee, including officials or agencies of the local government, adjoining counties or municipalities, school and special districts, and other official bodies as it deems necessary or as mandated by law, including any review required by metropolitan, regional, or state bodies under applicable state or federal law.

The Planning Department shall request that all officials and agencies, to whom a request for review has been made, submit their report to the Staff. The Staff will consider all reports submitted by the officials and agencies concerning the Preliminary Plat and shall prepare a staff report for proposed action to the Planning Commission for the next available regular meetings.

Once an Application is received, the Staff will work diligently to review the Application as quickly as time and workload allows. The scale or complexity of a project or Staff workload may necessitate a longer processing period. In such cases, the Staff will notify the Applicant when an Application is filed as to the projected time frame.

(D) **PLANNING COMMISSION REVIEW OF PRELIMINARY PLAT.**

The Planning Commission shall study the Preliminary Plat and the report of the Staff, taking into consideration requirements of Land Management Code, any Master Plan, site plan, or Sensitive Land Analysis approved or pending approval on the subject Property. Particular attention will be given to the arrangement, location and width of Streets, their relation to sewerage disposal, drainage, erosion, topography and natural features of the Property, location of Physical Mine Hazards and geologic hazards, Lot sizes and arrangement, the further Development of adjoining lands as yet un-subdivided, and the requirements of the Official Zoning Map, General Plan, and Streets Master Plan, as adopted by the Planning Commission and City Council. The Planning Commission shall make a finding as to whether there is Good Cause in approving the preliminary plat.

(E) **PUBLIC HEARINGS.** The Planning Commission shall hold a public hearing on the Preliminary Plat Application. Such hearings shall be advertised in accordance with the requirements of Section 15-1-12 of the Land Management Code and in the same manner as the subsequent public hearings of the final Subdivision Plat; except, however, that the Planning Commission may, at its sole discretion, combine the required hearings for both preliminary and final Subdivision Plat approval.

(F) **PRELIMINARY APPROVAL.** After the Planning Commission has reviewed the Preliminary Plat and the report of the Staff including any municipal recommendations and testimony and

exhibits submitted at the public hearing, the Applicant shall be advised of any required changes and/or additions. One copy of the proposed Preliminary Plat shall be returned to the Developer with the date of approval, conditional approval, or disapproval and the reasons therefore accompanying the plat. The other copy shall be maintained in the Planning files.

(G) **PUBLIC IMPROVEMENTS.** The Planning Commission may require that all public improvements be installed and dedicated prior to the signing of the final Subdivision Plat by the Chairman of the Planning Commission. If the Planning Commission elects not to require that all public improvements be installed and dedicated prior to signing of the final Subdivision Plat by the Chairman of the Planning Commission, the amount of the Guarantee, in compliance with the requirements of the Land Management Code, shall be established by the Planning Commission based upon the recommendation of the City Engineer, which shall be submitted by the Applicant at the time of Application for final Subdivision Plat approval. The Planning Commission shall require the Applicant to indicate on both the Preliminary and Final Plat all roads and public improvements to be dedicated, all special districts for water, fire, and utility improvements which shall be required to be established or extended, all City approved Street names and addresses, and any other special requirements deemed necessary by the Planning Commission in order to conform the Subdivision Plat to the Official Zoning Map and the Master Plans of Park City.

(H) **EFFECTIVE PERIOD OF PRELIMINARY APPROVAL.** The approval of a Preliminary Plat shall be effective for a period of one (1) year at the end of which time final approval on the Subdivision must have been obtained from the Planning Commission, and the Final plat shall be signed and filed with the County Recorder within one (1) year of approval. Any plat not recorded within the period of time set forth herein shall be null and void, and the Developer shall be required to resubmit a new Application and plat for preliminary approval subject to all new review requirements, zoning restrictions and Subdivision regulations.

Applicants may request time extensions of the approval of a Preliminary Plat by submitting a request in writing to the Planning Department prior to expiration of the approval. The Planning Director shall review all requests for time extensions of Preliminary Plat approvals and may consider the request when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change in circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the requirements for Preliminary Plat in Section 15-1-12.

The Commission may hold a public hearing on the time extension for a Preliminary Plat approval. Such hearings shall be noticed in

accordance with the requirements of Section 15-1-12 of the Land Management Code.

(I) **ZONING REGULATIONS.** Every plat shall conform to existing zoning regulations and Subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to the Land Management Code rendering the plat nonconforming as to bulk or Use, provided the final approval is obtained within the one (1) year period.

15-7.1-6. FINAL SUBDIVISION PLAT.

(A) **APPLICATION PROCEDURE AND REQUIREMENTS.** Following approval of the Preliminary Plat, if necessary, the Applicant, if he wishes to proceed with the Subdivision, shall file with the Planning Department an Application for approval of a final Subdivision Plat. The Application shall:

(1) Be made on forms available at the Planning Department and determined complete. A complete Application shall include all elements of the Subdivision and shall produce all information required by the Subdivision Application.

(2) Include all contiguous holdings of the Owner, unless specifically waived by the Planning Department and Planning Commission, including land in the "same ownership," as defined herein,

with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance to the present Owner as recorded in the County Recorder's office. The affidavit shall advise as to the legal Owner of the Property, the contract Owner of the Property, the date a contract of sale was executed, and, if any corporations are involved, a copy of the resolution legally empowering the Applicant to make the Application.

(3) Include the entire Subdivision, or section thereof, which derives access from an existing state, county or local government highway.

(B) REVIEW OF FINAL SUBDIVISION PLAT.

The Planning Department staff schedule the Final Plat Application for review by the Development Review Committee, including officials or agencies of the local government, adjoining counties or municipalities, school and special districts, and other official bodies as it deems necessary or as mandated by law, including any review required by metropolitan, regional, or state bodies under applicable state or federal law.

The Planning Department shall request that all officials and agencies, to whom a request for review has been made, submit their

report to the Staff. The Staff will consider all the reports submitted by the officials and agencies concerning the Final Subdivision Plat and shall submit a report for proposed action to the Planning Commission.

Once an Application is received, the Staff will work diligently to review the Application, as quickly as time and workload allows. The scale or complexity of a project or Staff workload may necessitate a longer processing period. In such cases the Staff will notify the Applicant when an Application is filed as to the projected time frame.

(C) PLANNING COMMISSION AND CITY COUNCIL REVIEW OF FINAL SUBDIVISION PLAT.

The Planning Commission shall review the Final Subdivision Plat and the report of the Staff, taking into consideration requirements of the Land Management Code, the General Plan, and any Master Plan, site plan, or Sensitive Lands Analysis approved or pending on the Property. Particular attention will be given to the arrangement, location and width of Streets and their relation to sewerage disposal, drainage, erosion, topography and natural features of the Property, location of Physical Mine Hazards and Geologic Hazards, Lot sizes and arrangement, the further Development of adjoining lands as yet un-subdivided, requirements of the Preliminary Plat (if a Preliminary Plat was required), and requirements of the Official Zoning Map and Streets Master Plan, as adopted by the Planning Commission and City Council.

The Planning Commission shall make a finding as to Good Cause prior to making a positive recommendation to City Council.

- (1) The Planning Commission shall give notice pursuant to Section 15-1-12 of this Code and hold a public hearing on the proposed final Subdivision Plat before making its final recommendation to the City Council.
- (2) After considering the final Subdivision Plat and proposed ordinance, the Planning Commission shall recommend to the City Council approval or disapproval of the Subdivision Application and set forth in detail any conditions to which the approval is subject, or the reasons for disapproval.
- (3) The City Council may adopt or reject the ordinance either as proposed by the Planning Commission or by making any revision it considers appropriate.
- (4) In the final ordinance the City Council shall stipulate the period of time when the Final Plat shall be recorded and when the performance Guarantee shall be filed or the required improvements installed, whichever is applicable. Provided, however, that no plats will be approved or released for recording until necessary Guarantees have been established in accordance with the Land Management Code. In no event shall the period of time

stipulated by the City Council for completion of required improvements exceed two (2) years from the date of the final ordinance.

- (5) **Extension of Approval.** Applicants may request time extensions of the City Council approval by submitting a request in writing to the Planning Department prior to expiration of the approval. The City Council may grant an extension to the expiration date when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change in circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the requirements for a Final Plat in Section 15-1-12.
- (D) **SUBMISSION AND REVIEW.** Subsequent to the resolution of the Planning Commission, one (1) paper copy of the construction plans, and one copy of the original Subdivision Plat on paper shall be submitted to the Planning Department for final review. No final approval shall be endorsed on the plat until the staff's review has indicated that all requirements of the ordinance have been met.
- (E) **VESTED RIGHTS.** Vesting for purposes of zoning occurs upon the filing of

a complete Application provided, however, that no vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the Chairman of the Planning Commission and the Mayor of Park City. All requirements, conditions, or regulations adopted by the Planning Commission and City Council applicable to the Subdivision or to all Subdivisions generally shall be deemed a condition for any Subdivision prior to the time of the signing of the Final Plat by the Chairman of the Planning Commission and Mayor. Where the Planning Commission or Council has required the installation of improvements prior to signing of the Final Plat, the Planning Commission or Council shall not unreasonably modify the conditions set forth in the final approval.

(F) **LOT LINE ADJUSTMENTS.** The Planning Director may approve a Lot Line Adjustment between two (2) Lots without a plat amendment, within the corporate limits of Park City, if:

(1) the Owners of both Lots demonstrate, to the satisfaction of the Planning Director that:

(a) no new developable Lot or unit results from the Lot Line Adjustment;

(b) all Owners of Property contiguous to the adjusted Lot(s) or to Lots owned by the Applicant(s) which are contiguous to the adjusted Lot(s), including those separated by a public

Right-of-Way, consent to the Lot Line Adjustment;

(c) the Lot Line Adjustment does not result in remnant land;

(d) the Lot Line Adjustment, and resulting Lots comply with LMC Section 15-7.3 and are compatible with existing lot sizes in the immediate neighborhood;

(e) the Lot Line Adjustment does not result in violation of applicable zoning requirements;

(f) neither of the original Lots were previously adjusted under this section;

(g) written notice was mailed to all Owners of Property within three hundred feet (300') and neither any Person nor the public will be materially harmed by the adjustment; and

(h) the City Engineer and Planning Director authorizes the execution and recording of an appropriate deed and Plat, to reflect that the City has approved the Lot Line Adjustment.

(i) Extension of Approval. Applicants may request time extensions of the Lot Line Adjustment approval by submitting a request in writing to the Planning Department prior to expiration of the approval. The Planning Director shall review all requests for time extensions of Lot Line Adjustments and may grant a one year extension.

Extension requests may be granted when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change in circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the requirements for Lot Line Adjustments in Section 15-1-12.

(2) If, based upon non-compliance with Subsection (1), the Planning Director denies the Lot Line Adjustment, the Director shall inform the Applicant(s) in writing of the reasons for denial, of the right to

appeal the decision to the Planning Commission, and of the right to file a formal plat amendment Application

(G) COMBINATION OF ADJOINING CONDOMINIUM UNITS WITH A CONDOMINIUM RECORD OF SURVEY PLAT

(1) Subject to the condominium declaration, a unit owner after acquiring an adjoining unit that shares a common wall with the unit owner's unit and after recording an amended condominium record of survey plat in accordance with this Title, a unit owner may:

- (a) remove or alter a partition between the unit owner's unit and the acquired unit, even if the partition is entirely or partly common areas and facilities; or
- (b) create an aperture to the adjoining unit or portion of a unit.

(2) A unit owner may not take this action if such action would:

- (a) impair the structural integrity or mechanical systems of the building or either unit;
- (b) reduce the support of any portion of the common areas and facilities or another unit;
- (c) constitute a violation of Utah Code Section 10-9a-608, as amended or 17-27a-608, as applicable, or violate any section of this code or the IBC.

(3) Approval of a condominium plat amendment to combine units does not change an assessment or voting right attributable to the unit owner's unit or the acquired unit, unless the declaration provides otherwise.

(Amended by Ord. Nos. 06-22; 11-05)

15-7.1-7. SIGNATURES AND RECORDING OF THE PLAT.

(A) SIGNING OF PLAT.

(1) When a Guarantee is required, the Chairman of the Planning Commission and Mayor shall endorse approval on the plat after the Guarantee has been approved by the City Council, or its administrative designee and all the conditions of the ordinance pertaining to the plats have been satisfied.

(2) When installation of improvements prior to plat recordation is required, the Chairman of the Planning Commission and Mayor shall endorse approval on the plat after all conditions of the ordinance have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the City as shown by a certificate signed by the City Engineer and City Attorney that

the necessary dedication of public lands and improvements has been accomplished.

(3) The plat shall be signed by the City Engineer, City Attorney and the City Recorder, if the plat meets the requirements herein.

(4) The plat shall conform to City ordinances and be approved by the culinary water authority and the sanitary sewer authority.

(5) The City may withhold an otherwise valid plat approval until the Owner of the land provides the City Council with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(6) a Subdivision Plat recorded without the required signatures is void.

(B) RECORDING OF PLAT. It shall be the responsibility of the Developer's licensed title company to file the original Mylar plat with the County Recorder within thirty (30) days of the date of signature. Simultaneously with the filing of the plat, the licensed title company shall record the agreement of dedication together with such legal documents as shall be required to be recorded by the City Attorney.

(C) SECTIONALIZING MAJOR SUBDIVISION PLATS. Prior to granting final approval of a Major Subdivision Plat, the Planning Commission and City Council

may permit the plat to be divided into two (2) or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly Development of the plat. The Planning Commission and City Council may require that the performance Guarantee be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining required performance Guarantee principal amount until the remaining sections of the plat are presented for filing. The Developer may also file irrevocable offers to dedicate Streets and public improvements only in those sections submitted to be filed and defer filing offers of dedication for the remaining sections until such sections, subject to any additional conditions imposed by the Planning Commission, and offers shall be granted concurrently with final approval of the balance of the plat. The approval of all remaining sections not filed with the County Recorder shall automatically expire unless such sections have been approved for filing by the Planning Commission, all fees paid, all instruments and offers of dedication submitted and performance Guarantees approved and actually filed with the County Recorder within one (1) year of the date of final Subdivision approval of the Subdivision Plat. See Section 15-7.1-6 of these regulations.

(Amended by Ord. No. 06-22)

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 8 - ANNEXATION 1

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 8 - ANNEXATION

Chapter adopted by Ordinance No. 03-01

CHAPTER 8 - ANNEXATION.

15-8-1. PURPOSE.

The annexation requirements specified in this Chapter are intended to protect the general interests and character of the community; assure orderly growth and Development of the Park City community in terms of utilities and public services; preserve open space, enhance parks and trails; ensure environmental quality; protect entry corridors, view sheds and environmentally Sensitive Lands; preserve Historic and cultural resources; create buffer Areas; protect public health, safety, and welfare; and ensure that annexations are approved consistent with the Park City General Plan and Utah State law.

In meeting the goals of Park City's annexation policy plan, contained herein, the Planning Department and City Council shall strive to avoid gaps between or overlaps with the expansion Area of other municipalities; consider the population growth projections for Park City and adjoining Areas for the next twenty (20) years; consider current and projected costs

of infrastructure, urban services, and necessary public facilities; facilitate full Development of Areas within Park City; expand infrastructure, services, and facilities into the Area being considered for inclusion in the expansion Area when practical and feasible; consider, in conjunction with Park City's General Plan, the need over the next twenty (20) years for additional land suitable for residential, commercial, and industrial Development; consider the reasons for including agricultural lands, forests, recreation Areas, and wildlife management Areas in Park City; and be guided by the following principals.

If practical and feasible, boundaries of an Area proposed for annexation shall be drawn:

- (A) Along the boundaries of existing special districts for sewer, water, fire, and other services, along the boundaries of school districts whose boundaries follow City boundaries or school districts adjacent to school districts whose boundaries follow City boundaries, and along the boundaries of other taxing entities;

(B) To eliminate islands and peninsulas of territory that are not receiving municipal type services;

(C) To facilitate the consolidation of overlapping functions of local government;

(D) To promote the efficient delivery of services; and

(E) To encourage the equitable distribution of community resources and obligations.

It is the intent of this Chapter to ensure that Property annexed to the City will contribute to the attractiveness of the community and will enhance the resort image which is critical for economic viability, and that the potential deficit of revenue against expense to the City is not unreasonable. This Chapter shall be considered Park City's annexation policy plan and declaration.

This Chapter hereby incorporates by reference all standards required and suggested by Sections 10-2-401 et. Seq. of the Utah Code, Annotated, 1953, as amended.

(Amended by Ord. No. 06-22)

15-8-2. GENERAL REQUIREMENTS.

The following specific requirements are hereby established for annexation to Park City:

(A) Property under consideration of annexation must be considered a logical extension of the City boundaries.

(B) Annexation of Property to the City must be consistent with the intent and purpose of this Chapter and the Park City General Plan.

(C) Every annexation shall include the greatest amount of Property possible that is a contiguous Area and that is contiguous to the City's municipal boundaries.

(D) Piecemeal annexation of individual small Properties shall be discouraged if larger contiguous Parcels are available for annexation within a reasonable time frame in order to avoid repetitious annexations.

(E) Islands of county jurisdiction shall not be left or created as a result of the annexation and peninsulas and irregular boundaries shall be avoided.

(F) In addition to services provided by existing districts, such as sewer, fire protection, and public schools, the following urban level services, consistent with those normally provided in the rest of the incorporated boundaries will be provided to annexed Areas:

(1) Police protection;

(2) Snow removal on Public Streets, subject to standard City snow removal policies;

(3) Street maintenance on existing Streets, provided that such

Streets have been constructed or reconstructed to City Street standards or are acceptable to the City Engineer and City Council;

(4) Planning, zoning, and Code enforcement;

(5) Availability of municipal sponsored parks and recreational activities and cultural events and facilities;

(6) Water services as the Area is developed. Existing water treatment and storage facilities may currently be inadequate to provide services to the annexed Area. Developers of the annexed Area are required to pay for the cost of improvements related to the extension of and connection with the City lines and systems as well as participate in additional improvements such as storage capacity and distribution as necessary for safe, reliable, and efficient water flows.

(G) If feasible and practical, water and sewer lines shall be extended to the Area proposed for annexation. Expenses associated with such extension shall be the responsibility of the Applicant(s). The City shall determine timing and capacity of extending water and sewer to the proposed annexation Area.

(H) Before considering requests for annexation, the City shall carefully analyze the impacts of annexation of an Area, taking into consideration whether the Area will

create negative impacts on the City and considering whether the City can economically provide services to the annexed Area. Community issues such as location and adequacy of schools and community facilities, traffic, fire protection, particularly in Wildfire/Wildland Interface Zones, usable open space and recreation Areas, protection of Sensitive Lands, conservation of natural resources, protection of view corridors, protection and preservation of Historic resources, Affordable Housing, balance of housing types and ownership, adequate water and sewer capacity to serve the future needs of the proposed annexation Area shall also be considered.

(I) Situations may exist where it is in the public interest to preserve certain lands from Development where there exist Geologic Hazards, excessive Slopes, flood plains or where the need for preservation of community open space and/or agricultural lands is consistent with the General Plan. In such circumstances, annexations may occur as a means of retaining those lands in a natural state.

(J) The City shall consider annexation of unincorporated Areas of Summit County that are within the annexation expansion Area as defined by Exhibit A.

(K) In general, the City does not favor annexation of territory, which should be located within another municipality nor does it favor the annexation of unincorporated territory solely for the purpose of acquiring municipal revenues, or for retarding the capacity of another municipality to annex.

(L) Annexations that expand the resort and/or tourist economy, provide second home or rental residential Properties, preserve environmentally Sensitive Lands, and provide significant public open space and/or community facilities are preferred.

15-8-3. PROPERTY OWNER INITIATION OF ANNEXATION.

When initiated by a Property Owner, the process for annexation shall be as follows:

(A) The Property Owner or Owners shall submit to the City a petition for annexation. The petition shall meet the criteria and shall be in the form as established by the City and in compliance with State law as set forth in Sections 10-2-401, 402, and 403 of the Utah Code, Annotated, 1953, as amended.

(1) The petition shall contain signatures of Property Owners representing a majority of the private land Area and at least one third (1/3) of the value of all private real Property within the Area proposed for annexation.

(2) If the Area is within an Agriculture protection Area created under state law Title 17, Chapter 41, Agriculture Protection Area, then the petition must cover one hundred percent (100%) of the private land Area within the Area proposed for annexation.

(3) If the Property is owned by a public entity other than the federal government, the petition shall be

signed by the Owner of all of the publicly owned Property within the Area proposed for annexation.

(4) Said petition shall designate up to five (5) of the petitioners as sponsors, one (1) who shall be designated as the contact sponsor. The mailing address of each sponsor shall be included in the petition.

(B) Attached to and as part of the petition shall be an accurate certified survey plat of the Property to be annexed, prepared by a surveyor licensed to practice in Utah, accurately describing the existing City boundaries and each individual ownership sought to be annexed, including an accurate legal description of the Property to be annexed.

(C) There shall also be attached to the annexation petition a statement as to the anticipated timetable for Development, if applicable, of the Property being annexed.

(D) If the proposed Property is intended for Development, the petition for annexation shall include Complete Applications for a Master Planned Development (MPD) and a preliminary Subdivision plat. The petition shall state the requested zoning designation(s), and shall show the proposed Zoning District lines on the plans. Impact mitigation considerations in the annexation agreement will be based on the Density permitted under the requested or applied zone requirements.

(E) Except in the case of POS or ROS zoning, zoning requests are subject to review

and consideration of the Planning Commission for a recommendation, with final approval by the City Council concurrent with public hearings on the proposed annexation.

(F) There shall also be attached to the annexation petition a full disclosure statement of any and all waters owned or historically utilized on the Property to be annexed, and a statement from the water Owner(s) as to the estimated value of the water or the price at which he or she is willing to sell the said water to the City.

(G) The annexation petition shall not propose annexation of any land Area proposed for annexation to a municipality in a previously filed petition that has not been granted, denied, or rejected.

(H) The annexation petition shall not propose annexation of any land Area being considered for incorporation under Utah State law.

(I) On the date of filing the annexation petition with the City Recorder, the petition sponsor(s) shall also deliver or mail a copy of the petition to the County Clerk of the county in which the Property is located and to the chair of the Planning Commission which has review authority or jurisdiction over the said Property.

(J) There shall be attached to the petition a comprehensive review and analysis of surrounding Property. See Section 15-8-5(E).

15-8-4. PROCEDURE FOR PETITION AND ANNEXATION PLATS.

The procedure for processing annexation petitions and plats shall be as follows:

(A) A petition and proper plat certified by a licensed surveyor shall be submitted to the City Recorder in accordance with Section 10-2-403(2)(C) of the Utah Code, Annotated, 1953, as amended, together with any other information required by the City staff to enable the staff to prepare an annexation impact report.

(B) Prior to City Council action on the petition, the petition and plat shall be reviewed by the Planning Director, who shall determine the feasibility of expanding the annexation boundaries and who shall prepare a written recommendation for consideration by the City Council.

(C) If the City Council accepts the annexation petition, the petition shall be delivered to the City Recorder for certification pursuant to Section 10-2-405 of the Utah Code, Annotated, 1953, as amended.

(D) If the annexation petition is certified by the City Recorder, the City Council shall provide for public notice ~~and shall set a hearing~~ as set forth in Section 10-2-406 of the Utah Code, Annotated, 1953, as amended.

(E) The Planning Commission, upon referral from the Planning Director, shall hold a public hearing and make a

recommendation on the annexation proposal, including the recommended zoning, to the City Council. After receipt of the Planning Commission's recommendation and after giving notice pursuant to Section 10-2-406 of the Utah Code, Annotated, 1953, as amended, the City Council shall hold a public hearing on all proposed annexations. After closure of the public hearing, the City Council may either grant ~~or~~ deny the annexation petition; provided, however, that protests to an annexation petition shall be dealt with as set forth in Section 10-2-407 of the Utah Code, annotated, 1953, as amended. Denial of or granting the petition under protest is subject to Section 10-2-408 of the Utah Code, Annotated, 1953, as amended. If City Council grants the annexation petition, it shall assign a zone to the annexed territory at the time the territory is annexed.

(G) Once the City Council enacts an ordinance annexing an unincorporated Area or adjusting a boundary all applicable zoning and Land Management Code sections shall apply to the annexed Property.

(H) Within thirty (30) days after enacting an ordinance annexing an unincorporated Area or adjusting a boundary, the City shall:

~~(1) — Record with the County Recorder a certified copy of the ordinance approving the annexation or boundary adjustment, together with the annexation plat or map prepared by a licensed surveyor and approved by the City, showing the new boundaries of the affected Area.~~

~~(2) — Filefile with the Lieutenant Governor of the State of Utah the amended Articles of Incorporation reflecting the annexation or boundary adjustment, as provided in Section 10-1-117 notice of annexation, as required by Section 10-2-425 of the Utah Code, Annotated, 1953, as amended.~~

~~(3) — Comply with the notice requirements of Section 10-1-116 of the Utah Code, Annotated, 1953, as amended.~~

(I) Upon receipt of the Certificate of Annexation from the Lieutenant Governor, the City shall record with the County Recorder:

(1) The original notice of annexation filed with the Lieutenant Governor;

(2) The Certificate of Annexation issued by the Lieutenant Governor;

(3) The original approved plat or map prepared by a licensed surveyor and approved by the City; and

(4) A certified copy of the ordinance approving the annexation.

(Amended by Ord. No. 06-22)

15-8-5. ANNEXATION PETITION REVIEW – AFTER CITY COUNCIL ACCEPTANCE OF PETITION.

(A) **STAFF REVIEW TEAM**. After approval of the annexation petition by the City Council, general annexation procedure shall comply with Utah State law; provided, however, that the City Council shall not take Final Action on any petition until the same has been reviewed by the Park City Planning Commission and by the staff review team. For purposes of annexation petition review, the staff review team shall be composed of at least the following, or their designees:

Planning Director, City Engineer, Director of Public Works, Fire Marshall, Police Chief, representatives from applicable utility providers, and Park City School District Superintendent.

(B) **ANNEXATION EVALUATION AND STAFF REPORT**. The staff review team will review each annexation and zoning request. The Planning Department will prepare a staff report with considerations and a staff recommendation to present to the Planning Commission. The staff report shall include an evaluation of the proposed annexation and shall include at least the following information:

- (1) The ability to meet the general annexation requirements as stated in Section 15-8-2 herein.
- (2) An accurate map of the proposed annexation Area showing the boundaries and Property ownership within the Area, the topography of the Area and major natural features, e.g., drainage, channels, Streams, wooded Areas,

Areas of high water table, Very Steep Slopes, sensitive Ridge Line Areas, Wildfire/Wildland Interface Zones, and other environmentally Sensitive Lands.

- (3) Current and potential population of the Area and the current residential Densities.
- (4) Land Uses presently existing and those proposed.
- (5) Character and Development of adjacent Properties and neighborhoods.
- (6) Present zoning and proposed zoning.
- (7) A statement as to how the proposed Area, and/or its potential land Use will contribute to the achievement of the goals and policies of the Park City General Plan.
- (8) Assessed valuation of the current Properties.
- (9) Potential demand for various municipal services and the need for land Use regulation in the Area, e.g. consideration of the distance from existing utility lines, special requirements for Sensitive Lands review and fire protection in Wildfire/Wildland Interface Zones, location within hazardous soils Areas, and feasibility of snow removal from Public Streets.

(10) The effect the annexation will have upon City boundaries and whether the annexation will ultimately create potential for future islands, undesirable boundaries, and difficult service Areas.

(11) A specific timetable for extending services to the Area and how these services will be financed.

(12) Potential revenue versus service costs.

(13) An estimate of the tax consequences to residents of the Area to be annexed.

(14) Recommendations or comments of other local government jurisdictions regarding the annexation proposal and potential impact of the annexation on general county economic needs, goals, or objectives.

(15) Location and description of any Historic or cultural resources.

(C) CONDITIONS OF ANNEXATION APPROVAL AND ANNEXATION AGREEMENT. The City has established the following conditions, which must be met prior to completion of the annexation, unless the City Council finds that the circumstances of an annexation are such that a condition or conditions do not apply. These conditions shall be applied consistently for each Property; however, unusual or unique circumstances may emerge from time to time where special

conditions may be applied. The conditions of annexation approval shall be formalized as part of ~~the a~~ written annexation agreement prepared by the Planning Director, or designee.

The annexation agreement shall be reviewed by the Planning Commission and approved by City Council contemporaneously with the certified annexation petition. If approved the annexation agreement shall be signed by the petitioners and City Council and recorded with the Summit County Recorder.

~~The annexation agreement shall include, but is not limited to the following conditions:~~

(1) Transfer of usable water rights as established by City policy sufficient to serve the proposed Development.

(2) Additional improvements as necessary, which may be required in order to improve the water system.

(3) Dedication of necessary Streets, trails, utilities, and Rights-of-Way consistent with the Subdivision standards of this Code.

(4) Phasing of the project to insure adequacy of public facilities may be required.

(5) Payment of park land acquisition fees, dedication of open space or conservation Areas, and payment of Development impact fees.

(6) Provision of Affordable Housing in accordance with the Affordable Housing Resolution 17-99, as in effect at the time of petition.

(7) Submittal of Site plans and architectural plans for review.

(8) Flood plain management or preservation of environmentally Sensitive Lands including compliance with the Sensitive Lands Overlay section of the Code.

(9) Analysis and survey of any Historic and cultural resources located on the Property.

(10) Analysis of the fiscal impacts of the Development as determined necessary by the City. The fiscal Impact Analysis format, including the revenue and cost assumptions, shall be approved by the City. If necessary, the City shall hire qualified experts to perform the fiscal Impact Analysis.

(11) Fees paid in lieu of satisfying certain conditions, as approved by Council action.

(12) Comprehensive review of surrounding Property as described below in Section 15-8-5(E).

(13) Any other condition reasonably related to a health, safety, or welfare issue or negative impact of the project.

(14) Annexations located within the Quinn ' s Junction Area Study (QJAS) shall be found to be consistent with the findings and conclusions of the QJAS. Any annexation petition filed prior to the final approval of the QJAS by the City will be stayed pending Final Action on the study.

(D) **AMENDMENTS TO THE ANNEXATION AGREEMENT.**

Subsequent substantive amendments to the annexation agreement are subject to review and approval by the Planning Commission and City Council with adequate public notice and recordation with the Summit County Recorder.

(E) **COMPREHENSIVE REVIEW AND ANALYSIS OF SURROUNDING PROPERTY.**

A comprehensive land Use review and analysis of Property surrounding the proposed annexation must be completed and submitted with the annexation petition. This analysis of surrounding Property shall be in sufficient detail for the City to determine the long term community impacts of the proposed annexation on these Properties. This analysis must include, but is not limited to, all Property within one and one-half (1 1/2) miles of the boundaries of the proposed annexation. The Planning Director may modify the study Area up to one-half (1/2) mile more or less to achieve a suitable and logical study Area.

The review and analysis of surrounding Property shall be performed by a qualified land Use planner with assistance from other professionals, such as traffic engineers, civil

engineers, wildlife biologists, hydrologists, and soils scientists. The City reserves the option of selecting the qualified professionals to perform this analysis with the cost to be paid by the Applicant. The review and analysis shall include, but is not limited to a study of the following:

- (1) Slope, wetlands, vegetation, wildlife habitat, view corridors, existing Historic and cultural resources, and significant geological features.
- (2) Existing and proposed road systems.
- (3) Existing and proposed utilities and major utility extension plans.
- (4) Location of proposed open space, recreational Areas, and trail systems.
- (5) Existing and proposed land Uses including type and Density of residential Areas.
- (6) Existing and proposed locations of community facilities such as fire stations, schools, parks, recreation centers, etc.

(Amended by Ord. Nos. 06-22; 06-86)

15-8-6. MUNICIPAL INITIATION OF ANNEXATION.

It shall be the policy of the City to annex Areas meeting all of the following criteria

with or without receipt of a petition from the Property Owners:

- (A) The annexation is an island within or a peninsula contiguous to the City;
- (B) The majority of each island or peninsula consists of residential or commercial Development;
- (C) The Area proposed for annexation requires the delivery of municipal-type services; and
- (D) The City has provided most or all of the municipal-type services to the Area for more than one (1) year.
- (E) Annexation of the Area is supported by the goals of the Park City General Plan, including open space, land Use, Affordable Housing, recreation, growth management, and economic Development.

Such annexations shall be processed as provided under Section 10-2-418 of Utah Code, Annotated, 1953, as amended, including all noticing and public hearing requirements. This review shall be in addition to the review required in Section 15-8-5 herein.

If written protest to such annexation is timely filed and complies with Section 10-2-418 Subsection (3) of the Utah Code, Annotated, 1953, as amended, the City may not adopt an ordinance annexing the Area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

**15-8-7. EXPANSION AREA
BOUNDARY MAP.**

(A) The Expansion Area Boundary Map
is included as Exhibit A below:

TITLE 15 - LAND MANAGEMENT CODE

**CHAPTER 9 - NON-CONFORMING USES AND NON-~~CONFORMING~~
COMPLYING STRUCTURES**

15-9- 1. PURPOSE1
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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 9 - NON-CONFORMING USES AND NON-COMPLYING
STRUCTURES

Chapter adopted by Ordinance No. 00-25

CHAPTER 9 - NON-CONFORMING USES AND NON-COMPLYING STRUCTURES.

15-9-1. PURPOSE.

This Chapter regulates the continued existence of Non-Conforming Uses and Non-Complying Structures as defined in Chapter 15. While Non-Conforming Uses, Non-Complying Structures and improvements may continue, this Chapter is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and the Development standards prescribed by this Code. In addition, Applications are reviewed to ensure that they are reducing the degree of non-conformity and improving the physical appearance of the Structure and site through such measures as landscaping, Building design, or the improved function of the Use in relation to other Uses.

15-9-2. DETERMINATION OF NON-CONFORMING ~~OR NON-COMPLYING~~ STATUS.

(A) **BURDEN ON OWNER TO ESTABLISH LEGALITY.** The Owner bears the burden of establishing that any Non-Conforming Use or Non-Complying Structure lawfully exists.

(B) **DETERMINATION OF STATUS.** The Planning Director shall determine the Non-Conforming or Non-Complying status of Properties. Any decision of the Planning Director may be appealed within ten (10) calendar days of the decision to the Board of Adjustment. Upon appeal, the Board of Adjustment shall conduct a hearing and shall review the matter under de novo standard of review.

(Amended by Ord. No. 06-35)

15-9-3. AUTHORITY TO CONTINUE.

(A) **CONTINUATION OF NON-CONFORMING USE.** A lawful Non-Conforming Use may continue subject to the standards and limitations of this Chapter.

(B) **CONTINUATION OF NON-COMPLYING STRUCTURE.** A Non-Complying Structure that was lawfully constructed with a permit prior to a contrary change in this Code, ~~may, may~~ be used and maintained, subject to the standards and limitations of this Chapter.

15-9-4. ABANDONMENT OR LOSS OF NON-CONFORMING USE.

(A) **ABANDONMENT OF NON-CONFORMING USE.** A Non-Conforming Use that is discontinued for a continuous period of one (1) year is presumed abandoned and shall not thereafter be reestablished or resumed. Abandonment may also be presumed to have occurred if a majority of the primary Structure associated with the Non-Conforming Use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the Non-Conforming Use; or the primary Structure associated with the Non-Conforming Use remains vacant for a period of one (1) year.

Any party claiming that a Non-Conforming Use has been abandoned shall have the burden of establishing the abandonment.

Any subsequent Use of the Building, Structure, or land must conform ~~with~~to the regulations for the Zoning District in which it is located.

(B) **REBUTTABLE PRESUMPTION OF ABANDONMENT.** The presumption of abandonment may be rebutted upon a showing that during such period:

(1) any period of discontinued Use caused by governmental actions or an Act of God without any contributing fault by the Owner and the Owner did not intend to discontinue the Use; or

(2) the Owner has been actively and continuously marketing the Building, Structure, or land for sale or lease with the Use and the Owner has been maintaining the Building, Structure, or land in accordance with the Uniform Building Code; or

(3) the Owner can demonstrate no abandonment of the Use.

The Property Owner shall have the burden of establishing that any claimed abandonment has not in fact occurred.

(Amended by Ord. No. 06-35)

15-9-5. MOVING, ENLARGING, OR ALTERING NON-CONFORMING USES.

No Non-Conforming Use may be moved, enlarged, altered, or occupy additional land, except as provided in this Section.

(A) **ENLARGEMENT.** A Non-Conforming Use may not be enlarged, expanded, or extended to occupy all or a part of another Structure or site that it did not occupy on the date on which the Use became non-conforming. A Non-Conforming Use may be extended through the same Building

or Structure provided no structural alteration of the Building or Structure is proposed or made for the purpose of the extension and the parking demand is not increased.

(B) **EXTERIOR OR INTERIOR REMODELING OR IMPROVEMENTS TO BUILDING OR STRUCTURE.**

Exterior or interior remodeling or improvements to a Structure containing a Non-Conforming Use shall be allowed provided there is no expansion of the area of the Non-Conforming Use.

(C) **RELOCATION OF BUILDING OR STRUCTURE.**

A Building or Structure containing a Non-Conforming Use may not be moved unless the Use shall thereafter conform to the regulations of the Zoning District into which the Building or Structure is moved.

(D) **CHANGE OF NON-CONFORMING USE TO ANOTHER NON-CONFORMING USE OR A CONFORMING USE.**

Except as provided in Section 15-9-5(E) below, no Non-Conforming Use may be changed to another Non-Conforming Use. Whenever any Non-Conforming Use is changed to a conforming Use, such Use shall not later be changed to any Non-Conforming Use.

(E) **HISTORICALLY SIGNIFICANT BUILDINGS EXCEPTION: CHANGE OF NON-CONFORMING USE TO ANOTHER NON-CONFORMING USE OF SIMILAR OR LESS-INTENSIVE LAND USE TYPE.**

Subject to the criteria below, a Non-Conforming Use located on a Lot or Parcel containing a Building or

Structure included on the Park City Historic Sites Inventory, may be changed to another Non-Conforming Use of a similar or less intensive land Use type. A Non-Conforming Use, which satisfies the criteria provided in Section 15-9-5(E)(4) herein shall be considered a similar or less intensive land Use type.

(1) **APPLICATION.**

Application for any Non-Conforming Use must be made upon forms provided by the Planning Department. Upon filing of a Complete Application, the City shall post the Property indicating that an Application for modification of a Non-Conforming Use has been filed and that more detailed information may be obtained from the City.

(2) **NOTIFICATION OF ABUTTING PROPERTY OWNERS.**

Notice shall be provided pursuant to the Notice Matrix in Chapter 1. See Section 15-1-19.

(3) **BOARD OF ADJUSTMENT HEARING.**

Within thirty (30) working days of the Planning Department's receipt of a Complete Application, and after giving public notice, the Board of Adjustment shall hold a public hearing on the Non-Conforming Use Application. The Board of Adjustment shall either grant the Application in whole or in part, with or without modifications or conditions, or deny the Application. The Board of Adjustment's

decision shall be made pursuant to criteria provided in Section 15-9-5(E)(4) below.

(4) **CRITERIA.** The Board of Adjustment shall approve an Application to change a Non-Conforming Use to another Non-Conforming Use if the Application complies with the following criteria:

(a) All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the Non-Conforming Use or Building upon abutting Properties or in the neighborhood;

(b) All changes, additions, or expansions comply with all current laws except as to Use;

(c) The new Use will provide for enclosed storage of necessary equipment, materials, and refuse, rather than create a need for additional outside storage; and

(d) The new Use does not increase the parking requirement; or if there is an increase, the site plan meets the parking requirement and the Board of Adjustment finds that adjoining Properties and the

neighborhood will not be adversely impacted by the increased parking demand.

(F) **DAMAGE OR DESTRUCTION OF BUILDING OR STRUCTURE WITH NON-CONFORMING USE.** If a Building or Structure that contains a Non-Conforming Use is allowed to deteriorate to a condition that the Structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the Property Owner that the Structure is uninhabitable and that the Non-Conforming Use will be lost if the Structure is not repaired or restored within six (6) months; or the Property Owner has voluntarily demolished ~~a majority more than 50% of the Gross Floor Area of the Structure of the Building~~ that houses the Non-Conforming Use; or if a Building or Structure that contains a Non-Conforming Use is voluntarily razed, or is required by law to be razed, the Non-Conforming Use shall not be resumed, and the Building or Structure shall not be restored unless it is restored to accommodate a conforming Use within a complying Structure.

If a Building or Structure that contains a Non-Conforming Use is involuntarily destroyed in whole or in part due to fire or other calamity and the Structure or Use has not been abandoned, the Non-Conforming Use may be resumed and the Building or Structure may be restored to the condition prior to the destruction, provided such work is started within six months of such calamity, is completed within eighteen (18) months of work commencement, and the

intensity of Use is neither increased nor changed.

(G) LEGAL NON-CONFORMING RENTAL HOUSING USE. Enforcement of this Ordinance is not intended to terminate a legal Non-Conforming rental housing Use. No physical changes shall be required to a Structure containing a legal Non-Conforming rental housing Use unless the change is for the following:

- (1) The reasonable installation of a smoke detector that is plugged in or battery operated.
- (2) A ground fault circuit interrupter protected outlet on existing wiring;
- (3) Street addressing;
- (4) An egress bedroom window if the existing bedroom window is smaller than that required by current state building code; unless such change would compromise the structural integrity of the building or could not be completed in accordance with current building codes, including Setbacks and window well requirements.
- (5) An electrical system or plumbing system, if the existing system is not functioning or is unsafe as determined by an independent, licensed electrical or plumbing professional.
- (6) Hand or Guard rails.
- (7) Occupancy separation doors as required by the IBC.
- (8) The abatement of a Structure.

(Amended by Ord. No. 06-35; 12-37)

15-9-6. NON-COMPLYING STRUCTURES.

No Non-Complying Structure may be moved, enlarged, or altered, except in the manner provided in this Section or unless required by law.

(A) REPAIR, MAINTENANCE, ALTERATION, AND ENLARGEMENT.

Any Non-Complying Structure may be repaired, maintained, altered, or enlarged, provided that such repair, maintenance, alteration, or enlargement shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such Structure.

(B) MOVING. A Non-Complying Structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire Structure shall thereafter ~~comply with~~ ~~conform to~~ the regulations of the zone in which it will be located.

(C) DAMAGE OR DESTRUCTION OF NON-COMPLYING STRUCTURE.

If a Non-Complying Structure is allowed to deteriorate to a condition that the Structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice is provided to the Property Owner stating that the Structure is uninhabitable and that the Non-Complying Structure or the Building that houses a Non-Complying Structure shall not be restored unless it is restored to comply with the

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regulations of the Zoning District in which it is located.

If the Property Owner has voluntarily demolished, or is required by law to demolish, more than 50% of the Gross Floor Area of the Non-Complying Structure, is voluntarily razed or is required by law to be razed, the Structure shall not be restored unless it is restored to comply with the regulations of the Zoning District zone in which it is located.

If a Non-Complying Structure is involuntarily destroyed in whole or in part due to fire or other calamity and the Structure or Use has not been abandoned, the Structure may be restored to its original condition, provided such work is started within six months of such calamity, completed within eighteen (18) months of work commencement, and the intensity of Use is not increased.

(Amended by Ord. No. 06-35)

15-9-7. ORDINARY REPAIR AND MAINTENANCE AND STRUCTURAL SAFETY.

The Owner may complete normal maintenance and incidental repair on a complying Structure that contains a Non-Conforming Use or on a Non-Complying Structure. This Section shall not be construed to authorize any violations of law nor to prevent the strengthening or restoration to a safe condition of a Structure in accordance with an order of the Building Official who declares a Structure to be

unsafe and orders its restoration to a safe condition.

15-9-8. APPEALS.

The City or any Person with standing adversely affected by a decision of the Board of Adjustment under this Chapter may petition the District Court in Summit County for a review of the decision. Appeal from a Board of Adjustment decision made pursuant to this Chapter shall be made to the district court and not to City Council, and shall be made according to the requirements of the Utah State Code. Any Person applying to the district court for review of any decision made under the terms of this Chapter shall apply for review within thirty (30) days after the date the decision is filed with the City Recorder as prescribed by state statute.

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 10 - BOARD OF ADJUSTMENT

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 10 - BOARD OF ADJUSTMENT

Chapter adopted by Ordinance No. 01-17

15-10-1. ESTABLISHMENT OF BOARD.

In order to avail the City of the powers provided in Chapter 9 of Title 10 of the Utah Code (1953, as amended), there is hereby created a Board of Adjustment, which shall consist of five (5) members. There shall also be one non-voting alternate to vote when a regular member is absent. Members shall be appointed by the Mayor with the advice and consent of the City Council. The Council may fix per diem compensation for the members of the Board of Adjustment by resolution, based on necessary and reasonable expenses for meetings actually attended. All members of the Board of Adjustment shall reside within the City limits, and are deemed to have resigned if they move their residence from the City limits.

15-10-2. TERM OF OFFICE.

Each member of the Board of Adjustment shall serve for a term of five (5) years or until his successor is appointed and qualified provided that the term of the members of the first Board so appointed shall be such that

the term of one member shall expire each year on June 1. Vacancies shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(Amended by Ord. No. 09-10)

15-10-3. POWERS AND DUTIES.

(A) The Board of Adjustment shall hear and decide:

- (1) Appeals from zoning decisions applying Title 15, Land Management Code;
- (2) Variances from the terms of the Land Management Code.
- (3) Appeals and call-ups of Final Action by the Planning Commission at the request of the City Council for City Development applications.
- (4) Appeals of Final Action by the Planning Staff on Historic District Design Review applications when the Historic Preservation Board takes part in the review and Final Action

(5) Appeals of Final Action by the Historic Preservation Board on Determination of Significance applications.

(B) The Board of Adjustment shall make determinations regarding the modification of Non-Conforming Uses and shall hear appeals on the determination of Non-Conforming or Non-Complying status by the Director of the Planning Department, as provided in Title 15, Chapter 9.

(Amended by Ord. Nos. 06-35, 10-11; 12-37)

15-10-4. GROUNDS FOR REMOVAL.

Any Board member who is absent for two (2) consecutive regularly scheduled meetings, or a total of four (4) regularly scheduled meetings per year may be called before the City Council and asked to resign or be removed for cause by the Mayor, with the advice and consent of City Council. Additionally, the Mayor, with the advice and consent of City Council, may remove any member of the Board of Adjustment for cause if written charges are filed with the Mayor, against the member. The Mayor shall provide the member with a public hearing if the member requests one.

(Amended by Ord. No. 06-35)

15-10-5. ORGANIZATION.

(A) **CHAIR.** The Board of Adjustment shall elect one of its members to serve as Chair for a term of two (2) years at its first

meeting following the date of expiration of terms in June. The Chair may be elected to serve for one (1) consecutive additional term, but not for more than two (2) successive terms. If the Chair is absent from any meeting where a quorum would otherwise exist, the members may appoint a Chair Pro Tem to act as Chair solely at that meeting.

(B) **QUORUM.** No business shall be conducted unless at least three (3) members of the Board, not counting the alternate, are present.

(Amended by Ord. No. 09-10)

15-10-6. MEETINGS.

Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine.

(A) **WITNESSES.** The Chair of the Board of Adjustment or in his absence, the Chair Pro Tem, may administer oaths and compel the attendance of witnesses at such meetings, and all meetings shall comply with Title 52, Chapter 4, Open and Public Meetings, of the Utah Code, as amended.

(B) **MINUTES.** Written minutes shall be kept of all Board meetings. Such minutes shall include:

- (1) The date, time and place of the meeting.
- (2) The names of members present and absent.

(3) The substance of all matters proposed, discussed, or decided, and a record, by individual member, of votes taken.

(4) The names of all citizens who appeared and the substance in brief of their testimony.

(5) Any other information that any member requests be entered in the minutes.

The minutes are public records and shall be available within a reasonable time after the meeting.

(Amended by Ord. No. 09-10)

15-10-7. APPEALS.

Also see Section 15-1-18. The Board shall hear and decide appeals from an Applicant or any other Person or entity, including any officer or board of the City, adversely affected by a final decision administering or interpreting the Land Management Code which alleges that there is an error in any order, requirement, decision or determination of the Land Management Code.

The appeal must be made in writing and submitted to the Planning Department within ten (10) days of the decision. The Board may, in conformity with the provisions of the Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as

ought to be made, and to that end shall have all the powers of the administrative official, board, or commission from whom the appeal is taken. The Person or entity making the appeal has the burden of proving that an error has been made.

A Person may not appeal, and the Board of Adjustment may not consider, any amendments to the Land Management Code, or appeals of Conditional Use permits or Master Planned Developments, which shall be appealed to the City Council, unless specifically requested by the City Council for City Development. Appeals may not be used to waive or modify the terms or requirements of the Land Management Code.

Appeals shall be considered by the Board of Adjustment on the record made before the Historic Preservation Board or Planning Commission. Appeals to the Board of Adjustment will review factual matters for correctness and determine the correctness of the decision of the land Use authority in its interpretation and application of the land Use ordinance. The scope of review of the Board of Adjustment is limited to issues brought to the land Use authority.

Exception. For appeals to the Board of Adjustment regarding Design Guidelines for Historic Districts and Historic Sites involving City Development projects, the Board of Adjustment shall review factual matters de novo and it shall determine the correctness of the Planning Director or Planning Staff decision in the interpretation and application of the Guidelines and LMC Title 15 Chapter 11.

Exception. For appeals to the Board of Adjustment regarding Determination of Significance (DOS) applications, the Board of Adjustment shall review factual matters de novo and it shall determine the correctness of the Historic Preservation Board decision in the interpretation and application of LMC Section 15-11-10.

Appeals shall be heard by the Board of Adjustment within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

(Amended by Ord. Nos. 06-35; 09-10; 10-11)

15-10-8. VARIANCE.

(A) Any Person or entity desiring a waiver or modification of the requirements of the Land Management Code as applied to a Parcel or Property that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of the Land Management Code.

(B) An Application for variance review must be filed with the Planning Department, and the required fee paid in advance. The Application shall state the nature of the hardship and the nature of the variance

requested. If the request for a variance is a result of a denial of any Building Permit or Conditional Use approval, the Application shall so state, and all documents on file concerning the matter shall be forwarded to the Board for review as a part of the request. The Applicant or the City may present any information as might be reasonably required by the Board in evaluating the request.

(C) Variances shall be granted only if all of the following conditions are found to exist:

(1) Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code;

(2) There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone;

(3) Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone;

(4) The variance will not substantially affect the General Plan and will not be contrary to the public interest; and

(5) The spirit of the Land Management Code is observed and substantial justice done.

(D) (1) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection 15-10-9(C)(1), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood.

(2) In determining whether or not enforcement of the Land Management Code would cause unreasonable hardship under Subsection 15-10-9(C)(1), the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.

(E) In determining whether or not there are special circumstances attached to the Property under Subsection 15-10-9(C)(2), the Board of Adjustment may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

The Applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(F) Variances run with the land.

~~(G) The Board of Adjustment may condition a variance by requiring the Owner to obtain a Building or other necessary~~

~~permit within one (1) year of issuance of the variance, or the variance shall be null and void.~~

~~(HG)~~ The Board of Adjustment and any other body may not grant a Use variance.

~~(H)~~ In granting a variance, the Board of Adjustment may impose additional requirements on the Applicant that will:

(1) mitigate any harmful affects of the variance; or

(2) serve the purpose of the standard or requirement that is waived or modified.

(Amended by Ord. No. 06-35; 12-37)

15-10-9. PERSONS ENTITLED TO APPEAR.

At the hearing on any matter before the Board of Adjustment, any Person aggrieved or interested in the matter may appear in person or through his attorney to testify on the matter. The Applicant shall have the right to respond to testimony offered in opposition to the Application.

15-10-10. DECISION.

Decisions of the Board of Adjustment become effective at the meeting in which the Board adopts written findings of fact, conclusions of law and conditions of approval, unless a different time is specifically designated by the Board.

15-10-11. VOTE NECESSARY.

The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, or determination of any such administrative official, board, or commission, or to decide in favor of the Applicant.

15-10-12. JUDICIAL REVIEW OF BOARD DECISION.

The City or any Person adversely affected by any decision of the Board of Adjustment may petition the District Court in Summit County for a review of the decision. In the petition, the plaintiff may only allege that the Board of Adjustment decision was arbitrary, capricious, or illegal.

(Amended by Ord. No. 09-10)

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 15 - DEFINED TERMS

15-15-1. DEFINITIONS.....1
 15-15-2 LIST OF DEFINED TERMS.....38

Building Footprint. The total Area of the foundation of the Structure, or the furthest exterior walls of the Structure projected to Natural Grade, not including exterior stairs, patios, and decks and Accessory Buildings listed on the Park City Historic Structure Inventory that are not expanded, enlarged or incorporated into the Main Building.

Carport. A carport is a covered parking space attached to the house, or free standing, which is not completely enclosed by walls and does not include garage doors.

Light Industrial. Uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, Light Industrial shall mean uses such as the manufacture of electronic instruments, preparation of food and beverage products, pharmaceutical manufacturing, research and scientific laboratories or the like. Light Industrial shall not include Uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal or related industries, or manufacturing related to the automobile industry.

Mixed Use Development. A development of one or more buildings that blends a combination of residential, commercial, cultural, institutional, or industrial uses, where those functions are physically and functionally integrated, and that provides pedestrian connections. A Mixed Use development may also include a building, complex of buildings, or district of a town or city that is developed for mixed-use by a private developer, (quasi-) governmental agency, or a combination thereof.

would be through a small neighborhood and he wanted to make sure they would be sensitive to the neighbors. Mr. Beck stated that they were working through construction impacts. He noted that in this case there are two canyons. Some work will occur on the County side and other work will occur on the City side. Mr. Beck remarked that there is a need for equipment and materials, as well a labor, and that generates construction traffic. There is also a need for a staging area. Some of the lift work will be done through helicopters and that creates the need for aerial. He identified areas they were looking at for staging areas in the lower parking lots. They have also looked at Swede Alley and King Road, and they were looking at labor pooling out of the existing parking lots. They have an agreement with Armstrong and Utah Open Space Lands regarding the use of the road. Mr. Beck agreed that the work need to be done quickly and they were working around trying to stage the project, recognizing that other construction would be occurring at the same time. There is a heightened concern by everyone related to construction and construction traffic. Mr. Beck stated that they were in the preliminary stages but they would provide a full construction mitigation plan to the Building Department. He could update the Commissioners on where they are in the process at the March 25th meeting.

Planner Astorga stated that the Planning Commission had provided sufficient direction to come back on March 25th. He noted that Tim Beck has been very responsive and easy to work with. Planner Astorga pointed out that the Staff had identified the four issues for discussion. As noted in the Staff report, they had no concerns with any other issues. He encouraged the Commissioners to contact him if they had other comments or concerns prior to the March 25th meeting.

Commissioner Strachan returned to the meeting.

3. Land Management Code Amendments – Chapter 2.1 (HRL), Chapter 2.2 (HR-1) Chapter 2.3 (HR.2) Chapter 2.4 (HRM), and Chapter 2.16 (RC) – Regarding side and Rear Setbacks for patios and hot tubs (Application PL-14-02595)

Planner Kirsten Whetstone stated that these items were the beginning of the 2015 updates to the LMC, starting with administrative items and issues that have been raised by citizens. The proposed amendments have been reviewed for consistency with the recently adopted General Plan.

Planner Whetstone stated that the last item on the agenda related to Chapter 9 of the LMC would be continued pending additional items that the State Legislature has changed regarding non-conforming uses and non-complying structures.

Planner Whetstone stated that the amendments regarding setbacks for hot tubs and patios in the HRL, HR1, HR2, HRM, also include the RC zone because that zone has the same

setbacks and setbacks exception for the Old Town lots. She clarified that it would not apply to multi-family or the resort part of the RC zone.

Planner Whetstone stated that currently patios are allowed to go to one foot in the rear and they are allowed in the side setback, which is normally a 3' setback for a standard 25' wide lot. If the lot is wider by more than a lot and a half, the side setbacks are increased to 5'. Patios, steps and other elements are allowed at grade. Planner Whetstone explained that currently hot tubs require a 5' setback in the rear. When the rear setback is 10' the hot tub is allowed an exception five feet into the setback with at least five feet to the property line, as well as five feet to the side. Planner Whetstone noted that the language as written was confusing and some of the changes were clean-up language for consistency.

Planner Whetstone pointed out that numerous older hot tubs that were installed are within the distance between the property line and five feet. As people are starting to replace their hot tubs with more energy efficient hot tubs, various property owners have tried to remedy these situations with either a variance request or an opinion on whether it is considered a legal non-complying structure. Planner Whetstone noted that an accessory structure as much as 18' tall is allowed within one foot of the rear property line as long as it does not cover more than 50% of the rear yard. A patio is also allowed within one foot of the property line.

Planner Whetstone reviewed the redlined LMC changes shown on Exhibit A in the Staff report. In the HRL zone the Staff proposes to changed the rear yard exception to "screened hot tubs or similar structures located at least 3' from the rear yard." The hot tub would have to be screened with a fence, wall or thick vegetation that would provide screening in the winter. For side yard exceptions, the screened hot tub would be located at least 3'.

Commissioner Campbell asked if currently the hot tub is allowed to go right to the property line on the side yard. Planner Whetstone replied that currently the setback is 5'. Commissioner Phillips stated that under the scenario of a one level with a deck, the hot tub could not sit on the edge of the deck. It would have to be two feet in. Under the current LMC the deck to go to 3' but the hot tub has to be at 5'. Commissioner Band pointed out that under the current Code the deck could go to 1'.

Chair Worel asked if hot tubs were different than pools, because pools are required to be fully enclosed with a fence. Assistant City Attorney McLean believed fencing for pools was a Building Department requirement. Director Eddington understood that the Building Department generally does not treat hot tubs as pools and hot tubs are not required to have a fence. He noted that the Staff was recommending screening for hot tubs if the Planning Commission finds that 3' is an appropriate setback. Director Eddington did not

believe there was much difference between 3' and 5' in terms of setback. The noise from the hot tub motor is not mitigated by the extra two feet. He was unsure why the setback was set at 5' initially, but it would be difficult to install a hot tub with a 10' rear setback. Director Eddington stated that if 5' was established by design, it has worked fairly well, but a lot of hot tubs were installed prior to the 5' setback Code requirement. The question is whether 3' with screening is a better mitigation procedure to allow for better movement and functionality in the back yard and provide screening between neighbors. He clarified that nothing would mitigate the sounds from equipment and people enjoying their hot tub.

Commissioner Band asked if the purpose of the screening was for noise or visual. Planner Whetstone replied that it was primarily for visual. She had researched hot tubs and found that the newer hot tubs come in cabinets and have covers.

Commissioner Joyce questioned why the Staff recommended 3' and not one-foot. Director Eddington stated that it was an issue of being able to walk around the hot tub and maintaining it. With a one-foot setback there was the potential of stepping over on the neighbor's property. Director Eddington remarked that 3' is also the minimum side yard setback for a structure and they kept the rear-yard consistent with that.

Commissioner Thimm asked if anyone had applied for variances. Planner Whetstone replied that one owner had applied for a variance, but their situation was a little different. She noted that the Staff had received another application, but when the owner was told about the proposed amendments they decided to wait.

Commissioner Campbell thought the definition of a screen was vague. Commissioner Phillips agreed. He asked if the screen needed to be higher than the hot tub. Director Eddington stated that if the Planning Commission agreed on the 3' setback the Staff could come back with a specific definition for the screening. Commissioner Campbell remarked that most people like to sit in their hot tub and enjoy the view. He was concerned that the screening requirement would force people to eliminate their view.

Commissioner Band asked if the intent was to visually screen the hot tub from the neighbors. Planner Whetstone answered yes. Director Eddington suggested that screening could be 4' to 6' so it would not affect the view. He pointed out that it would only be required along the property line where the hot tub sits so they would still have the views in the other directions.

Planner Whetstone stated that the Staff would be bringing back Chapter 15, the definitions chapter, for a number of revisions. They were also beginning the implementation of the General Plan, as well as other sections where they need to come back with additional

definitions. Planner Whetstone remarked that the amendments proposed this evening could be continued until they all come back sometime in March.

Chair Worel opened the public hearing.

Mary Wintzer, 320 McHenry Street stated that if the hot tub amendments are continued it would give the Planning Commission time to contemplate her comments. Ms. Wintzer stated that she has lived in Old Town for 43 years and she understood that several of the Commissioners have or had the Old Town living experience. Ms. Wintzer remarked that the Planning Commission and the City Council are the HOA for Old Town. Already in Old Town house are upon houses with the topography of Old Town. To move the hot tubs even closer to the property line would affect the quality of life for many people, not just the person who owns the hot tub. Ms. Wintzer did not believe it was a God given right that everyone should have a hot tub. Another issue is that the more dense and crowded Old Town becomes, the more it forces full-time residents in the neighborhoods to move out of Old Town. She suspected that the majority of people who want hot tubs are second homeowners. Ms. Wintzer asked the Commissioners to reflect on the fact that it is not as simple as moving the hot tub because it would create a ricochet of events and those without hot tubs could not enjoy their yard because someone is two-feet closer to their property. Ms. Wintzer pointed out that two feet is a significant distance when you have a small yard. She asked the Planning Commission to consider that the consequences are far greater than simply two feet.

Ruth Meintsma, 305 Woodside asked if they had considered hot tubs on a steep slope. With screening it could be quite an imposing structure on to a downhill house.

Planner Whetstone stated that the Staff had discussed it. Director Eddington noted that the issue is that most people have graded their rear yards to be either a patio or other space, so it would generally be on fairly flat land. However, he agreed with Ms. Meintsma that if the backyard of your property is on the downhill side, the house above could appear imposing. Director Eddington stated that the issue currently occurs with the 5' setback if someone chooses to put a fence along their back yard. He noted that most yards end up having a fence anyway for privacy.

In response to Ms. Wintzer, Director Eddington wanted it clear that the Staff was not necessarily proposing this amendment. They think it is a good idea in general given the space challenges, but if the 5' setback eliminates some hot tubs it may have been done by design. Director Eddington stated that the Staff is concerned about the fact that mostly secondary homes want hot tubs and whether that negatively affects the primary homes. That was the reason for recommending significant screening if the Planning Commission decided to reduce the rear setback from 5' to 3'.

Commissioner Joyce stated that his concern was consistency. There is magic about a hot tub. If from a visual standpoint if he could build a shed in his backyard three feet from the property line, it would block views. Considering the “people” aspect of the issue, he was unsure why hot tubs would be regulated but not patio furniture. People spending time on their patio can generate noise disturbance as much as anyone else. Commissioner Joyce found it odd to have a hot tub regulation given that there are already structural regulations. He understood why pools were treated differently because of the safety factor.

Commissioner Phillips stated that he lives on an uphill lot and he has a hot tub. His hot tub is on a second level and he looks into another neighbor’s yard that has a hot tub. His neighbor behind him throws parties on their deck. He understood the issues Ms. Wintzer had addressed. Commissioner Phillips stated that if the setback is reduced to 3’ the owner could have a 7’ hot tub, which can fit a lot of people. He commented on the number of nights he hears people on vacation having a good time in the hot tub, but it is part of living in Old Town. However, if there are twice as many people in a larger hot tub, he might be bothered by the noise because he has children. Commissioner Phillips stated that hot tubs continually get bigger and that was something they needed to consider. He would be in favor of limiting the setback to 4’. He did not support screening. Commissioner Phillips agreed with the 3’ setback on the side yard.

Commission Campbell agreed with no screening. He was opposed to requiring people to put up a screen.

The Staff and Commissioners discussed situations where a hot tub could be considered legal non-complying. Director Eddington stated that if a hot tub was installed prior to the Code being in effect, it would be legal non-complying.

Commissioner Phillips disclosed that he did not realize that the setback was five feet from the side yard; therefore, his hot tub is non-complying and does not meet the setbacks. Director Eddington stated that many existing hot tubs are non-complying.

Commissioner Joyce could not understand why this was an exception. If they talk about structures and setbacks being 3 feet from the back and three feet from the side, he could not understand why a hot tub could be four feet and a shed only three feet. He asked for an explanation of why those two things are different. Director Eddington was unsure why they were different. He suggested that some people might view hot tubs as an attractive since they are designed to create use and sound. Those impacts are harder to mitigate as opposed to a shed. Commissioner Joyce stated that if hot tubs are such a nuisance they should be outlawed. He would understand that argument even though he would disagree with it. However, he did not believe the problems would be mitigated by having a 4-foot

exception instead of the standard 3-feet. It would not be any quieter or noticeably different. Commissioner Joyce favored making life simpler for all the constituents. He thought they should eliminate the exception for hot tubs and treat it like a structure.

Commissioner Thimm stated that when he read it he thought it was intended to be different, otherwise it would be consistent. Commissioner Thimm commented on enforcements. He stated that reading the language without the change, it says screened mechanical equipment, hot tubs, and similar structures located at least five feet from the rear lot line. Commissioner Thimm stated that when they enforce the current Code, he asked if they were enforcing a screened hot tub. Planner Whetstone answered yes. Commissioner Thimm clarified that the issue regarding screening in the 3' versus 5' discussion was not really an issue as written. Planner Whetstone noted that the items listed were exceptions to the setback. She explained that putting the hot tub in the back more than ten feet and it is not in the ten foot setback, then it does not fall into the exception and it does not need to be screened. Director Eddington stated that very few houses have not built to the ten foot rear setback line. Planner Whetstone clarified that screening would only be required if someone took the exception of five feet from the property line. Commissioner Thimm thought the screening definition should be clear to avoid arguments at the Planning Department counter. Director Eddington concurred.

Chair Worel thought they could all agree there was lack of clarity and further discussion would not resolve the confusion. Director Eddington asked for direction from the Planning Commission so the Staff could draft appropriate language for the next meeting.

Commissioner Strachan stated that with all of the socially important issues they discussed in the General Plan he was surprised that this was the first LMC amendment to come before them. He did not have an opinion one way or the other on whether it should be 5 feet, 3 feet or 4 feet or screened.

Commissioner Band stated that she has lived in Old Town and she respects the comments made by Ms. Wintzer because it is small and neighbors can be loud. However, she agreed with Commissioner Joyce that all accessory structures on a lot should be treated the same. Commissioner Band was not in favor of screening because she did not think it would accomplish its purpose.

Commissioner Phillips favored the 3' and 3' setbacks. He could not see a need for screening.

Commissioner Campbell was comfortable with 3' and 3' setbacks. He thought they should keep it simple and not require screening.

Commissioner Joyce thought the setbacks should be 3' and 3', including for hot tubs, and no screening.

Commissioner Thimm was comfortable with 3' and 3' and no screen, but he did not want to lose the screened element for mechanical equipment. Commissioner Thimm noted that the discussion was about hot tubs, but in reading the language he asked if mechanical equipment could be brought closer to the property line. Planner Whetstone noted that mechanical equipment is typically an air conditioner and that is usually up against the house.

Commissioner Strachan believed these were issues that would be flushed out at the counter and they may see additional revisions because of it. He suggested that the Staff come back at the next meeting with new language without the screening, and the Commissioners could vote to approve specific language.

MOTION: Commissioner Strachan moved to CONTINUE the public hearing on the setback regulations for hot tubs in the HRL, HR1, HR2, HRM and RC Zoning Districts to March 25, 2015. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

4. Chapters 2 (in all applicable zoning districts) and 15 (Definitions) to clarify Essential Municipal and Public Utility Uses

Planner Whetstone requested that the Planning Commission continue Chapters 2 and 15 in an effort to keep all the amendments together for the March 25th meeting.

Planner Whetstone referred to page 189 of the Staff report. She noted that every zoning district had the same language as either an allowed use or a conditional use. She read, "Essential Municipal Public Utility Use, Facility, Service and Structure." The request was to add the word "and" after "Municipal" to read as "Essential Municipal and Public Utility Use." The intent was to make the distinction between municipal uses and other utilities such as power and non-municipal utilities.

MOTION: Commissioner Strachan moved to CONTINUE the public hearing on Essential Municipal and Public Use Facilities, Services and Structures in all Zoning Districts to March 25, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

5. Chapter 2.24 – Regarding Transfer of Development Rights (TDR)

Planner Whetstone handed out public input from Thomas Hurd. She also handed out a map that identifies the SOT1, SOT2 and SOT3, which are the sending zones that are different than the sending zones for all of the historic districts. She also provided copies of the redlines.

Planner Whetstone stated that the current language talks about all vacant lots within the Park City historic districts. It then says, "except those lots in the SOT1, SOT2, SOT3, which are the sending overlay, and Sending TH, which is sending Treasure Hill, and all sites listed on the Inventory shall be eligible as sending sites and shall be an overlay zoning district referred to as a TDR Sending Historic." Planner Whetstone noted that it never says that the vacant lots in the SOT1, SOT2, etc., are eligible, but it later talks about how to get the credits. She stated that the first blue line was her attempt to clarify and reiterate that all lots included in the SOT1, 2 and 3 and in the Sending Treasure Hill are eligible as sending sites as further specified in Section 15-2.24.

Commissioner Joyce thought the TDR looked like something that was invented to make the Treasure Hill deal work. If he was asked whether it made more sense to move density out of Old Town over to the base of Deer Valley, he would have to say no because Old Town is where people shop and eat and there are real transit solutions. Commissioner Joyce stated that if they were going to have a TDR discussion, it should be one that really makes sense.

Planner Whetstone stated that the primary reason for these sending zones, at least in the in SOT1, SOT2 and SOT3, is the fact that the lots are very steep, they have sensitive lands, narrow streets and they are not ideal for development. Commissioner Joyce understood that reasoning; however, if they discussion is about making sure they use those and eliminate the HR1, it would be an interesting planning discussion about where TDR sources should be coming from. Planner Whetstone explained that they also have property owners in one of those sending zones that have an interest in using the TDR. She noted that the TDR has only been used once. The General Plan identifies in some of the strategies that they relook at receiving and sending zones. There is an urgency to do some cleanup language, but the Staff intends to come back with the map that shows all of the existing sending and receiving zones, and to have that planning discussion.

Director Eddington stated that the idea of the SOT1, 2 and 3 was to denote areas that were challenged by the road infrastructure, steep slopes, etc., and to offer an opportunity to transfer those development rights. The Planning Commission at that time discussed that these areas could have negative impacts but they did not want to take away the individual property owner's right to develop their property or to make money on it via the sending zone. The HR1 Historic District was included because there was a discussion with regard

to compatibility and that people were building houses to the full footprint and to the full heights, which they are allowed to do pursuant to the LMC as long as they meet compatibility and the Historic District Designs Guidelines. At that time there were some historic houses that were recommended to stay as they were and/or add very small additions. In order to encourage that, the owner had the right to transfer the square footage that they did not build out to, which gave them an economic incentive for not building to the full height and footprint. That approach was desired by most everyone in Old Town. Director Eddington stated that they knew it would not be used extensively, but in the places where it was used it was deemed a good planning tactic.

Director Eddington stated that in regards to the issue this evening, they were clarifying language and discussing the issue of Old Town lots in the SOT zone. He noted that double Old Town lots only get one credit if they transfer. The question is whether they should give them two credits to be more equitable and fair. Director Eddington reiterated that the purpose of tonight's discussion was to clarify language and consider the equity issue.

Chair Worel opened the public hearing.

Bill Coleman referred to the map and SOT1 and noted that there were two or three lots that were not included. He thought it appeared arbitrary and odd not to include those lots in one of those zones. Mr. Coleman stated that he raised that question on behalf of Kathy Doobie and her family from Indiana. They are old miners and wanted to make sure they were in the deal. On a second issue, Mr. Coleman stated that he has been working with Harry and Sidney Reid on their property and he suggested some changes in their wordsmithing. He clarified that he is not a proponent of TDRs. He does not believe they work or that they City has proven that they work. Mr. Coleman read from the first page, item H, "Providing a mechanism whereby the development rights may be allowed to transfer." Although it may be a wonderful idea, he submitted five ways that it might work better. Mr. Coleman referred to Section 3B and read, "The determination letter is not a binding document and does not grant a vested right." He asked at what point is it vested. He did not believe the language was clear. He understood what they were trying to do but it does not tie together with Section 9 on the next page which says that no matter what happens, maintenance and all responsibility for the property after the TDR is erased from it is still the owners. Mr. Coleman pointed out that there was no mechanism to unload the full responsibility of the property and the liability. He read from Section 5, Transfer of development rights, "... by reissuing the development credits in the transferee's name and reporting the development credit certificate...." He thought there should be a way to sell the development rights with or without City approval. Once a deal is made, he questioned how the property could become vested to the new owner. The language says, "at the time of approval", but it does not stop someone from selling a TDR without City guidance. It is

the fundamental problem with TDRs because no one on the buying side of these TDRs wants to buy their land twice. This is why TDRs are not working. Mr. Coleman referred to Section 8 and stated that his biggest concern is that all the rights must be sold. It is not possible to only sell some rights. At some point the ownership has to be considered. He believed the presumption is one owner, but that is not true in all cases. Mr. Coleman appreciated the one lot/one density limit. However, he did not believe that solved all the questions. When they try to find a market for TDRs, he did not believe it exists and he challenged the City to show him how it would. He believed they were close by making it make more sense on the steeper lots, but his client, the Reid's had a plan attached to their property that they would not be able to do easily based on all the rules incorporated into the Code. Mr. Coleman thought they were getting closer, but there was no place where the City does anything to accelerate a sale to happen. Leaving it to the private section is a cop-out and does not make for a good banking possibility or a good currency exchange. Mr. Coleman recommended making other modifications at the same time they were wordsmithing.

Sydney Reid, stated that she was part owner with two other partners of the property Mr. Coleman was talking about. They would appreciate the change in the multiple because it gives more value to the property they have owned for a long time. Ms. Reid noted that the development they had planned was not going through, and the person who had the passion and ability to make a development work on the property is no longer here. Ms. Reid remarked that open space is a great option and would benefit bikers, hikers, and neighbors in the area. She struggles trying to understand how this would work because if they transfer the development rights on that property, they would still have the responsibility of maintenance and abatement of the property. Ms. Reid echoed all the comments made by Bill Coleman.

Chair Worel closed the public hearing.

Commissioners Campbell and Phillips had no further comments.

Commissioner Band liked the idea in theory; however she thought very good questions were raised with valid concerns. Director Eddington explained that when the City first looked at TDRs in 2011 there was a discussion regarding multipliers, bonuses, etc. The issue is that some land is more valuable than other land, which can make the transfer difficult. The Staff initially recommended density bonuses to help accommodate the difference. Director Eddington stated that at the time the City Council recommended removing the multipliers and simplifying the TDR process. He noted that it was a dull tool at this point. However, there was also a discussion about whether the City wanted a role in being a public bank with a website identifying those selling and those interested in buying. The City Council decided at that time not to be involved. Director Eddington stated that it is

a very difficult endeavor without some of those components. He believed that equaling the bonuses or making it more equitable lot for lot helps a little, but it does put the onus on the private property owner. Director Eddington stated that he has seen TDRs work effectively, not only in Washington but also in New York. He has also seen them work in rural districts and other areas. However, it is complex and it does require a bank or a central place where people can understand who is buying and selling. Director Eddington remarked that at the time both the City Council and the Planning Commission were concerned about facilitating development. If it is viewed as facilitating development they may not want to do it. If viewed as controlling, shaping and guiding it may have more appeal. Director Eddington clarified that what they have now is a very simplified version of TDRs.

Commissioner Band reiterated that she liked the idea of allowing someone who has a difficult lot to develop to be able to sell their development rights to someone else who could use it in a place where development is more appropriate. However, she questioned whether cleaning up the language was an effort to clean up something that would never be used anyway.

Based on public comment, Director Eddington believed that fixing the problems would be a step in the right direction. He asked if the Planning Commission wanted the Staff to come back with a more holistic approach to TDRs and address some of the bigger questions.

Commissioner Strachan thought the tool would only work if it is looked at holistically and if they can draft an ordinance that they believe can work. If they know the current one will not work and they tweak it and send it to City Council, it accomplishes nothing. Commissioner Strachan noted that he and Chair Worel were on the Planning Commission during the last TDR discussion. However, things have changed since then and he thought the discussion should be re-opened, and some of the things that were initially rejected should be put back on the table. He stated that a bank was one item that was rejected after a long debate. He thought the bank was important to make it work, but there were also good arguments as to why that was not true. Commissioner Strachan stated that if they intend to do TDRs it needs to be done right and they need to draft a good ordinance before they send it to the City Council.

Commissioner Thimm agreed completely with Commissioner Strachan. He thought the benefits were worth the effort to make it work. He was not interested in spending time on something that was not going to work.

Commissioner Joyce agreed, but with a different conclusion. He did not have an understanding of what would make the TDRs work effectively. Trying to create a market where they were none and where buyers and sellers do not match up well, it would still not be used. Commissioner Joyce stated that if they were really talking about building a

service and being the “bank”, it would involve money, time and a commitment from the City that to this point the City Council was not interested in pursuing. He did not want the Planning Commission to spend a significant amount of time creating something that goes against what the City Council has already said. Commissioner Joyce thought it was important to know whether the City Council would be willing to accept it if they drafted something good. Another question is whether they could be convinced that the market is there if the infrastructure was in place. Without being quite confident that it would work, he did not think they should spend much time on it.

Commissioner Strachan stated that the questions and issues raised by Commissioner Joyce were raised before and the Staff has documented those discussions. He thought the only question that should be decided at this point is whether or not the City Council would look at this. Whether or not the market is there has been analyzed by the Staff. He suggested that Commissioner Joyce look at that information and decide for himself whether or not he thinks it is feasible. Commissioner Strachan believed that whether the City Council looks at it is driven by whether or not the Planning Commission thinks they should look at it. If the Planning Commission determines that it is an important tool to give to a developer, the City Council would listen to what they say and not just reject it.

Commissioner Band agreed that things may have changed since the initial discussions. In deciding whether they should look at it again, they need to consider that something may not make sense now but it may be valuable in the future.

Chair Worel pointed out that TDRs are part of the General Plan which makes her think that the City Council is interested. Director Eddington stated that the perspective on development is different now than it was during the recession. A TDR ordinance offers opportunities to buyers and sellers. He believed they would need multipliers and bonuses, and that could be challenging for people to understand. They may have to give a little more to remove density from an area where they do not want density. There was no agreement on that at both the Planning Commission and the City Council level at that time and it was a difficult challenge. If it is presented more holistically and with more Planning Commissioners in agreement it might be the right thing to do.

Commissioner Strachan stated that in addition to a mandate of the General Plan, it also gets them away from the regulatory mire and puts them into more of a planning position. Commissioner Strachan thought the Planning Commission should relook at this starting from scratch. He pointed out that the discussions are complicated and take a lot of time and they should be prepared for long meetings.

Commissioner Joyce was concerned that the TDR matter is enormous and more prone to failure than other planning issues. He like the idea of having more of a planning role, but

he was not convinced that TDRs should be in the top three of their priorities. Commissioner Joyce suggested that the Commissioners review the General Plan and together compile a list of priority items. Planner Whetstone noted that the Planners have been compiling a list and have provided Director Eddington with information about certain strategies. Director Eddington offered to provide what the planners have listed as their highest and most important strategies to see if the Commissioners have anything to add. Commissioner Strachan thought it would be a valid exercise. The Commissioners agreed.

Commissioner Strachan recommended that the Planning Commission table the discussion and continue it to a date uncertain. Commissioner Joyce thought the Staff has brought forth two obvious items this evening. One was the SOT zones that were not explicitly mentioned. The second was the issue of getting double credit for a double lot. He was not opposed to agreeing with both of those concepts independent of the bigger picture of TDRs. The Commissioners concurred.

Commissioner Strachan commented on the language about the SOT lots being more specific. He suggested that they delete the parenthetical that says, “except for the lots included in SOT 1, SOT2, SOT3”, and keep the new version language. Commissioner Campbell asked if they could fix the three orphan lots in SOT1 this evening. Planner Whetstone preferred to first do some research to find out why those lots were left out. Director Eddington believed they were part of the Alice Claim parcel, which was holistically looked at as its own parcel to be transferred in total or not. He was unsure why the parcels were left out. Planner Whetstone suggested a recommendation to the City Council for those to be a separate SOT sending zone. Director Eddington agreed that they would have to be separate. Commissioner Strachan thought they should be included in the broader discussion of whether or not to tweak the TDR ordinance more than the two changes in front of them.

MOTION: Commissioner Joyce moved to CONTINUE the public hearing for Chapter 2.24 regarding Transfer of Density Rights to March 11, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

6. Chapter 9 – Non-conforming Uses and Non-complying Structures Regulations

Chair Worel opened the public hearing. There were no comments. Chair Worel closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE Chapter 9 – Non-conforming uses and non-complying structure regulations to a date uncertain. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Commissioners Worel and Strachan stated that they would be out of town on March 11th.

Assistant City Attorney McLean noted that Chair Worel's term as chairperson expires in March. The Commissioners should be prepared to elect a new Planning Commission chair at the next meeting. Since Commissioner Worel has served two years as the Chair she could not be re-elected.

The Park City Planning Commission Meeting adjourned at 10:00 p.m.

Approved by Planning Commission: _____

Index	Utah Code
Title 57	Real Estate
Chapter 8	Condominium Ownership Act
Section 4.5	Removing or altering partition or creating aperture between adjoining units. (Effective 7/1/2014)

Effective 7/1/2014

57-8-4.5. Removing or altering partition or creating aperture between adjoining units.

- (1) Subject to the declaration, a unit owner may, after acquiring an adjoining unit that shares a common wall with the unit owner's unit:
 - (a) remove or alter a partition between the unit owner's unit and the acquired unit, even if the partition is entirely or partly common areas and facilities; or
 - (b) create an aperture to the adjoining unit or portion of a unit.
- (2) A unit owner may not take an action under Subsection (1) if the action would:
 - (a) impair the structural integrity or mechanical systems of the building or either unit;
 - (b) reduce the support of any portion of the common areas and facilities or another unit; or
 - (c) constitute a violation of Section 10-9a-608 or 17-27a-608, as applicable, a local government land use ordinance, or a building code.
- (3) The management committee may require a unit owner to submit, at the unit owner's expense, a registered professional engineer's or registered architect's opinion stating that a proposed change to the unit owner's unit will not:
 - (a) impair the structural integrity or mechanical systems of the building or either unit;
 - (b) reduce the support or integrity of common areas and facilities; or
 - (c) compromise structural components.
- (4) The management committee may require a unit owner to pay all of the legal and other expenses of the association of unit owners related to a proposed alteration to the unit or building under this section.
- (5) An action under Subsection (1) does not change an assessment or voting right attributable to the unit owner's unit or the acquired unit, unless the declaration provides otherwise.

Planning Commission Staff Report



PLANNING DEPARTMENT

Application: PL-15-02810
Subject: LMC Amendments
Author: Kirsten Whetstone, MS, AICP- Senior Planner
Date: June 24, 2015
Type of Item: Legislative – LMC Amendments Vertical Zoning

Summary Recommendation

Staff recommends the Planning Commission review and discuss the following proposed amendments to the Land Management Code (LMC):

- Amendments to Chapter 2.5 Historic Recreation Commercial (HRC), Chapter 2.6 Historic Commercial Business (HCB), and Chapter 15 Defined Terms related to Vertical Zoning requirements and definitions.

Staff recommends the Planning Commission conduct a public hearing, consider public input, and continue the discussion and public hearing to July 22, 2015, to allow Staff time to consider Commission and public comments in preparing the final amendments.

Executive Summary

Staff proposes amendments to the Land Management Code revising Chapter 2.5 Historic Recreation Commercial (HRC) Zoning District, Chapter 2.6 Historic Commercial Business (HCB) Zoning District, and Chapter 15 Defined Terms regarding vertical zoning requirements and related definitions. Vertical Zoning is a planning tool or technique that regulates the location of uses vertically within a building or site.

The purpose of these LMC amendments is to amend and clarify existing language and definitions in the Code that are not consistent with the intent of the original Ordinance 07-55 and also to expand the reach of the Vertical Zoning Ordinance both in terms of the location and additional proposed prohibited uses with Storefront Properties.

Staff requests the Commission discuss and consider revising the LMC to include lower Main Street Storefront Properties within the Vertical Zoning overlay and recommends the definition of Storefront be broadened to include property that fronts on Public and Private Plazas, as well as on Public Streets. Staff recommends that residential uses and parking be listed as prohibited uses within the Storefront Properties. Proposed amendments to the Code are redlined and attached as Exhibits A-C.

Description

Project Name: LMC Amendments related to Vertical Zoning for Chapter 2.5 Historic Recreation Commercial (HRC), Chapter 2.6 Historic

Commercial Business (HCB), and Chapter 15 Defined Terms

Approximate Location: Historic Main Street and Lower Main Street business district, Swede Alley, Heber Avenue, and Park Avenue (HRC Zoned properties located on the east side of the street)

Reason for Review: Amendments to the Land Management Code (LMC) require Planning Commission review and recommendation with final action by the City Council.

Background

On August 30, 2007, the City Council adopted an Ordinance (07-55), attached as Exhibit D, amending the Land Management Code to prohibit office, residential, non-sales tax generating uses, and other similar or associated uses in Storefront Property within the HRC and HCB Zoning Districts. Storefront Property was a defined term added to LMC Chapter 15, Defined Terms.

Prior to adoption of the Ordinance the Planning Commission and City Council met in Joint Sessions on April 5th and May 9th 2007 to discuss the concept of vertical zoning regulations. There was lengthy discussion at the Planning Commission meetings on June 13th and June 27th 2007. The Commission ultimately forwarded a positive recommendation to City Council in favor of the amendments memorialized in Ordinance 07-55. The Council reviewed the Ordinance and conducted public hearings on August 2nd, August 9th, and adopted the vertical zoning regulations on August 30th, 2007. See attached Exhibits E and F for Planning Commission and City Council meeting minutes.

General Plan

The LMC implements goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for residents and visitors and to preserve the community's unique character and values. These proposed Land Management Code (LMC) amendments were reviewed for consistency with the recently adopted Park City General Plan.

Specifically, the General Plan includes Goal 16 that states, "Maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors." Objective 16B states, "Limit uses within the first story of buildings along Main Street to retail and restaurant establishments that are inviting to the passing pedestrian. Uses that should be discouraged include office space, real estate show rooms, parking, etc." Implementation Strategy 16.10 states, "Re-examine the City's existing Vertical Zoning Ordinance that requires commercial retail shops along Main Street; consider strengthening the Ordinance."

Additionally, the City's Economic Development Strategic Plan includes goals related to maintaining and improving a balance of Sustainable Community goals by going beyond economic initiatives to include social and environmental strategies and by protecting and preserving the historic Main Street downtown area as the heart of the region. The

long-term economic sustainability of Park City depends upon the continued economic success and aesthetic attractiveness of the historic Main Street area. Uses that are not inviting to the general public, both residents and tourists, have a negative effect upon the overall economy and vitality of the historic downtown area in terms of satisfaction of visitor experience, diversity of visitors, activity on the street, and sales tax revenue generation.

These proposed LMC Amendments clarify and strengthen existing regulations to specifically address the City's adopted goals and strategies. These amendments proactively direct uses that have a more positive effect upon the economic and social vitality and activity level of the street, to street level Storefronts. Upper level spaces within the district will accommodate office and residential uses to create a more diverse, synergetic mix of uses in the historic Main Street business district. Expanding the reach of the Ordinance to lower Main Street and including private plazas in the definition of Storefront Property is intended to strengthen the Ordinance for the present and into the future.

Existing uses that would conflict with the adoption of these amendments would be considered legal non-conforming uses that could remain provided the use remains active and is not abandoned for a period of greater than one year. Non-conforming uses are regulated by the LMC according to Chapter 10.

Proposed LMC Amendments

Staff proposes three general amendments to Chapters 2.5 (HRC), 2.6 (HCB), and Chapter 15 Definitions:

- 1) Amend the table of Uses in Chapters 2.5 and 2.6 for both Allowed Uses and Conditional Uses to indicate additional Uses that are prohibited from being located within Storefront Property in these Zoning Districts,
- 2) Expand the location where the Ordinance applies to remove the currently excluded properties, primarily located in the Lower Main Street/Summit Watch area, and
- 3) Revise the definition of Storefront Property to include property that fronts on a public or private plaza area, in addition to a Public Street.

When the Ordinance was originally adopted the focus was to encourage retail and restaurant uses to be the predominant uses in Storefront properties along Main Street. The focus was to guide those uses that are more consistent with the resort nature of Park City to street level storefronts and to direct other uses to locate on second or third levels or to others areas of Park City. From a review of the minutes of the previous meetings on this issue Staff believes that the excluded areas on lower Main Street, generally the addresses of the Summit Watch project, as well as the Lift Lodge Building, are properties that were not directly and physically adjacent to Main Street or had other physical constraints in terms of access, window location, and/or orientation. Staff believes that these properties were thought to be of secondary concern at that time,

nearly eight (8) years ago (see attached Exhibit G for a map of the HRC and HCB Zoning Districts).

1. Chapter 2.5 Historic Recreation Commercial (HRC) (See Exhibit A for all redlined changes to Chapter 2.5)

Staff proposes that all parking and residential uses (single family, duplex, triplex, multi-unit dwelling, guest house, secondary living quarters, group care facility, lock out units, accessory apartments, bed and breakfast inns, minor hotels, and boarding houses) should all be identified with a footnote to be prohibited in Storefront Property. Hotels should be allowed with qualifying language that the hotel rooms shall not be located in Storefront Property.

In the foot-note language the following changes are proposed:

Prohibited in HRC Zoned Storefront Property on Main Street, Swede Alley, Heber Avenue, and Park Avenue, excluding those HRC zoned Areas on the west side of Park Avenue north of Heber Avenue. Hotel rooms shall not be located within Storefront Property. Access and Lobbies for prohibited Uses are permitted within Storefront Property provided they take up no more than 25% of the total Storefront Area. ~~storefronts adjacent to Main Street, Swede Alley, Heber Avenue or Park Avenue Rights-of-Way, excluding those HRC zoned Areas north of 8th Street; excluding without limitation, addresses contained within the following Buildings: 702 Main Street, 710 Main Street, 780 Main Street, 804 Main Street, 890 Main Street, and 900 Main Street.~~

2. Chapter 2.6 Historic Commercial Business (HCB) (See Exhibit B for all redlined changes to Chapter 2.6)

Staff proposes that all parking and residential uses (single family, duplex, triplex, multi-unit dwelling, guest house, secondary living quarters, group care facility, lock out units, accessory apartments, bed and breakfast inns, minor hotels, and boarding houses) should all be identified with a footnote to be prohibited in Storefront Property. Hotels should be allowed with qualifying language that the hotel rooms shall not be located in Storefront Property.

Prohibited in HCB Zoned storefronts Storefront Property adjacent to the on Main Street, Heber Avenue, or and Swede Alley. Rights-of-Way. Hotel rooms shall not be located within Storefront Property. Access and Lobbies for prohibited Uses are permitted within Storefront Property provided they take up no more than 25% of the total Storefront Area.

3. Chapter 15 Defined Terms

The LMC currently includes two definitions for Storefront Property. Staff recommends that the definitions be consistent as well as be revised to expand the reach of the Vertical Zoning regulations. Staff recommends the following amendments to Chapter 15.

STOREFRONT PROPERTY. A separately enclosed space or unit that has a window or entrance that fronts on a Public Street or on a Public or Private Plaza. For purposes of this provision, the term “fronts on a Public Street or on a Public or Private Plaza” shall mean a separately enclosed space or unit with:

- (1) A window and/or entrance within fifty lateral/horizontal feet (50') of the adjacent Public Street or Public or Private Plaza~~back, inside building edge, of the public sidewalk~~; and
- (2) A window and/or entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street or Public or Private Plaza.

In the case of split-level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the Street or Public or Private Plaza as set forth above shall be designated to be a “Storefront Property.” The Planning Director or ~~their~~ designee shall have the final determination of applicability.

PROPERTY. Any Parcel, Lot, or tract of land, including improvements thereon, in the possession of or owned by, or recorded as the real Property of, the same Person or Persons.

(A) **Property, Storefront.** A separately enclosed space or unit that has a window or entrance that fronts on a Public Street or on a Public or Private Plaza. For purposes of this provision, the term “fronts on a Public Street or on a Public or Private Plaza” shall mean a separately enclosed space or unit with:

- (1) A window and/or entrance within fifty lateral/horizontal feet (50') of the adjacent Public Street or Public or Private Plaza~~back, inside building edge, of the public sidewalk~~; and
- (2) A window and/or entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street or Public or Private Plaza.

In the case of split-level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the

Street or Public or Private Plaza, as set forth above shall be designated to be a “Storefront Property.” The Planning Director or ~~their~~ designee shall have the final determination of applicability.

PRIVATE PLAZA. Private Property in excess of 1,000 square feet that generally serves as common area to adjoining Commercial Development and is free of Structures, is hard surfaced and/or landscaped. Private Plazas generally provide an Area for pedestrian circulation, common amenities, and act as a gathering space for private or public purposes.

STREET. Any highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, easement, or other way.

(A) **Street, Public.** A Street that has been dedicated to and accepted by the City Council; that the City has acquired and accepted by prescriptive right; or that the City owns in fee.

Discussion

Staff requests discussion related to the proposed amendments and poses these questions for consideration:

1. Are there Uses that the Commission finds should be excluded or included from the provisions of this Ordinance? Staff is recommending that all residential uses and all parking be prohibited from locating within Storefront Property.

2. How should access to upper and lower level spaces be regulated? Should access and/or lobby areas for hotels, residential condominium properties, offices, private clubs, etc. be limited to a certain percentage of the overall Storefront area? Should these regulations apply to lobbies that are essentially public because they provide access through to public restaurants, bars, and shops (such as at Sky Lodge and Caledonian)?

3. Does the Commission find that expansion of the Ordinance to the lower Main Street area by a) including Public and Private Plaza areas in the definition of Storefront, and b) by removing the current language that excludes certain properties, further addresses the City’s adopted Goals and Objectives and strengthens the existing Ordinance?

4. Are there certain properties or spaces that should be excluded from the provisions of this Ordinance due to existing physical constraints, such as the location or orientation of windows, entry ways or other reasons? Should the properties that front onto the northern interior plaza at Summit Watch continue to be excluded from the Vertical Ordinance, thus allowing non-retail uses to located in that area?

5. Staff has exempted the HRC zoned properties located on the west side of Park Avenue because these properties transition to adjacent residential properties on Woodside. Residential and office uses within Storefront Areas are compatible uses in this transition area. Should this area be included in the Vertical Zoning regulations?

6. Should new development be required to have Storefront Areas if located on Main, Heber, Swede, or east side of Park and within the HRC and HCB Zoning Districts? This would prevent a project from being designed to not have Storefronts.

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 public notice websites on June 5, 2015 and published in the Park Record on June 6, 2015 per requirements of the Land Management Code. Courtesy notice was mailed to property owners within the HRC and HCB Zoning Districts affected by these proposed changes.

Public Input

Public hearings are required to be conducted by the Planning Commission and City Council prior to adoption of Land Management Code amendments. No public input has been received at the time of this report. Staff has noticed this item for public hearings on June 24th and July 22nd conducted by the Planning Commission and on August 6th by the City Council.

Alternatives

- The Planning Commission may forward a positive recommendation to City Council on the proposed Land Management Code as presented or as amended at the meeting; or
- The Planning Commission may forward a negative recommendation to City Council to deny the proposed amendments; or
- The Planning Commission may continue the discussion to a date certain and provide direction to Staff regarding additional information, revisions, or analysis needed in order to take final action.

Significant Impacts

There are perceived positive financial impacts to the City that result from these proposed LMC amendments in that the intent of the vertical zoning ordinance is to activate Park City's core Historic Commercial Area with vibrant retail and commercial activities.

Summary Recommendation

Staff recommends the Planning Commission conduct a public hearing, consider public input, and continue the discussion and public hearing to July 22, 2015, to allow Staff time to consider Commission and public comments in preparing the final amendments.

Exhibits

Pending Ordinance

Exhibit A – Chapter 2.5- Historic Recreation Commercial (HRC)

Exhibit B – Chapter 2.6- Historic Commercial Business (HCB)

Exhibit C – Chapter 15- Defined Terms

Exhibit D – Ordinance 07-55

Exhibit E – Minutes of the JT PC CC 5.9.07 and Planning Commission 6.27.15

Exhibit F – Minutes of the City Council meeting 8.30.07

Exhibit G – Zoning Map identifying the HRC and HCB Districts

Pending Ordinance
Ordinance 15-

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING CHAPTER 15-2.5 HISTORIC RECREATION COMMERCIAL (HRC) ZONING DISTRICT, CHAPTER 15-2.6 HISTORIC COMMERCIAL BUSINESS (HCB) ZONING DISTRICT, AND CHAPTER 15 DEFINED TERMS RELATING TO VERTICAL ZONING REGULATIONS PROHIBITING OFFICE, RESIDENTIAL, PARKING, NON-SALES TAX GENERATING USES, AND SIMILAR OR ASSOCIATED USES WITHIN STOREFRONT PROPERTY IN THE HISTORIC MAIN STREET DOWNTOWN AREA

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 a regular basis and identifies necessary amendments to address planning and zoning issues that have come up; to address specific LMC issues raised by Staff, Planning Commission, and City Council; and to align the Code with the Council's goals; and

WHEREAS, Park City has an interest in promoting vibrancy and activity in the historic Main Street downtown area located in the Historic Commercial Business (HCB) and the Historic Recreation Commercial (HRC) Zoning Districts and finds this vibrancy to be essential to the City's long term economic and financial well-being; and

WHEREAS, these proposed Land Management Code (LMC) amendments were reviewed for consistency with the recently adopted Park City General Plan.

WHEREAS, the Park City General Plan includes Goal 16 that states, "Maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors." Objective 16B states, "Limit uses within the first story of buildings along Main Street to retail and restaurant establishments that are inviting to the passing pedestrian. Uses that should be discouraged include office space, real estate show rooms, parking, etc." Implementation Strategy 16.10 states, "Re-examine the City's existing Vertical Zoning Ordinance that requires commercial retail shops along Main Street; consider strengthening the Ordinance."

WHEREAS, Park City's Economic Development Plan encourages facilitation and establishment of more attractions and areas of interest for both visitors and residents, maintaining and improving the balance of Sustainable Community goals by going

beyond economic initiatives to include social and environmental strategies; and protection and preservation of the historic Main Street downtown area as the heart of the region; and

WHEREAS, in the HRC and HCB Zoning Districts, Uses that are not inviting to the general public will diminish the vibrancy, diversity, and activity of the historic Main Street area; and

WHEREAS, the City monitors the downtown business mix and sales tax generation as part of its financial health assessment and finds a diversified business mix is critical to the attractiveness, vitality, and success of the historic Main Street downtown area; and

WHEREAS, the long-term economic sustainability of Park City depends upon the continued economic success and aesthetic attractiveness of the historic Main Street area; and

WHEREAS, in the HRC and HCB Districts, Uses that are not inviting to the general public have a negative effect upon the overall economy and vitality of the historic downtown area in terms of satisfaction of visitor experience, diversity of visitors, activity on the street, and sales tax revenue generation; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on June 24th and July 22nd, 2015, and forwarded a recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on August 6, 2015; 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 values and goals of the Park City General Plan and the Park City Council; to protect health and safety and maintain the quality of life for its residents and visitors; to preserve and protect the vitality, attractiveness, activity and success of the historic Main Street area; to ensure compatible development; to preserve historic resources; and to preserve the community's unique character.

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

SECTION 1. APPROVAL OF AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15-2.5 Historic Recreation Commercial (HRC) Zoning District. The recitals above are incorporated herein as findings of fact. Chapter 15-2.5 of the Land Management Code of Park City is hereby amended as redlined in Exhibit A.

SECTION 2. APPROVAL OF AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15-2.6 Historic Commercial Business (HCB) Zoning District. The recitals above are incorporated herein as findings of fact. Chapter 15-2.6 of the Land Management Code of Park City is hereby amended as redlined in Exhibit B.

SECTION 3. APPROVAL OF AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15 Defined Terms. The recitals above are incorporated herein as findings of fact. Chapter 15 of the Land Management Code of Park City is hereby amended as redlined in Exhibit C.

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

PASSED AND ADOPTED this ____ day of _____, 2015

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, Mayor

Attest:

Marci Heil, City Recorder

Approved as to form:

Mark Harrington, City Attorney

Exhibits

Exhibit A – LMC Chapter 2.5 HRC Zoning District

Exhibit B – LMC Chapter 2.6 HCB Zoning District

Exhibit C – LMC Chapter 15- Defined Terms

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT

Chapter adopted by Ordinance No. 00-51

15-2.5-1. PURPOSE.

The purpose of the Historic Recreation Commercial (HRC) District is to:

(A) maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,

(B) encourage pedestrian oriented, pedestrian-scale Development,

(C) minimize visual impacts of automobiles and parking,

(D) preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,

(E) provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,

(F) provide a moderate Density bed base at the Town Lift,

(G) allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,

(H) encourage preservation and rehabilitation of Historic Buildings and resources.

(I) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

(Amended by Ord. No. 07-55)

15-2.5-2. USES.

Uses in the HRC are limited to the following:

(A) **ALLOWED USES.**

- (1) Single Family Dwelling⁵
- (2) Duplex Dwelling⁵
- (3) Secondary Living Quarters⁵

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- (4) Lockout Unit^{1,5}
- (5) Accessory Apartment^{2,5}
- (6) Nightly Rental
- (7) Home Occupation
- (8) Child Care, In-Home Babysitting
- (9) Child Care, Family³
- (10) Child Care, Family Group³
- (11) Child Care Center³
- (12) Accessory Building and Use
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn^{4,5}
- (16) Boarding House, Hostel⁵
- (17) Hotel, Minor, fewer than 16 rooms⁵
- (18) Office, General⁵

- (19) Parking Area or Structure, with four (4) or fewer spaces⁵

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(B) **CONDITIONAL USES**⁹.

- (1) Triplex Dwelling⁵
- (2) Multi-Unit Dwelling⁵
- (3) Guest House, on Lots one acre⁵
- (4) Group Care Facility⁵
- (5) Public and Quasi-Public Institution, Church, School
- (6) Essential Municipal Public Utility Use, Facility, Service and Structure
- (7) Telecommunication Antenna⁶
- (8) Satellite Dish, greater than thirty-nine inches (39") in diameter⁷
- (9) Plant and Nursery stock products and sales
- (10) Hotel, Major
- (11) Timeshare Projects and Conversions⁵
- (12) Private Residence Club Project and Conversion^{4,5}

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¹Nightly rental of Lockout Units requires a Conditional Use permit
²See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments
³See LMC Chapter 15-4-9 for Child Care Regulations
⁴Requires an Administrative or Administrative Conditional Use permit, see Section 15-4.
⁵ Prohibited in HRC Zoned Storefront Property on Main Street, Swede Alley, Heber Avenue, and Park Avenue, excluding those HRC zoned Areas on the west side of Park Avenue north of Heber Avenue. Hotel rooms shall not be located within Storefront Property. Access and Lobbies for prohibited Uses are permitted within Storefront Property provided they take up no more than 25% of the total Storefront Area storefronts adjacent to the Main Street, Swede Alley, Heber Avenue,

~~or Park Avenue Rights of Way, excluding those HRC zoned Areas north of 8th Street; excluding without limitation, addresses contained within the following Buildings: 702 Main Street, 710 Main Street, 780 Main Street, 804 Main Street, 890 Main Street, and 900 Main Street~~

⁶See LMC Chapter 15-4-14, Supplemental Regulations For Telecommunication Facilities

⁷See LMC Chapter 15-4-13, Supplemental Regulations For Satellite Receiving Antennas

- (13) Office, Intensive⁵
- (14) Office and Clinic, Medical⁵
- (15) Financial Institution, without drive-up window⁸
- (16) Commercial Retail and Service, Minor⁸
- (17) Commercial Retail and Service, personal improvement⁸
- (18) Neighborhood Convenience Commercial, without gasoline sales
- (19) Café or Deli⁸
- (20) Restaurant, General⁸
- (21) Restaurant and café, Outdoor Dining⁴
- (22) Outdoor Events and Uses⁴
- (23) Bar
- (24) Parking Area or Structure, with five (5) or more spaces⁵
- (25) Temporary Improvement
- (26) Passenger Tramway Station and Ski Base Facility
- (27) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
- (28) Recreation Facility, Commercial, Public, and Private⁵

- (29) Entertainment Facility, Indoor
- (30) Fences greater than six feet (6') in height from Final Grade⁴
- (31) Private Residence Club, Off-Site⁵
- (32) Special Events⁴

(C) **PROHIBITED USES.** Unless otherwise allowed herein, any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

(Amended by Ord. Nos. 04-39; 06-69; 07-55; 09-10; 12-37)

15-2.5-3. LOT AND SITE REQUIREMENTS.

Except as may otherwise be provided in this Code, no Building Permit shall be issued for a Lot unless such Lot has the Area, width, and depth as required, and Frontage on a Street shown as a private or Public Street on the Streets Master Plan, or on a private easement connecting the Lot to a Street shown on the Streets Master Plan.

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All Development activity must comply with the following minimum Lot and Site requirements:

(A) **FRONT YARD.** The minimum Front Yard is ten feet (10').

(B) **FRONT YARD EXCEPTIONS.** The Front Yard must be open and free of any Structure except:

⁸If Gross Floor Area is less than 2,000 sq. ft., the Use shall be considered an Allowed Use

⁹No community locations are defined by Utah Code 32-B-1-102 (Alcoholic Beverage Control Act) are permitted within 200 feet of Main Street unless a variance is permitted for an outlet, as defined by Utah Code 32B-1-202, to obtain a liquor license.



TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT

Chapter adopted by Ordinance No. 00-15

15-2.6-1. PURPOSE.

The purpose of the Historic Commercial Business (HCB) District is to:

- (A) preserve the cultural heritage of the City's original Business, governmental and residential center,
- (B) allow the Use of land for retail, commercial, residential, recreational, and institutional purposes to enhance and foster the economic and cultural vitality of the City,
- (C) facilitate the continuation of the visual character, scale, and Streetscape of the original Park City Historical District,
- (D) encourage the preservation of Historic Structures within the district,
- (E) encourage pedestrian-oriented, pedestrian-scale Development,
- (F) minimize the impacts of new Development on parking constraints of Old Town,

(G) minimize the impacts of commercial Uses and business activities including parking, Access, deliveries, service, mechanical equipment, and traffic, on surrounding residential neighborhoods,

(H) minimize visual impacts of automobiles and parking on Historic Buildings and Streetscapes, and

(I) support Development on Swede Alley which maintains existing parking and service/delivery operations while providing Areas for public plazas and spaces.

(J) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

(Amended by Ord. No. 07-55)

15-2.6-2. USES.

Uses in the Historic Commercial Business (HCB) District are limited to the following:

- (A) **ALLOWED USES.**

- (1) Single Family Dwelling¹
- (2) Multi-Unit Dwelling¹
- (3) Secondary Living Quarters¹
- (4) Lockout Unit^{1,2}
- (5) Accessory Apartment^{1,3}
- (6) Nightly Rental⁴
- (7) Home Occupation¹
- (8) Child Care, In-Home Babysitting¹
- (9) Child Care, Family^{1,5}
- (10) Child Care, Family Group^{1,5}
- (11) Child Care Center^{1,5}
- (12) Accessory Building and Use¹
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn^{6,1}
- (16) Boarding House, Hostel¹

- (17) Hotel, Minor, fewer than 16 rooms¹
- (18) Office, General¹
- (19) Office, Moderate Intensive¹
- (20) Office and Clinic, Medical¹
- (21) Financial Institution, without drive-up window
- (22) Commercial Retail and Service, Minor
- (23) Commercial Retail and Service, personal improvement
- (24) Commercial Neighborhood Convenience, without gasoline sales
- (25) Restaurant, Cafe or Deli
- (26) Restaurant, General
- (27) Bar
- (28) Parking Lot, Public or Private with four (4) or fewer spaces¹
- (29) Entertainment Facility, Indoor
- (30) Salt Lake City 2002 Winter Olympic Games Legacy Displays⁷

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¹ Prohibited in HCB Zoned Storefront Property on storefronts adjacent to the Main Street, Heber Avenue, and/or Swede Alley. Rights-of-Way Hotel rooms shall not be located within Storefront Property. Access and Lobbies for prohibited Uses are permitted within Storefront Property provided they take up no more than 25% of the total Storefront Area.

²Nightly Rental of Lock Units requires a Conditional Use permit

³See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

⁴Nightly Rental of residential dwellings does not include the Use of dwellings for Commercial Uses

⁵ See LMC Chapter 15-4-9 for Child Care Regulations

⁶Requires an Administrative or Administrative Conditional Use permit

(B) **CONDITIONAL USES¹⁰**

- (1) Group Care Facility¹

⁷Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed on the original Property set forth in the services Agreement and/or Master Festival License. Requires an Administrative Permit.

- (2) Public and Quasi-Public Institution, Church, School
- (3) Essential Municipal Public Utility Use, Facility, Service, and Structure
- (4) Telecommunication Antenna⁸
- (5) Satellite Dish, greater than thirty-nine inches (39") in diameter⁹
- (6) Plant and Nursery stock products and sales
- (7) Hotel, Major
- (8) Timeshare Projects and Conversions¹
- (9) Timeshare Sales Office, Off-Site within an enclosed Building¹
- (10) Private Residence Club Project and Conversion^{1,6}
- (11) Commercial Retail and Service, Major
- (12) Office, Intensive¹
- (13) Restaurant, Outdoor Dining⁶
- (14) Outdoor Events and Uses⁶
- (15) Hospital, Limited Care Facility¹

- (16) Parking Area or Structure for five (5) or more cars¹
- (17) Temporary Improvement
- (18) Passenger Tramway Station and Ski Base Facility
- (19) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
- (20) Recreation Facility, Public or Private¹
- (21) Recreation Facility, Commercial
- (22) Fences greater than six feet (6') in height from Final Grade⁶
- (23) Private Residence Club, Off-Site¹
- (24) Special Events⁶

(C) **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

(Amended by Ord. Nos. 02-38; 04-39; 06-69; 07-55; 09-10; 12-37)

15-2.6-3. LOT AND SITE REQUIREMENTS.

Except as may otherwise be provided in this Code, no Building Permit will be issued for a Lot unless such Lot has the Area, width, and depth as required, and Frontage on a Street shown as a private or Public Street on the Streets Master Plan, or on private easement connecting the Lot to a Street shown on the Streets Master Plan. All Development must comply with the following:

(A) **LOT SIZE.** The minimum Lot Area is 1250 square feet. The minimum Lot

⁸See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

⁹See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

¹⁰No community locations as defined by Utah Code 32B-1-102 (Alcoholic Beverage Control Act) are permitted within 200 feet of Main Street unless a variance is permitted for an outlet, as defined by Utah Code 32B-1-202, to obtain a liquor license.

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 15 - DEFINED TERMS

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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 15 - DEFINITIONS

Chapter adopted by Ordinance No. 00-25

CHAPTER 15 - DEFINED TERMS.

15-15-1. DEFINITIONS.

For the purpose of the LMC, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth herein. Defined terms will appear as proper nouns throughout this Title. Words not defined herein shall have a meaning consistent with Webster's New Collegiate Dictionary, latest edition.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations"; "used" or "occupied" as applied to any land or Building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

1.1 **ACCESS.** The provision of vehicular and/or pedestrian ingress and egress to Structures, facilities or Property.

1.2 **ACCESSORY APARTMENT.** A self-contained Apartment, with cooking, sleeping, and sanitary facilities, created either by converting part of and/or by adding on to a Single-Family Dwelling or detached garage. Accessory Apartments do not increase the residential Unit Equivalent of the Property and are an Accessory Use to the primary Dwelling.

1.3 **ACCESSORY BUILDING.** A Building on the same Lot as the principal Building and that is:

- (A) clearly incidental to, and customarily found in connection with such principal Building, such as detached garages, barns, and other similar Structures that require a Building Permit;
- (B) operated and maintained for the benefit of the principal Use;
- (C) not a Dwelling Unit; and
- (D) also includes Structures that do not require a Building Permit, such as sheds, outbuildings, or similar Ancillary Structures. See Ancillary Structure.

1.130 **HISTORIC INTEGRITY.** The ability of a Site to retain its identity and, therefore, convey its Significance in the history of Park City. Within the concept of Historic Integrity, Park City Municipal Corporation recognizes seven (7) aspects or qualities as defined by the National Park Service, that in various combinations define integrity. They are as follows:

(A) **Location.** The place where the Historic Site was constructed or the Historical event took place.

(B) **Design.** The combination of physical elements that create the form, plan, space, Structure, and style of a Site. Design includes such considerations as the structural system, massing, arrangement of spaces, pattern of fenestration, textures and colors of surface materials, type, amount and style of ornamental detailing, and arrangement and type of plantings in the designed landscape.

(C) **Setting.** The physical environment, either natural or manmade, of a Historic Site, including vegetation, topographic features, manmade features (paths, fences, walls) and the relationship between Structures and other features or open space.

(D) **Materials.** The physical elements that were combined or deposited during a particular period of time in a particular pattern or configuration to form a Historic Site.

(E) **Workmanship.** The physical evidence of the crafts of a particular culture or people during any given period of history,

including methods of construction, plain or decorative finishes, painting, carving, joinery, tooling, and turning.

(F) **Feeling.** A Site's expression of the aesthetic of Historic sense of a particular period of time. Feeling results from the presence of physical features that, taken together, convey the Property's Historic character.

(G) **Association.** The direct link between an important Historic era or Person and a Historic Site. A Site retains association if it is in the place where the activity occurred and is sufficiently intact to convey that relationship to an observer.

1.131 **HISTORIC SITES INVENTORY.** A list of Historic Sites, as determined by the Historic Preservation Board, that meets specified criteria set form in Land Management Code Chapter 15-11.

1.132 **HOME OCCUPATION.** A Business carried on entirely within a dwelling by Persons residing within the dwelling, which Business is clearly incidental and secondary to the Use of the dwelling for residential purposes.

1.133 **HOSPITAL.** An institution specializing in clinical, temporary or emergency medical services to humans and/or licensed by the state to provide facilities and services in surgery, obstetrics, and general medical practice. Does not include Uses defined as "Office, Medical".

(A) **Hospital, Limited Care.** An institution licensed by the state to provide

out-patient medical or surgical care and related services without overnight stay.

1.134 **HOTEL/MOTEL**. A Building containing sleeping rooms for the occupancy of guests for compensation on a nightly basis that includes accessory facilities such as restaurants, bars, spas, meeting rooms, on-site check-in lobbies, recreation facilities, group dining facilities, and/or other facilities and activities customarily associated with Hotels, such as concierge services, shuttle services, room service, and daily maid service. Hotel/Motel does not include Nightly Rental Condominium projects without restaurants, bars, spas, and on-site check-in lobbies. Lockout Units or Bed and Breakfast Inns and Boarding Houses are not Hotels. Hotels are considered a lodging Use and ownership of units may be by a condominium or timeshare instrument Hotel rooms may include a Lockout as part of the Unit.

(A) **Hotel, Major**. A Hotel with more than fifteen (15) Hotel Rooms.

(B) **Hotel, Minor**. A Hotel, Motel, with fewer than sixteen (16) Hotel Rooms.

1.135 **HOTEL ROOM**. A Unit consisting of one (1) room, without a Kitchen, intended for temporary living and sleeping purposes and including a separate, exclusive bathroom.

1.136 **HOTEL SUITE**. Two (2) or more interconnected Hotel Rooms with a single corridor or exterior Access. May include a Kitchenette. See Bed and Breakfast Inn, Lockout Unit, and Boarding House.

1.137 **IMPACT ANALYSIS**. A determination of the potential effects(s), environmental, fiscal, social, etc., upon the community of a proposed Development.

1.138 **IMPERVIOUS SURFACE**. Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, sidewalks, patios, and paved recreation areas.

1.139 **INACTION**. An Application is Inactive and subject to denial on the basis of Inactivity if, through the act or omission of the Applicant and not the City:

(A) more than six (6) months has passed since a request for additional information was made by the Department staff without response from the Applicant;

(B) upon notice the Applicant is more than sixty (60) days in default of the payment of any fee assessed by ordinance, or has not paid the fee under protest;

(C) the Applicant has stated an intent to abandon the project;

(D) the Application appears to have been filed in bad faith for the purpose of attempting to vest rights prior to a zoning change, without actual intent to construct the project applied for.

1.140 **INCIDENTAL RETAIL SALES**. The sale of common items associated with a Home Occupation and not produced on the premises that might be sold along with a

An easement that includes, as minimum stipulations, a conveyance of design approval for exterior changes, and a program whereby the Owner commits to restore and maintain a Structure following the Secretary of Interior's Standards for rehabilitation, in a form approved by the City. A time frame for completion of the restoration program may be specified in the easement agreement.

1.198 PRIVATE PLAZA. Private Property in excess of 1,000 square feet that generally serves as common area to adjoining Commercial Development and is free of Structures, is hard surfaced and/or landscaped. Private Plazas generally provide an Area for pedestrian circulation, common amenities, and act as a gathering space for private or public purposes.

1.198 **PROPERTY.** Any Parcel, Lot, or tract of land, including improvements thereon, in the possession of or owned by, or recorded as the real Property of, the same Person or Persons.

(A) **Property, Storefront.** A separately enclosed space or unit that has a window or entrance that fronts on a Public Street or on a Public or Private Plaza. For purposes of this provision, the term "fronts on a Public Street or on a Public or Private Plaza" shall mean a separately enclosed space or unit with:

(1) A window and/or entrance within fifty lateral/horizontal feet (50') of the adjacent Public Street or Public or Private Plaza. back, inside building edge, of the public sidewalk; and

(2) A window and/or entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street or Public or Private Plaza.

In the case of split-level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the Street or Public or Private Plaza as set forth above, shall be designated to be a "Storefront Property." The Planning Director or ~~their~~ designee shall have the final determination of applicability.

1.199 **PROPERTY LINE.** The boundary line of a Parcel or Lot.

(A) **Property Line, Front.** That part of a Parcel or Lot which abuts a Street.

1.200 **PROPERTY OWNER.** Any Person, or group of Persons, having record title to a Property, and the Owner's Agent.

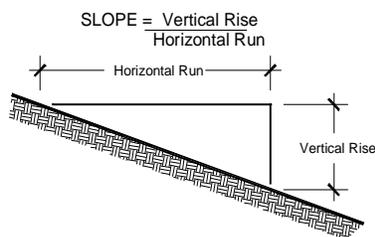
1.201 **PUBLIC ART.** Any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, inside any city-owned facility in areas designated as public areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city.

1.202 **PUBLIC IMPROVEMENT.** Any Building, water system drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, Off-Street Parking Lot, space or Structure, Lot improvement, or

other community objectives as stated in the General Plan.

1.246 **SKETCH PLAT.** A Sketch preparatory to the Preliminary Plat, or Subdivision Plat in the case of Minor Subdivisions, to enable the Owner to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat.

1.247 **SLOPE.** The level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.



(A) **Slope, Steep.** Slope greater than fifteen percent (15%).

(B) **Slope, Very Steep.** Slope greater than forty percent (40%).

1.248 **SPACING.** Distance between the closer edges of adjoining driveways or driveways and Right-of-Way lines of intersecting Streets.

1.249 **SPECIAL EVENT.** Any event, public or private, with either public or private venues, requiring City licensing

beyond the scope of normal Business and/or liquor regulations, as defined by this Code, or creates public impacts through any of the following:

- (A) The use of City personnel;
- (B) Impacts via disturbance to adjacent residents;
- (C) Traffic/parking;
- (D) Disruption of the normal routine of the community or affected neighborhood; or
- (E) Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.

1.250 **STEALTH.** A Telecommunications Facility which is disguised as another object or otherwise concealed from public view.

1.251 **STOREFRONT PROPERTY.** A separately enclosed space or unit that has a window or entrance that fronts on a Public Street or on a Public or Private Plaza. For purposes of this provision, the term “fronts on a Public Street or on a Public or Private Plaza” shall mean a separately enclosed space or unit with:

- (1) A window and/or entrance within fifty lateral/horizontal feet (50’) of the adjacent Public Street or

~~Public or Private Plaza. back, inside building edge, of the public sidewalk;~~ and

(2) A window and/or entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street or Public or Private Plaza.

In the case of split-level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the Street or Public or Private Plaza, as set forth above, shall be designated to be a "Storefront Property." The Planning Director or ~~their~~ designee shall have the final determination of applicability.

1.252 **STORY.** 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.

1.253 **STREAM.** A naturally-fed water course, that flows year round or intermittently during years of normal rainfall. This definition excludes ditches and canals constructed for irrigation and drainage purposes.

1.254 **STREAM CORRIDOR.** The Corridor defined by the Stream's Ordinary High Water Mark.

1.255 **STREET.** Any highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, easement, or other way.

(A) **Street, Public.** A Street that has been dedicated to and accepted by the City Council; that the City has acquired and accepted by prescriptive right; or that the City owns in fee.

1.256 **STREETSCAPE.** The distinguishing characteristics of a particular Street including paving materials, adjacent space on both sides of the Street, landscaping, retaining walls, sidewalks, Building Facades, lighting, medians, Street furniture, and signs.

(A) **Streetscape, Architectural.** The Architectural Streetscape required as part of the Historic District Design Review process and Steep Slope CUP process.

1.257 **STRUCTURE.** Anything constructed, the Use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground; definition includes "Building".

1.258 **STUDIO APARTMENT.** A Dwelling Unit consisting of a single room equipped for cooking, living, and sleeping, having a separate bathroom or Kitchen for the exclusive Use of the dwelling, and a Floor Area of not more than one thousand square feet (1,000 sq. ft.).

1.259 **SUBDIVISION.** Any land, vacant or improved, which is divided or proposed to be divided or combined into one (1) or more Lots, Parcels, Site, Units, plots, or interests for the purpose of offer, sale, lease,

Ordinance No. 07-55

AN ORDINANCE APPROVING AMENDMENTS TO THE PARK CITY LAND MANAGEMENT CODE TO CHAPTERS 15-2.6: HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT AND 15-2.5 HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT, RELATING TO PROHIBITING OFFICE, RESIDENTIAL, NON-SALES TAX GENERATING USES AND OTHER SIMILAR OR ASSOCIATED USES IN THE HCB DISTRICT AND HRC DISTRICT STOREFRONTS; ALSO RELATED AMENDMENT TO LAND MANAGEMENT CODE CHAPTER 15-15-1: DEFINITIONS.

WHEREAS, the Land Management Code is designed and enacted to implement the objectives of the Park City General Plan; to protect the general health, safety, and welfare of Park City's citizen's and property owners; to maintain the quality of life and experience for its residents and visitors; and to preserve the community's unique character and values;

WHEREAS, Park City has an interest in promoting vibrancy and activity in the historic Main Street downtown area located in the Historic Commercial Business (HCB) and the Historic Recreation Commercial (HRC) Districts and finds it is essential to the City's long term economic and financial well-being; and

WHEREAS, The Community Economy Element of the Park City General Plan states that "Temporary or transient real estate project offices should be encouraged to locate in other areas of the City in order for Main Street to retain its primary functions"; and goes on to say Park City should "Maintain and improve the resort ambiance, which includes adequate opportunities for recreation, shopping, dining and culture"; and

WHEREAS, the 2003 Hyett Palma Park City Downtown Economic Study recommends pursuing a broad variety of uses and attractions to draw locals and visitors; and

WHEREAS, The City's Budget Department and The Main Street Business Alliance have submitted Affidavits that support these amendments; and

WHEREAS, Park City's Economic Development Plan identifies the following as Top Priorities: Facilitation and establishment of more "attractions/areas of interest" for both visitors and residents; Maintain and improve the balance of Sustainable Community goals by going beyond just economic initiatives to include social and environmental strategies; and Protect, preserve, and promote the historic Main Street downtown area as the heart of the region; and

WHEREAS, Park City's Economic Development Strategic Plan identifies the following as High Priorities: Further develop and market the uniqueness of Park City and why it is set apart from other mountain resort communities; Proactively target

business sectors that will fill voids left by departing companies or for smart redevelopment reasons; and

WHEREAS, in the HCB and HRC Districts, Office uses that are not inviting to the general public to access them will diminish the diverse and eclectic mix of uses and attractions necessary to sustain Park City's unique vibrant Main Street core for the general public, visitors, quests, and locals; and

WHEREAS, the City monitors the downtown business mix and sales tax generation as part of its financial health assessment and finds a diversified business mix is an element of Main Street's attractiveness and a destination center for visitors and locals; and

WHEREAS, the long-term economic sustainability of Park City depends upon the continued economic success and aesthetic attractiveness of commercial and mixed-use buildings and districts in and near the downtown core; and

WHEREAS, a preliminary discussion was held at the joint Planning Commission/City Council work session on April 5, 2007 regarding legislative remedies available to ensure the continuation of a successful business mix on historic Main Street; and

WHEREAS, in the HCB and HRC Districts, Office uses that are not inviting to the general public to access them will have a negative effect upon the overall economy and vitality of the downtown core as visitors find fewer businesses in which to shop or restaurants in which to eat. A reduction in visitor traffic will have a net negative impact to sales tax overall. A reduction in visitor numbers will also signal a change in the culture of Main Street into an elite area that is less inviting to the majority of Park City's visitors, guests, and locals; 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 Utah State Code and the Park City General Plan, and to be consistent with the values and identified goals of the Park City community to protect health and safety, maintain the quality of life for its residents, and to preserve the community's unique character.

WHEREAS, the Council determines after evaluating issues of fairness and the overall intent of the regulation that the application of pending ordinance doctrine shall be revoked up to the date of adoption;

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

SECTION 1. APPROVAL OF AMENDMENT. CHAPTERS 15-2.5
Historic Recreation Commercial (HRC) District, 15-2.6 Historic Commercial Business

(HCB) District, and 15-15-1 Definitions, of the Land Management Code are hereby amended to read as attached hereto on Exhibits "A", "B" and "C".

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective upon publication and the pending ordinance rule shall become effective as of the date of adoption.

PASSED AND ADOPTED this 30th day of August, 2007.

PARK CITY MUNICIPAL CORPORATION



Dana Williams, Mayor

Attest:



Janet M. Scott, City Recorder

Approved as to form:



Mark D. Harrington, City Attorney



EXHIBIT A - HRC

TITLE 15 - LAND MANAGEMENT CODE (LMC) **CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT**

Chapter adopted by Ordinance No. 00-51

15-2.5-1. PURPOSE.

The purpose of the Historic Recreation Commercial (HRC) District is to:

- (A) maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,
- (B) encourage pedestrian oriented, pedestrian-scale Development,
- (C) minimize visual impacts of automobiles and parking,
- (D) preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,
- (E) provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,
- (F) provide a moderate Density bed base at the Town Lift,
- (G) allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,
- (H) encourage preservation and rehabilitation of Historic Buildings and resources.
- (I) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.**

15-2.5-2. USES.

Uses in the HRC are limited to the following:

- (A) **ALLOWED USES.**
 - (1) Single Family Dwelling
 - (2) Duplex Dwelling
 - (3) Secondary Living Quarters

- (4) Lockout Unit¹
- (5) Accessory Apartment²
- (6) Nightly Rental
- (7) Home Occupation
- (8) Child Care, In-Home Babysitting
- (9) Child Care, Family³
- (10) Child Care, Family Group³
- (11) Child Care Center³
- (12) Accessory Building and Use
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn⁴
- (16) Boarding House, Hostel
- (17) Hotel, Minor, fewer than 16 rooms
- (18) Office, General⁵
- (19) Parking Area or Structure, with four (4) or fewer spaces

(B) **CONDITIONAL USES.**

- (1) Triplex Dwelling
- (2) Multi-Unit Dwelling
- (3) Guest House, on Lots one acre
- (4) Group Care Facility
- (5) Public and Quasi-Public Institution, Church, School
- (6) Essential Municipal Public Utility Use, Facility, Service and Structure
- (7) Telecommunication Antenna⁶
- (8) Satellite Dish, greater than thirty-nine inches (39") in diameter⁷
- (9) Plant and Nursery stock products and sales
- (10) Hotel, Major
- (11) Timeshare Projects and Conversions

¹Nightly rental of Lockout Units requires a Conditional Use permit

²See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

³See LMC Chapter 15-4-9 for Child Care Regulations

⁴Requires an Administrative Conditional Use permit

⁵**Prohibited in Storefronts adjacent to the Main Street, Swede Alley, Heber Avenue, or Park Avenue (excluding those HRC zoned areas north of the 8th Street) rights-of-way; excluding without limitation, addresses contained within the following Buildings: 702 Main Street, 710 Main Street, 780 Main Street, 804 Main Street, 890 Main Street, and 900 Main Street.**

⁶See LMC Chapter 15-4-14, Supplemental Regulations For Telecommunication Facilities

⁷See LMC Chapter 15-4-13, Supplemental Regulations For Satellite Receiving Antennas

- (12) Private Residence Club Project and Conversion⁴
- (13) Office, Intensive
- (14) Office and Clinic, Medical
- (15) Financial Institution, without drive-up window⁸
- (16) Commercial Retail and Service, Minor⁷
- (17) Commercial Retail and Service, personal improvement⁷
- (18) Neighborhood Convenience Commercial, without gasoline sales
- (19) Café or Deli⁷
- (20) Restaurant, General⁷
- (21) Restaurant and café, Outdoor Dining⁴
- (22) Outdoor Events⁴
- (23) Bar
- (24) Parking Area or Structure, with five (5) or more spaces
- (25) Temporary Improvement
- (26) Passenger Tramway Station and Ski Base Facility
- (27) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
- (28) Recreation Facility, Commercial, Public, and Private
- (29) Entertainment Facility, Indoor
- (30) Fences greater than six feet (6') in height from Final Grade⁴
- (31) Private Residence Club, Off-Site⁵**

(C) **PROHIBITED USES**. Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

(Amended by Ord. Nos. 04-39; 06-69)

⁸If Gross Floor Area is less than 2,000 sq. ft., the Use shall be considered an Allowed Use

EXHIBIT B

TITLE 15 - LAND MANAGEMENT CODE (LMC) CHAPTER 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT

Chapter adopted by Ordinance No. 00-15

15-2.6-1. PURPOSE.

The purpose of the Historic Commercial Business (HCB) District is to:

- (A) preserve the cultural heritage of the City's original Business, governmental and residential center,
- (B) allow the Use of land for retail, commercial, residential, recreational, and institutional purposes to enhance and foster the economic and cultural vitality of the City,
- (C) facilitate the continuation of the visual character, scale, and Streetscape of the original Park City Historical District,
- (D) encourage the preservation of Historic Structures within the district,
- (E) encourage pedestrian-oriented, pedestrian-scale Development,
- (F) minimize the impacts of new Development on parking constraints of Old Town,
- (G) minimize the impacts of commercial Uses and business activities including parking, Access, deliveries, service, mechanical equipment, and traffic, on surrounding residential neighborhoods,
- (H) minimize visual impacts of automobiles and parking on Historic Buildings and Streetscapes, and
- (I) support Development on Swede Alley which maintains existing parking and service/delivery operations while providing Areas for public plazas and spaces.
- (J) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.**

15-2.6-2. USES.

Uses in the Historic Commercial Business (HCB) District are limited to the following:

(A) **ALLOWED USES.**

- (1) Single Family Dwelling⁹
- (2) Multi-Unit Dwelling¹
- (3) Secondary Living Quarters¹
- (4) Lockout Unit^{1,10}
- (5) Accessory Apartment^{1,11}
- (6) Nightly Rental¹²
- (7) Home Occupation¹
- (8) Child Care, In-Home Babysitting¹
- (9) Child Care, Family^{1,13}
- (10) Child Care, Family Group^{1,5}
- (11) Child Care Center^{1,5}
- (12) Accessory Building and Use¹
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn¹⁴
- (16) Boarding House, Hostel
- (17) Hotel, Minor, fewer than 16 rooms
- (18) Office, General¹
- (19) Office, Moderate Intensive¹
- (20) Office and Clinic, Medical¹
- (21) Financial Institution, without drive-up window
- (22) Commercial Retail and Service, Minor
- (23) Commercial Retail and Service, personal improvement
- (24) Commercial Neighborhood Convenience, without gasoline sales
- (25) Restaurant, Cafe or Deli
- (26) Restaurant, General
- (27) Bar
- (28) Parking Lot, Public or Private with four (4) or fewer spaces
- (29) Entertainment Facility, Indoor
- (30) Salt Lake City 2002 Winter Olympic Games Legacy Display¹⁵

⁹Prohibited in Storefronts adjacent to the Main Street, Heber Avenue, or Swede Alley Rights-of-Way.

¹⁰Nightly Rental of Lock Units requires a Conditional Use permit

¹¹See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

¹²Nightly Rental of residential dwellings does not include the Use of dwellings for Commercial Uses

¹³ See LMC Chapter 15-4-9 for Child Care Regulations

¹⁴Requires an Administrative Conditional Use permit

¹⁵Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed on the original Property set forth in the services Agreement and/or Master Festival License.

(B) **CONDITIONAL USES.**

- (1) Group Care Facility¹
- (2) Public and Quasi-Public Institution, Church, School
- (3) Essential Municipal Public Utility Use, Facility, Service, and Structure
- (4) Telecommunication Antenna⁷
- (5) Satellite Dish, greater than thirty-nine inches (39") in diameter⁸
- (6) Plant and Nursery stock products and sales
- (7) Hotel, Major
- (8) Timeshare Projects and Conversions¹
- (9) Timeshare Sales Office, Off-Site within an enclosed Building¹
- (10) Private Residence Club Project and Conversion⁵
- (11) Commercial Retail and Service, Major
- (12) Office, Intensive
- (13) Restaurant, Outdoor Dining⁵
- (14) Outdoor Events
- (15) Hospital, Limited Care Facility
- (16) Parking Area or Structure for five (5) or more cars
- (17) Temporary Improvement
- (18) Passenger Tramway Station and Ski Base Facility
- (19) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
- (20) Recreation Facility, Public or Private
- (21) Recreation Facility, Commercial
- (22) Fences greater than six feet (6') in height from Final Grade⁵
- (23) Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays⁹
- (24) Private Residence Club, Off-Site¹

(C) **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

(Amended by Ord. No. 02-38; 04-39; 06-69)

⁷See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

⁸See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

⁹Olympic Legacy Displays limited to those specific Structures approved under the SLOC/ Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed in an Area other than the original location set forth in the services agreement and/or Master Festival License.

Exhibit C

TITLE 15 - LAND MANAGEMENT CODE (LMC) CHAPTER 15 - DEFINITIONS

Chapter adopted by Ordinance No. 00-25

CHAPTER 15 - DEFINED TERMS.

15-15-1.44. Club.

(E) Club, Private Residence, Off-Site. Any Use organized for the exclusive benefit, support of, or linked to or associated with, or in any way offers exclusive hospitality services and/or concierge support to any defined Owner's association, timeshare membership, residential club, or real estate project. Hospitality includes but is not limited to any of the following services: real estate, restaurant, bar, gaming, locker rooms, storage, salon, personal improvement, Office.

Storefront Property

A separately enclosed space or unit that has a window or entrance that fronts on a Public Street. For purposes of this provision, the term "fronts on a Public Street" shall mean a separately enclosed space or unit with:

1. A window and/or entrance within 50 lateral/horizontal feet of the back (inside building edge) of the public sidewalk; and
2. A window and/or entrance that is not more than 8 feet above or below the grade of the adjacent Public Street.

In the case of split-level, multi-level buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the street as set forth above shall be designated to be a "Storefront Property." The Planning Director or their designee shall have the final determination of applicability.

**PARK CITY PLANNING COMMISSION
JOINT WORK SESSION WITH CITY COUNCIL
MAY 9, 2007**

PRESENT: Jim Barth, Michael O'Hara, Evan Russack, Mark Sletten, Jack Thomas, Charlie Wintzer

CITY COUNCIL: Mayor Dana Williams, Marianne Cone, Roger Harlan, Jim Hier

STAFF: Patrick Putt, Alison Butz, Brooks Robinson, Ray Milliner, Katie Cattan, Mark Harrington, Tom Bakaly

WORK SESSION ITEMS

Discussion on Historic District and Main Street Land Management Code Issues, including but not limited to, Vertical Zoning, Steep-Slope CUP, and Plat Amendments

Vice-Chair Thomas assumed the chair and opened the work session. Chair O'Hara arrived later in the meeting.

Planning Director Patrick Putt reported that a month ago the Planning Commission and City Council met in a joint meeting. At that meeting they asked him to research the Historic District and come back with a presentation on what is built out in the Historic District, how that evolved over time, and how the Land Management Code played a role in shaping what was built over several decades.

Director Putt reviewed exhibits showing pictures of various homes and architecture from different eras in Old Town. He explained his attempt to address the size of buildings through floor area ratio by comparing the size of the building with the size of the overall property. Director Putt stated that .9 was the floor area that existed in the Historic District for over a decade. On an Old Town lot of 18' x 75' you would be able to build a 1,687 square foot house.

Director Putt explained that he used hard files and information from the County Assessor to determine the building sizes shown on the exhibits.

Director Putt presented the first era, which was the historic era. He believes the community has the strongest emotional attachment to this era. During the historic period structures were built according to resources and needs. There was employee housing and manager housing. People built what they could afford and if they had the resources, they built something more permanent and more significant with a stronger architectural statement. Director Putt stated that historically in Old Town you did not see just small houses. He showed photos of larger structures built during that time ranging in size from 1800 square feet to 2400 square feet. There was a variety of building and building sizes and all were built when there was no Land Management Code or zoning regulations.

The second era was the 1970's to mid-1980's. During that time Park City went through a boom period and a lot of temporary housing was constructed for mine workers. Some could afford to build well; but those who could not, built what they needed to get by. Over the course of the 1940's to the early 1960's, as mining began to subside as an economic driver, Park City went through a ghost town period. Looking at photographs from the 1890's to the turn of the century, a lot of the wooden tents began to disappear leaving a landscape that appeared to be much less dense to those who moved to Park City in the 1960's and 1970's. In the 1970's and 1980's, when more

people came into town, Park City was a new resort and ski area. At that time it was important to build housing for resort guests and for the influx of employees. Director Putt remarked that during that period there was not a strong consciousness of Park City's historic character. The focus of the community was on the ski industry. He noted that the largest residential structures and the buildings that have no relation to what was built historically were built in the 1970's and 1980's. He presented photographs from that time period and indicated the variety of FAR's that resulted in substantially larger structures than what was built 10 years earlier. Director Putt pointed out that the square footage achievable at that point in time brought the structures down to the street and went up to the vertical maximum of 33 feet. He cautioned them to be careful about assigning value or importance to just height or just square footage. Director Putt stated that the structures built during the 1970's and 1980's were not what the City was hoping to achieve from a historic architectural standpoint.

Director Putt stated that by the mid-1980's the resort had been running approximately 20 years and people began to recognize the economic importance of the Historic District. They saw the creation of the National Historic District on Main Street and 1983 saw the creation and adoption of the Historic District guidelines. The community began to realize there was real value in the historic fabric and architecture in Old Town and that it was important to protect it. They started to move back to the historic form of architecture. Director Putt stated that besides being the right thing to do, it sold Park City as a different community from other ski resorts because they also had history. At that time, the community decided to solve the problem through height and bulk regulations and through zoning.

In the mid 1980's and the 1990's, Park City went through a series of changes that affected the building height. As they moved into the 1990's they dropped the 33 foot height to 27 feet. Director Putt presented a series of photographs that typify that ten year period. He stated that in trying to be black and white in an area as complex as Old Town, you begin to recognize that hard and fast numbers for building heights and square footage do not necessarily create the desired architecture. Director Putt noted that in order to achieve smaller buildings, the building size was regulated by a floor area ratio of .9. If you had more than one lot, you got the .9 for the first lot and .66 for each additional lot. That acted as a disincentive for people to combine lots to create the space for better architecture. This resulted in a series of buildings that were 19 feet wide and 33 feet high. The City made a conscious decision that smaller or shorter was not better architecture.

Recognizing that this problem needed to be resolved, the City decided to take an aggressive approach and in the late 1990's the Floor Area Ratio was eliminated to create the incentive to combine lots for better architecture and more flexibility. Director Putt stated that many of the problems had to do with the topography of the lot and at that time the Code was amended and the Steep Slope process was developed. He noted that the steep slope process was intended to have a set of specific criteria and building elements to help the Staff and Planning Commission set the intent of what they wanted to achieve in terms of appropriate infill in Old Town. He noted that the height was 27 feet; however a height exception could be considered to achieve some trade off. The trade off may be things such as additional architectural features or additional setback. In exchange, people could have particular roof forms that exceed the 27 foot height limit. The intent was for buildings to move back to the historic era.

Director Putt stated that contrary to what people are saying, Park City is not allowing 6,000 square foot houses to be built in Old Town. A few houses around the perimeter such as the Sweeney MPD are completely different subject matters and are really separate from Old Town. He believes the larger homes in Old Town are in the 3,000 square foot range.

Director Putt presented photos of houses that are six feet lower than anything built 10 to 20 years ago. Proportionately, those houses matched the old floor area ratios that were in existence 10 years ago.

Director Putt stated that the architectural forms of today attempt to solve the problems from the 1980's and are more in keeping with the Historic District Guidelines. He concluded that they are definitely heading in the right direction and they may be closer to what they want than they think.

Director Putt reviewed 10 Fundamental Concepts for getting Old Town back on track.

He believed that if they follow these 10 concepts, along with 6 recommendations he planned to present later in the presentation, it would significantly help to resolve the problem. He presented photos to demonstrate these concepts.

1. Look at a 1890 to 1900 era photograph of Park City and ponder its compact urban form, mixed uses, pedestrian staircases and walkways to establish its context. That is the model that needs to be reestablished.
2. History that can be seen, touched, and experienced has value. Don't tear down historic buildings.
3. Be authentic but be respectful. Seek new infill construction that responds to comparative historic surroundings, while expressing the values of the present community.
4. Read the definition of "addition" in the dictionary and apply those concepts when adding on to historic buildings.
5. People seek attachment to what is interesting and unique. Maintain, enhance and connect private and public open spaces.
6. Automobiles are acquired vices and are not historic. Do everything to reduce the visual impact of the vehicles. Emphasize everything that makes transit and walking practical and desirable.
7. Old Town is not for everyone. Cease the grieving, move on and accept it.
8. Eliminate or reduce visual blight along street and other public ways.
9. Mixed use is good and sustainable. Disproportional impacts are bad. Businesses on Main Street and Swede Alley must keep commercial services, deliveries, employee and patron parking out of residential neighborhoods.

10. If the Historic District is not livable it will not be viable.

Director Putt reviewed six recommendations that he thinks will address some of the ongoing problems in Old Town.

1. Establish limits or caps on the maximum building footprint achievable for any lot or lot combination.
2. Establish standards for attachments to historic buildings preserving the primary and secondary facade, as well as the roof.
3. Establish standards and criteria relating to how and when it may be appropriate to move, lift, or turn an historic building.
4. Establish greater clarity in the Historic District Design Guidelines for design elements including garages, exterior materials, building scale, form, and proportion.
5. Carefully review and apply steep slope conditional use criteria as written.
6. Establish a policy relating to the dismantling and panelization of historic buildings. Dismantling and panelization should be the last option in preservation.

Director Putt recommended moving forward with the above recommendations. He stated that it is not about square footage or height. It is about everything combined relating to proportion, scale, color, texture, detail, etc. The buildings are getting smaller and lower and they just need to consciously execute the plan more carefully.

Director Putt stated that he had asked everyone to identify buildings they would like to see analyzed.

One that came in several times was 633 Park Avenue. He noted that the overall lot size is 5600 square feet and the overall building size for all of the units is approximately 10,500 square feet with a FAR of 1.86. Director Putt remarked that this structure is in the HRC zone and is not subject to the maximum building footprint. It also has a building height of 37 feet.

Commissioner Wintzer stated that the only difference he could see is that the lots are getting steeper. He wondered if they have the necessary tools to address those lots as they move closer to vertical. Director Putt stated that an immediate tool would be lower height or a smaller entitlement.

He did not believe they have seen anything that extreme yet. Director Putt felt they should be careful before drawing the conclusion that the building should be smaller or lower. He suggested that they first ask if it is a question of proportion or massing.

Commissioner Sletten referred to the exhibits and noticed that the variation in detail and finishes was more like Deer Valley. As they see more of that Deer Valley look proposed for Old Town, he felt the Planning Commission should start requiring better renderings in order to make a judgment on whether or not it is consistent with Old Town. Director Putt noted that the recommendations

include moving forward with updating the Historic District Guidelines.

Commissioner O'Hara wanted to see the six recommendations come back to the Planning Commission. Commissioner O'Hara referred to Recommendation #5 and understood that the steep slope criteria applies to a small miners shack of 1,000 square feet or less. Director Putt replied that this was correct. Commissioner O'Hara referred to Recommendation #6, and stated that typically when someone wants to dismantle or panelize a historic building, it is because they have requested a conditional use permit to enlarge the house. In addition, typically when an application comes before the City to restore the building it is a benefit to the City and it is usually granted. Commissioner O'Hara commented on the number of times the applicant comes back requesting panelization because they could not afford to restore the home as originally proposed. The Planning Commission has the ability to require the applicant to demonstrate that the historic preservation can be done before an application is approved. However, that policy is not in writing.

City Council Member, Marianne Cone, asked if there were specifics on how deep someone could excavate into the hillside. Director Putt stated that the excavation is dictated by the building setbacks and the geo-technical aspects associated with retaining the cut during construction.

Commissioner Wintzer remarked that most of the streetscapes that come before the Planning Commission are sketches and there is no way to determine the scale and detail of the building. He wondered if it would be better to ask the applicants to do a photograph of the street and insert their drawings into that photo. Director Putt felt it would be appropriate to set aside a small amount of time during a work session for the Planning Commission to dialogue with the design community and get their input on better ways to display the streetscape. Director Putt remarked that nothing is better than visiting the site prior to the meeting.

City Council Member, Jim Hier, remarked that the more they establish site specific criteria, the less they can codify what they have done and precedents get set. Director Putt stated that the finding of fact is the bullet for precedent. Every time a decision is made to do something different, the reason for that decision can be explained in the finding of fact. How they write the findings will help support better design.

Commissioner Barth commented on an issue raised by the Planning Commission about doing plat amendments in concert with a CUP. Director Putt noted that they were running short on time this evening and stated that plat amendments will be discussed at the May 23rd meeting.

City Council Member, Hier, suggested that they move towards maximum size criteria rather than limit the lot size. He was comfortable with lot combinations as long as it does not increase the size of the house that could be built on that lot.

Council Member Cone remarked that some architects are more thorough than others about doing a streetscape. She asked if it was possible to require that one be done. In her opinion, even if you walk the site, it is helpful to have a streetscape in front of you when considering the project. Director Putt clarified that he was only suggesting that there may be other more useful ways of conveying that information rather than just through a conventional streetscape.

City Manager, Tom Bakaly, pointed out that a month ago they met in joint session and that brought them to this point. He wanted to know where they go from here and whether they should go through a longer stakeholder process or make more immediate changes.

Commissioner Russack commented on the additional challenge of plat amendments. He felt the presentation this evening helps them get to the point of identifying the low hanging fruit; however much of it has to do with design and materials in relation to the context of the area.

Commissioner O'Hara reiterated his preference to follow the 6 recommendations from Director Putt. He intended to hold a courtesy public hearing during the regular meeting this evening for anyone wishing to make public comment on the presentation and work session discussion. Commissioner O'Hara felt it was important to hear those comments because it could change their direction.

Council Member Hier asked if Director Putt intended to prioritize the issues based on ease of completion and what could be accomplished in a short amount of time. Director Putt stated that he would do that and report back to the Planning Commission and the City Council.

Commissioner Barth liked the language proposed by Planner Robinson; however his issue is still the fact that the sidewalk has already been approved and Little Kate and Lucky John will be expanded five feet. He reiterated his comment that this plan has failed and he believes the City can do better. Mr. Weidenhamer commented on his need to balance fiscal responsibility with narrowing a street and he favored the language proposed by Planner Robinson that suggests looking at alternatives without making a specific commitment.

Commissioner Sletten remarked that the walkability/bikeability issue is a critical element for making Park City better. He shared the same concerns as Commissioner Barth and Commissioner Russack. He felt they needed more definitive language because approving this document this evening would essentially approve widening the road. With regards to aesthetics, Commissioner Sletten commented on the need for pedestrian access over major thoroughfares such as Bonanza, Park Avenue, and Highway 224. He wanted to make sure that in an effort to promote pedestrian safety they are not authorizing pedestrian bridges and other things that would have significant aesthetic impacts on the entry corridor. Commissioner Sletten preferred to have more time to discuss some of the issues before making a recommendation.

Commissioner Wintzer agreed with all the comments from his fellow Commissioners. He suggested that they continue this item and ask the Staff to come back with more specific details.

Commissioner Weidenhamer summarized that the Staff should look at fine tuning some of the language in Goal 1, specifically related to widening or narrowing streets, and more specificity in what they are looking for to accomplish that goal. Secondly, to get more into the aesthetic issue; specifically related to major infrastructure projects, realizing that the existing plan addresses some streetscape look and feel elements at a more pedestrian level.

Commissioner Wintzer understood from the comments that one of the goals should be to reduce traffic speed and potential vehicle/pedestrian conflicts. Commissioner Barth disclosed that he lives in Park Meadows and he knows from personal experience the amount of traffic and the potential dangers for children on Little Kate and Lucky John.

Mr. Weidenhamer thought it would take a couple of months to compile all the information and details requested by the Planning Commission.

MOTION: Commissioner Barth moved to CONTINUE this item to a date uncertain. Commissioner Russack seconded the motion.

VOTE: The motion passed unanimously.

7. LMC Amendments related to HCB - Vertical Zoning

Chair O'Hara stated that these amendments to the Park City Land Management Code would prohibit office, residential, off-site private residence clubs and other non-sales tax generating uses in the HCB and HRC Districts in storefronts; as well as related definitional changes.

Jonathan Weidenhamer requested that the Planning Commission forward a recommendation to the City Council to approve the legislation as stated by Chair O'Hara. He noted that the Planning Commission and City Council have reviewed these amendments a number of times in joint meetings and looked at quantitative data in the past. In an effort to shorten the length of the Staff report for the June 13th meeting, some of the quantitative data was omitted and the Planning Commission had requested that it be included for this meeting.

Mr. Weidenhamer reported that the Staff tried to find the easiest and most simple method to accomplish the direction they heard from the City Council and Planning Commission. That direction was to limit storefronts in downtown to sales tax generating businesses and prohibit offices, residential, and residence club uses in storefronts. On June 13, the Planning Commission requested additional background information and the City's vision for Swede Alley.

Mr. Weidenhamer stated that the LMC language in the HCB zone, as well as the City's commitment to capital funding, suggests redevelopment of Swede Alley as a goal and sees it as an important transition zone between Main Street and the transit center versus the residential going up the hill on Marsac. At the same time, it recognizes that redevelopment must still facilitate a service and delivery access and the intent is to find a balance between commercial and residential. The Staff had included Swede Alley and recommends that it continue to be included in their considered legislation. Mr. Weidenhamer clarified that on June 13th the Planning Commission was generally comfortable with the language contained in the ordinance and how the land use tables were footnoted to indicate that specific types of uses are not allowed in Main Street storefronts. He stated that if there is any concern or disagreement on what a storefront is, the Planning Director would have the final call on the matter. Mr. Weidenhamer clarified that the Staff had exempted residential uses from being prohibited in the HRC District due to the number of existing residential uses in that zone. The Staff also defined an off-site private residence club as an "off-site residential subdivision that would have a membership club in a Main Street storefront." He reiterated that this use would be prohibited in a Main Street storefront.

Mr. Weidenhamer commented on questions he had fielded from the Historic Main Street Business Alliance prior to this meeting. The first question addressed a store front at Summit Watch, now called The Village at Main. He stated that as he walked along the street, his opinion was that he could still see the front door of a shop across from the bottom of the town lift.

He was unsure if there would be any more clarity in the ordinance and pointed out that the ultimate decision would be made by the Planning Director. The second issue addressed liquor licensing. On May 24th the City Council amended the Municipal Code to require an establishment to show that they would have a temporary membership available for \$50 or less, prior to receiving local consent on a liquor license. Mr. Weidenhamer noted that this issue would be addressed at the City Council level. The third question addressed convention and sales licenses that are issued during Sundance and other special events and allows temporary uses of existing businesses. Mr. Weidenhamer stated that this amendment is not intended to preclude or prohibit the ability to continue that temporary use and suggested that this may need to be clarified at the City Council level. He was unprepared to respond to that question this evening.

Chair O'Hara opened the public hearing.

Hollie Stray-Gundersen, representing Triple Net Properties, the new owner of the Village on Main, formerly known as the Marriott Summit Watch. Ms. Stray-Gundersen named several of the businesses at the Village on Main. She clarified that Triple Net Properties is not against the private residence clubs and they appreciate what the City is trying to do in maintaining the Main Street charm. If the City moves forward with the ordinance to ban the private clubs in storefronts, Ms. Stray-Gundersen asked that they relook at the Village on Main area because it is very unique property, it is off Main Street, and it is difficult to get foot traffic to the plaza area. Ms. Stray-Gundersen requested that the City give the Village on Main an exemption to the ordinance because of their location. She pointed out that private residence clubs would help maintain the value of the area because they already have office space and retail is difficult to attract.

Robert Weiner stated that he has owned property in Park City since 1986 and he currently lives at Promontory, which is his primary residence. For the last three years he has had a season pass at Deer Valley primarily because of the Alpine Room at Silver Lake. Mr. Weiner stated that while skiing he has met many people who own property at Promontory but stay in town and treat it like a resort. Mr. Weiner remarked that in Vail, Aspen, or European areas, you can ski to the parking lot when you are ready to go home. He believes that the inability to do this is a major design fault of Park City. Mr. Weiner stated that one advantage of the Town Lift is that you can ski into town and the advantage of Promontory having something at the base of Main Street would draw people to start and finish their skiing in that area. Mr. Weiner understands that getting foot traffic to the bottom of Main Street is a huge problem and to eat at Mustang is really out of the way. It is a destination restaurant and not some place you would patronize on impulse. He believes that the traffic the restaurants and art gallery attract during the day are from people who are members of Promontory. Mr. Wiener believes that exempting The Village on Main would be a win/win situation for everyone. He pointed out that If they allow Promontory to use this facility, the lease is not chiseled in stone and changes could be made. He believes it is better to have a residence club in a storefront than to have nothing all.

Mike Sweeney, stated that he was speaking on behalf of himself and as a representative of the HMBA. Mr. Sweeney remarked that the HMBA signed an affidavit and the Board of Directors voted to support this concept. He read from paragraph 11, "The HMBA supports programs and events that display Main Street as visitor friendly. We encourage the City to legislate in a manner that insures that businesses in storefronts on Main Street remain open to all visitors." Mr. Sweeney stated that Jonathan Weidenhamer had done a nice job in writing the ordinance and he read the main purpose, "Maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring the business mix that encourages a high level of vitality, public access, vibrant activity, and public/resort related attractions." Mr. Sweeney believed this purpose statement was right on target. Mr. Sweeney clarified that there was not unity among the HMBA organization. Some were very concerned that the City might be over reacting in trying to program the street too much. He remarked that the Business Alliance cares about the Main Street level store frontage but they do not care what happens on the second level or above.

On a personal level, Mr. Sweeney stated that he and his brothers helped build lower Main Street and they spent a tremendous amount of money designing what they thought was the right project. Early on they developed the Town Lift Plaza and the Marriott Plaza. Originally there were no storefronts on the plaza and at some point that was changed by the Marriott Corporation. Mr. Sweeney stated that from his perspective, if the Code is specific, that area is not Main Street storefront property. Mr. Sweeney remarked that he has had dealings with Promontory and they are a great group of people. However, when they asked to take space on his side of the street for a restaurant and club, he and his brothers said no because they did not think it complimented what they wanted, which was something that accommodated visitors and residents. They told Promontory that the restaurant would have to be open to the public and they never got past that point of view. Mr. Sweeney believes the location Promontory is looking at now is a good location for their clubhouse because it is off of Main Street and it would bring people into town.

Commissioner Russack asked if the HMBA included Lower Main Street. Mr. Sweeney replied that the HMBA includes 9th Street going south all the way to the top of Main Street, it includes all of Park Avenue from 9th Street up to Woodside and back down, and Swede Alley. It comes back and connects to 9th Street again down Deer Valley Drive. The Village on Main is part of the HMBA and Triple Net has paid for every tenant in that space.

Mr. Sweeney stated that the requirement Mr. Weidenhamer mentioned regarding the liquor license is in conflict with the concept of allowing activities on the second level on Main Street in the Historic District. He encouraged the Staff to address this with the City Council to make sure the LMC is in compliance.

Commissioner Sletten asked Mr. Sweeney if limiting a potential use would diminish the value of a building for the owner. He wanted to know how this would impact the building owners on Main Street in terms of the economic health of Main Street. As the owner of a building on Main Street, Mr. Sweeney did not believe it would have a negative impact. In 50 years he would like to see Main Street as charming as it is today and part of that charm is the fact that there is an eclectic group of business owners who make Main Street fun.

Chair O'Hara closed the public hearing.

Mr. Weidenhamer commented on non-complying uses. Any storefront business that has a current business license and does not let it expire for longer than 365 days would be allowed to continue that use, even if this ordinance were adopted.

Mr. Weidenhamer stated that he had been talking to the Planning Director and the Assistant City Attorney about clarifying how this ordinance would apply to The Village on Main. He noted that interior spaces are not considered storefronts on Main Street if they front interior plazas or the roundabout on Deer Valley Drive. Some of the stores have dual frontages. Mr. Weidenhamer stated that his personal opinion is if the business is north of the Prime Steak House, which is across from the Town Lift, that is the point where you begin to differentiate from a store front at street level versus an elevated level that does not participate in the pedestrian experience.

Chair O'Hara stated that after re-reading the footnote and the definition in the LMC, he believes the definition is more than adequate to address a storefront.

Commissioner Wintzer asked Assistant City Attorney, Polly Samuels McLean, if she felt the definition was clear enough to address the Village at Main. Ms. McLean believed it was clear because the pedestrian level does not adjoin a right-of-way.

Scott Thompson was granted permission by the Chair to ask a question. He wanted to know what would happen in a Main Street Mall situation where it is located on Main Street but you need to go inside the Mall to access any of the space. Mr. Weidenhamer replied that the few stores who front Main Street would be bound by this ordinance but all other interior spaces and upper level spaces would not be considered. Mr. Thompson asked about the Poison Creek Building on Heber Avenue. Mr. Weidenhamer replied that the same explanation would apply to the Poison Creek Building. As Mike Sweeney had pointed out, the HRC language needs to include Swede Alley. Mr. Thompson clarified that he was speaking on behalf of a friend who owns a condo in the Poison Creek building and he is currently looking at purchasing the lower spaces to create a work/live situation. Chair O'Hara suggested that Mr. Thompson discuss this issue with the Staff outside of this meeting.

Commissioner Barth stated that the problem with complete prohibition is the issue of balance. Commissioner Sletten remarked that in his view, this was a legislative approach to devaluing Main Street over time. He believes a quick knee jerk reaction right now could have long term impacts. Commissioner Sletten stated that he does not own property on Main Street but feels that prohibiting access to a specific type of use in a general commercial environment is a disadvantage to those owners and he would most likely vote against this ordinance.

Commissioner Wintzer agreed that the jewel of Main Street is its diversity and if they lose that diversity they will lose Main Street. As a property owner who owns property where he can dictate what uses go in, he finds that sometimes it is necessary to be a "little Hitler" and decide what does and does not fit. Without having some type of regulation for properties that are individually owned, the result is that the tenant with the best rent gets the space. Commissioner Wintzer was unsure if this was the best thing for Main Street and for that reason he supports this ordinance. If it proves to be wrong, they can always look at it again in the future. In his opinion, they should do whatever they can to keep Main Street as diverse as possible.

Commissioner Russack agreed with Commissioner Wintzer. He also believes the storefront definition is very clear. Commissioner Russack was concerned that not including Park Avenue and the HCB zone would only push everything down there. Mr. Weidenhamer clarified that the HCB zone and Park Avenue were included in the amendments specifically to address that concern. He explained that the language indicating that the HCB and Park Avenue were not included only applied to residential use. Commissioner Russack was very comfortable with the amendments as proposed.

Chair O'Hara favored these amendments and noted that he has gone on record for promoting these changes for a number of years. He pointed out that the amendments only prohibit uses in storefronts and not on Main Street in general. He felt it was important to make that distinction.

Chair O'Hara preferred to return at a later date and admit they made a mistake, rather than to do nothing and risk the privatization of Main Street.

Mr. Weidenhamer stated that he had inadvertently omitted Swede Alley from the HRC zone and asked the Planning Commission to include Swede Alley in their motion.

MOTION: Commissioner Russack moved to forward a POSITIVE recommendation to the City Council on the proposed amendments to the Land Management Code prohibiting office, residential, off-site private residence clubs and other non-sales tax generating uses in the HCB and HRC Districts, including Swede Alley, in storefronts; as well as related definitional changes. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 3-1. Commissioner Sletten voted against the motion.

8. Amendment to the Land Management Code regarding Accessory Apartments
9. 621 Woodside Avenue - Plat Amendment
10. General Plan Amendments - Park Bonanza Planning District and Transportation Element

Chair O'Hara opened the public hearing on the above items.

There was no comment.

Chair O'Hara closed the public hearing.

Assistant City Attorney, McLean requested that the amendments to the LMC be continued to July 25, 2007. This item would be re-noticed since the discussion will be broader than what was originally intended.

MOTION: Commissioner Russack moved to CONTINUE the Amendments to the LMC regarding Accessory Apartments to July 25, 2007; and to CONTINUE 621 Woodside Avenue and the General Plan Amendments for the Park Bonanza Planning District and Transportation Element to July 11, 2007. Commissioner Barth seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 8:05 p.m.

Approved by Planning Commission _____

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that they are current on their trash collection payments before new licenses will be issued.

Jim Hier, “I move to approve the City Manager to enter into a contract in a form approved by the City Attorney, setting the rate structure for commercial trash services for Main Street with the effective date of the Business Improvement District (BID), and City facilities rate structures, to Allied Waste for a three year term renewable at the City’s election for an additional three years as outlined in the Staff Report.” Roger Harlan seconded. Motion unanimously carried.

3. Consideration of an Ordinance approving amendments to the Park City Land Management Code to Chapter 15-2.6 – Historic Commercial Business District and 15-2.5 – Historic Recreation Commercial District relating to prohibiting office, residential, or other non-sales tax generating uses and other similar or associated uses in the HCB and HRC Districts in storefronts as well as related definitional changes to the LMC Chapter 15-15-1 – Definitions. Jonathan Weidenhamer stated Council provided direction on August 9, 2007, to exclude portions of Park Avenue north of 8th Street from the area affected by the proposed ordinance, and directed Staff to define and clarify “storefront” as it pertained to the ordinance. Staff has defined Storefront as the area 50’ back from the back of sidewalk and 8’ above or below the street grade. When applied to typical Old Town 25’x75’ lots, the intent was to promote the intent of the ordinance for areas directly adjacent to or visible from downtown street and address split-level storefronts. Separate businesses occupying the rear portion of any ground floor would have to be 50’ back from the sidewalk and in separately enclosed areas.

Mr. Weidenhamer highlighted Staff’s analysis of pending applications and identified two business license applications which were received after the May 26, 2007 notice of the proposed ordinance, as well as a third application submitted on August 30, 2007. Staff believes the intent and direction from Planning Commission and City Council had been clear. He noted Council has legislative authority to consider the request so long as its decision is reasonable and not arbitrary. Staff does not find that allowing the specific spaces to convert to office uses will significantly affect the overall percentage of non-tax generating uses in downtown storefronts.

Previous Public Input has suggested that the previous change to the Municipal Code that prohibited local consent for Liquor Licenses that do not allow general public to apply for membership should be amended to only affect storefronts. Staff will return in the future for direction.

Ted Barnes, colleague of Bob Dillon who had previously spoken to Council, addressed two pending applications and introduced Jeff Edwards, principal of CS Financial, one of applicants. He encouraged Council to date the effectiveness of the ordinance as of

August 30, 2007. His client contracted to purchase office space one year ago and pursued SBA loans to maintain and operate a mortgage office and would suffer significant hardship if not allowed to continue his business. These plans were begun prior to the date the pending ordinance was noticed. He stated they support the policy, but request that it be tempered with regard to these instances. He reiterated their assertion that business licenses are not land use applications.

Joe Kernan asked Mr. Edwards to explain where he would be located and how the ordinance impacted his situation. Jeff Edwards explained his intent to occupy a front space in the Poison Creek Mercantile location, and to live upstairs. His SBA loans have large prepayment penalties and he would face serious financial issues if he were forced to rent the space for retail or to sell.

Bill Shoaf, Sky Lodge, relayed his attempts to relocate to a smaller space on Main Street from which to market the Sky Lodge because they intended to re-open the restaurant. He explained several communications with Staff that ended in him being denied a business license because he applied after the May 26th deadline. His Sky Lodge project represented a significant contribution to the community and he asked Council to consider his request for exemption from the "pending ordinance" deadline.

Jana Potter supported Mr. Shoaf's request. She addressed her convertible space in the Silver Queen on Main Street and requested similar consideration so she could move forward with development plans within her space.

Marcy Davis, property and business owner, and realtor, supported Bill Shoaf's request. He will only be selling the Sky Lodge project, a project that is solely about Old Town.

Philo Smith former owner of Zoom and Easy Street, and partner in Sky Lodge, urged Council to consider the hardship that a punitive effective date for the ordinance will have for these three individuals.

Ken Davis, Historic Main Street Business Alliance, commented the zoning changes will be beneficial for the street, however extenuating circumstance deserve consideration.

Jim Whitney, Sky Lodge owner, asked Council to consider the request from Bill Shoaf. The ability to sell that property is critical to Park City and to his investment.

Mike Sweeney, encouraged Council to accommodate Mr. Shoaf's request, noting that it would be a short term exercise. He reiterated prior requests regarding the private club ordinance to make it more consistent with vertical zoning in relation to storefronts.

With no further input, the public hearing was closed.

Candace Erickson believed all three parties had valid complaints. Typically, they draw the line at the date notification is published, but they had revised the ordinance a number of times since that date. She supported amending the effective date to August 30, 2007, and after that date no new applications can be accepted.

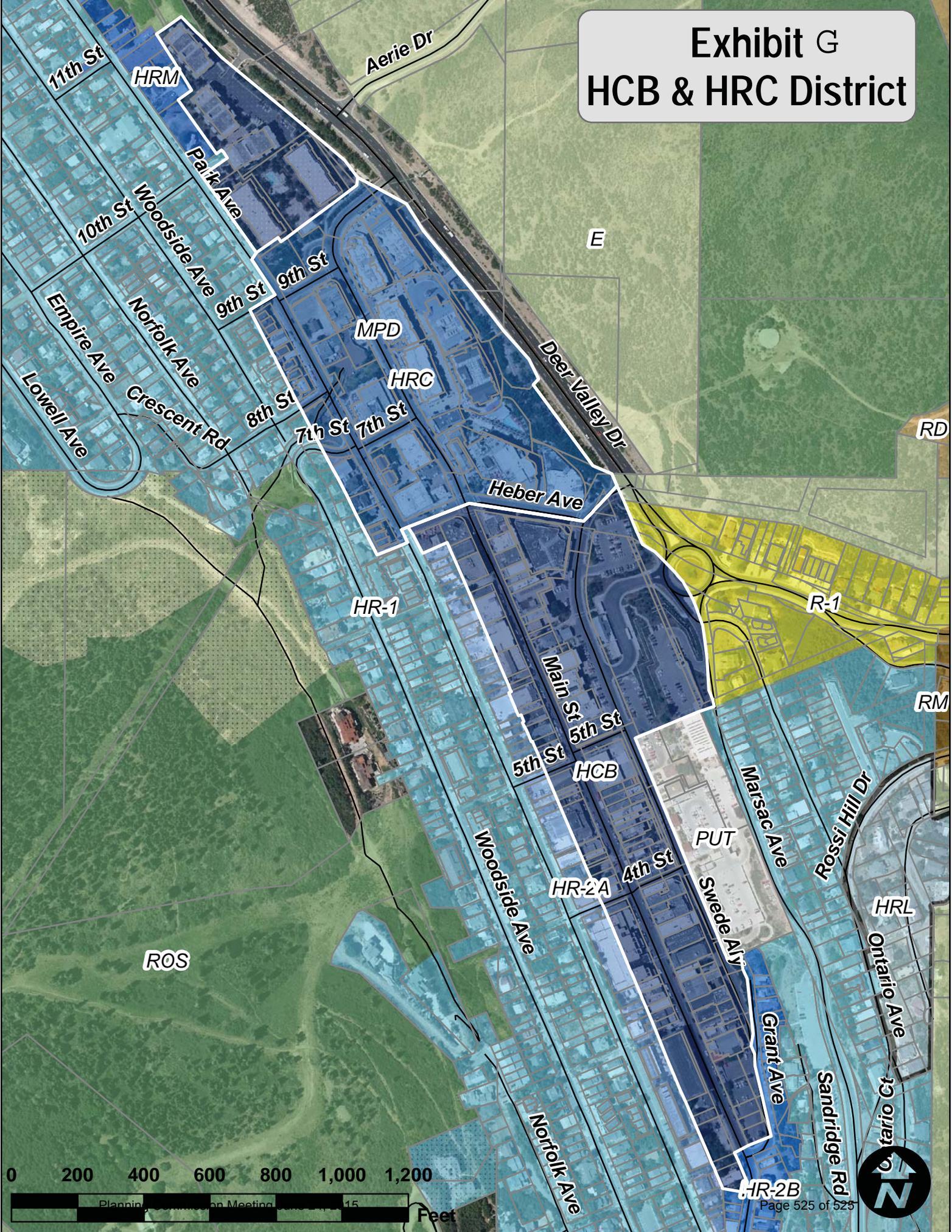
Jim Hier noted uses run with the property not the applicant and asked if there were a way to allow temporary uses, for a particular scenario, that would expire with the business license. Attorney Harrington stated it would be inconsistent. If Council moves the pending ordinance date to the adoption date, these uses technically become non-conforming uses governed by a separate ordinance section of the Land Management Code. Under State Code, Council does have the ability to phase out non-conforming uses and if acceptable to these applicants they could condition the Ordinance effective date with phasing out requirements for the three non-conforming uses. He stressed the request must be valued on the broad sense of fairness and general applicability of the doctrine, not on individual cases of hardship. Mr. Hier supported Ms. Erickson's suggestion that they make the ordinance effective upon date of adoption.

City Attorney Harrington suggested additional Ordinance language: "Whereas, the Council determines after evaluating issues of fairness and the overall intent of the regulation, that the application of pending ordinance doctrine shall be revoked and the effective date of the Ordinance shall be the date of adoption."

Candace Erickson, "I move to approve the amendments to the Park City Land Management Code Chapters 15-2.6 - Historic Commercial Business District and 15-2.5 prohibiting office, residential, or other non-sales tax generating uses and other similar or associated uses in the HCB and HRC Districts in storefronts as well as related definitional changes to the LMC Chapter 15-5-1 - Definitions, with the addition of the whereas noted by the City Attorney therefore making the adoption date August 30, 2007". Joe Kernan seconded. Motion unanimously carried.

4. Consideration of an addendum to the lease with Park City Historical Society for property located at 528 Main Street (continued from Municipal Building Authority meeting) - Jonathan Weidenhamer explained Staff was seeking Council direction regarding an addendum to the Park City Historical Society lease. In 2003, the City and the Society entered into a 99 year lease for the use of Old City Hall. This addendum identifies a blueprint for tenant improvements necessary to allow the Society to move forward with the expansion of the building and turnover of operations and building maintenance to the Society. The City has expressed a serious commitment to their goals for economic development and expansion. Research of past discussions and

Exhibit G HCB & HRC District



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