



## AGENDA

**MEETING CALLED TO ORDER AT 5:30 PM**

**WORK SESSION – Discussion only, no action will be taken**

Montage – Possible changes to construction hours – *Informational*

General Plan – *Discussion*

*Pg*

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**ROLL CALL**

**ADOPTION OF MINUTES OF MARCH 10, 2010**

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

**STAFF/BOARD COMMUNICATIONS AND DISCLOSURES**

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

Land Management Code - Amendments to Chapter 1 (General Provisions and Procedures) regarding designation of appeal authority for appeals and call-ups for land in all zones; Chapter 2.3 (HR-2) zoning district regarding CUP and MPD regulations in subzone A; Chapter 6 (Master Planned Developments) regarding calculation of support commercial and meeting space and regulation of MPDs in HR-2 Subzone A; Chapter 10 (Board of Adjustment) regarding appeals and call-ups for land in all zones, Chapter 11 (Historic Preservation) regarding Historic District Design Review process; and Chapter 12 (Planning Commission) regarding appeals and call-ups for land in all zones.

PL-09-00784

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*Public hearing and possible recommendation to City Council*

**ADJOURN**

Items listed on the Regular Meeting may have been continued from a previous meeting and may not have been published on the Legal Notice for this meeting. For further information, please call the Planning Department at (435) 615-5060.

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

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.  
Planning Commission - March 24, 2010



## **WORK SESSION**





# Planning Commission Staff Report

**Subject:** Montage Hotel and Resort Extended Work Hours  
**Author:** Ron Ivie/Michelle Downard  
**Department:** Building Department  
**Date:** March 24, 2010  
**Type of Item:** Informational

### Summary Recommendations

Staff recommends the Planning Commission hold a work session discussion for the Montage Hotel and Resort for the request for extended work hours. Although not a public hearing, staff further recommends that the Planning Commission allow public input, if any.

### Description

Montage Hotel and Resort- request for extension of construction work hours

**Applicant:** Montage Hotel and Resort, Layton Construction  
**Location:** 9100 Marsac Avenue  
**Zoning:** Residential Development (RD) with Frontage Protection Overlay (FPZ)  
**Adjacent Land Uses:** Recreational Open Space (ROS) to the north, south and west, Residential Development (RD) to the east  
**Reason for Review:** Request for extended work hours

### Background

Park City Municipal Code Section 11-14-6 currently allows construction between 7:00 a.m. thru 9:00 p.m. on Monday thru Saturday and 9:00 a.m. thru 6:00 p.m. on Sunday. The Municipal Code Section 11-14-6 (B) also allows provides the Park City Building Official the ability to approve work hour extensions.

In February 2009, Layton Construction (contractor for the Montage Hotel and Resort, 9100 Marsac Avenue) was approved for a construction work hour extension thru April 15, 2009. The extended hours included 6:00 a.m. through 10:30 p.m. on Monday through Saturdays. Sundays were excluded from the approval, leaving them as the standard hours of 9:00 a.m. thru 6:00 p.m. This approval included only 2 1/2 hours of extended time for each day but accommodated 2 work shifts on the site. From April 14, 2009, the work hour extension was enhanced to include a 24 hour a day schedule Monday thru Saturdays until November 30, 2009. The approval was contingent upon several factors, (coordination of deliveries, parking, traffic, recycling, special events, lighting must be down directed, noise must be limited, and communication with Deer Valley Ski Resort to avoid conflicts.)

Layton Construction has now submitted an additional request for extended work hours. The request included a 24 hours a day and 7 days a week work schedule to allow construction to be completed by the goal completion date of December 31, 2010.

Construction Work Hours		
Dates	Construction Hours Approved	Complaints received (related to work hours)
Standard Hours	7-9 Monday-Saturday, 9-6 Sunday	0 Complaints
February - April 2009	6-10:30 Monday-Saturday, 9-6 Sunday	0 Complaints
April - November 2009	24 hours a day Monday-Saturday, 9-6 Sunday	1 Complaint
November 2009- present	7-9 Monday-Saturday, 9-6 Sunday	2 Complaints
Request	24 hours a day Monday-Saturday	

**Analysis**

Staff finds good cause for this request as it would aid in the completion of the Montage Hotel and Resort. Construction will be completed sooner, eliminating construction impacts on residents.

Building Inspections may be coordinated to allow the construction to include the extended hours as requested without compromising inspections or creating a scheduling conflict.

The majority of the remaining construction work will be contained to the interior of the building, limiting impacts to neighboring properties.

Twelve total complaints have been received regarding the construction of the Montage. Three of those complaints were linked to work hour concerns. The other complaints were related to the traffic and mud in the road.

The Building Department shall consider conditions of approval related to exterior lighting, delivery hours, noise, traffic, security and maintaining communication with the HOA, Deer Valley Resort and special events. Additionally, any approval may be revoked at any time due to lack of compliance.

**Department Review**

This project has gone through an interdepartmental review with the Planning, Engineering and Police Department. No further issues were brought up at that time.

**Notice**

Legal notice was put in the Park Record.

**Public Input**

No public input has been received by the time of this report.

**Significant Impacts**

There are no significant fiscal or environmental impacts from this application not already considered.

**Consequences of not taking the Suggested Recommendation**

The construction work hours will continue as currently approved and the opening date may be behind schedule.

**Recommendation**

Staff recommends the Planning Commission hold a work session discussion for the Montage Hotel and Resort for the request for extended work hours. Although not a public hearing, staff further recommends that the Planning Commission allow public input, if any.

**Exhibit 1- Letter of request from Layton Construction of the Montage**

Layton Construction Site Office  
9100 Marsac, Ave.  
Park City, UT 84060  
Phone: (435) 333-6388  
Fax: (435) 333-6389



March 18, 2010

RE: Extended Hours of Operation Continued

Mr. Ron Ivie  
Building Official/Fire Marshal  
Park City Municipal Corporation  
445 Marsac Avenue P.O. Box 1480  
Park City, UT 84060-1480

Dear Mr. Ivie,

As the summer months and end of the project approaches, LCC would like to request the following revisions to our current agreement regarding construction activities and the impact they have on the surrounding area.

1. **Site Work**  
All hauling of site materials will occur between the hours of 7:00 AM to 7:00 PM.  
Regular clean up of road will occur during hauling hours. With the help of Park City, we will be able to limit or eliminate engine brakes.
2. **Crew Transportation**  
Buses will run from 5:00 AM to 9:00PM. Any other transportation needed outside of this window will be handles with passenger vans.
3. **Crew Shifts**  
5:00 AM to 1:00 PM  
1:00 PM to 9:00PM  
9:00 PM to 5:00PM (The work of this crew will be very limited and will consist of miscellaneous finish work, i.e. carpet installation, painting, fireproofing)

Please feel free to discuss these items or any questions you may have. Thank you for your time in reviewing this request.

Respectfully,

A handwritten signature in black ink, appearing to read "Fred Lucas", is written over a horizontal line. The signature is fluid and cursive, with a prominent loop at the end.

Fred Lucas  
Sr. Superintendent  
Layton Construction Company  
(801) 913-5082



Layton Construction Co., Inc. 9090 South Sandy Parkway Sandy, UT 84070 Ph: (801) 568-9090 Fx: (801) 569-5450  
G:\Projects\Active Jobs\07499\000 - Correspondence - General\12 Park City\Extended Hours Request (Revised 2) 03-18-2010.doc

# Planning Commission Staff Report



**Subject:** Long Range Planning &  
General Plan Update  
**Author:** Thomas Eddington &  
Francisco Astorga  
**Date:** March 24, 2010  
**Type of Item:** Informational & Discussion

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**“If anything is certain, it is that change is certain. The world we are planning for today will not exist in this form tomorrow.”**

**- Philip Crosby**

## **Summary Recommendations**

Staff recommends the Planning Commission hold a discussion concerning the Bonanza Park district (formerly NOMA) and provide input to the Planning Department relative to the long range planning of the area.

## **Description**

**Location:** Park Avenue to Bonanza Drive; Kearns Boulevard to Deer Valley Drive  
**Zoning:** General Commercial (GC) and Light Industrial (LI), with Frontage Protection Zone (FPZ) Overlay  
**Adjacent Land Uses:** Commercial, retail, office, residential, utility, event space, storage, and industrial  
**Reason for Discussion:** The Planning Commission has the primary responsibility to update the City General Plan. The Commission considers long-range zoning and land use objectives.

## **Background**

The Bonanza Park district is the oldest commercial district outside of the City’s historic Main Street area. As a planning area, the boundaries are Bonanza Drive to the East, Park Avenue to the west, Kearns Boulevard to the north, and Deer Valley Drive to the south (Exhibit A). According to the Park Bonanza Planning District supplement to the existing General Plan, the area includes those properties along both sides (including the east side, e.g. Park Plaza, etc.) of Bonanza Drive from Iron Horse Drive to Kearns Boulevard.

The area is currently a broad mix of land uses ranging from resort commissary and parking, to shops and restaurants, banking, public works buildings and a special events venue. Other uses include a storage area, small art and consignment shops, banks and real estate offices. The only movie theater in the City is within the area as well as one of the two main grocery stores. The area is currently zoned General Commercial (GC) and Light Industrial (LI). The area includes housing along Kearns Boulevard and within the Rail Central project.

## **Analysis**

Because the Bonanza Park district includes such a broad array of uses and provides services to the community at large, the district is an important part of the commercial life of Park City. The district is under pressure from competing commercial projects outside of the City, specifically Kimball Junction/Red Stone where movie theaters and restaurants in a themed mall atmosphere have developed near the junction of the interstate and the state highways that form the entry corridor to Park City.

Local restaurants and shopping continues to be an active part of the district, despite commercial competition from the junction areas. The cost of rental space in the area is less than the Main Street area, and parking is generally available.

The district is central to the daily flow of traffic to the resort areas and to the Main Street area. Four (4) of the City's eight (8) stop lights are located at the district's boundaries. Many intersections and driveways affect the flow of traffic in the district and impact the traffic to/from the resort areas and Main Street.

Several of the buildings and developments have undergone redevelopment in the past decade, including the Rail Central Project, the theater complex, and the Centura Emporium project. These projects represent significant efforts by the private sector to provide community level services in this area.

Despite this investment, the district continues to be underutilized and is being considered for redevelopment opportunities (it is worth noting that the southern half of the district, south of Iron Horse Drive, is currently located in the Lower Park Avenue Redevelopment Area). The area is currently car-focused with many large parking lots interspersed throughout, making pedestrian movement difficult.

## **Long Range Planning Concepts Applicable to Bonanza Park**

The following concepts are being considered for the Bonanza Park district. These planning concepts have been successfully utilized in other jurisdictions and represent best practices in planning:

### **3% Strategy**

In 2009 Envision Utah, a nonprofit regional partnership, prepared the 3% Strategy. According to Envision Utah "*The 3% Strategy approach responds to market trends and creates significant regional benefits, while leaving existing residential neighborhoods largely unchanged.*"

The approach focuses on accommodating 33% of future development on 3% of the available land (Exhibit B). While Park City, and more specifically the Bonanza Park district, may not be facing the same challenges that the Wasatch Front might be facing there are several components within the prepared strategy that can be utilized in the master planning and re-development of the Bonanza Park area.

The five (5) principles for achieving the 3% Strategy are the following:

1. **Focus growth in economic centers and along major transportation corridors.** Centers feature housing and jobs within close proximity, resulting in shorter trips and greatly improving transportation performance. Rail and bus rapid transit systems

provide the backbone for mobility among the centers. Streetcars, shuttles and bus corridors provide excellent internal transportation options, reducing dependence on cars.

2. **Create significant areas of mixed-use development throughout the region.** Mixed-use development with well-designed retail shops, worksites and housing nearby puts people closer to their frequent destinations, reducing travel time and cost.
3. **Target growth around transit stations.** Fostering employment near major road corridors and transit stations requires a constructive partnership between local governments and transportation agencies. The result is more effective use of our infrastructure and appealing new commuting options for the workforce.
4. **Encourage infill and redevelopment to revitalize declining neighborhoods.** Old industrial sites and transportation corridors, in particular, can be transformed into new neighborhoods with a range of housing options. Redeveloping non-residential areas brings new life to a community without affecting existing neighborhoods.
5. **Preserve rural, recreational and environmentally sensitive areas.** More compact economic centers will absorb much of the coming growth, taking pressure off critical undeveloped land such as farms, hillsides, riparian areas and winter range for wildlife. We can preserve opportunities for experiencing nature in our communities.

**Discussion:** Does the Commission concur with Staff's recommendation to move forward with the development of the principles outlined within the 3% Strategy relative to the long range planning for the Bonanza Park district? The need to provide a master plan for this district is essential if the City is to realize improved design and economic development opportunities.

#### Form-Based Code Overview (Morris, 2009)

Form-based codes (FBCs) are a regulatory approach that communities use to control the form, size, and siting of proposed buildings. Form-based codes emphasize the appearance and quality of the built environment. They support smart growth principles such as mixed use, compact development, increased density, and distinctive community character. They codify development patterns typical of neighborhoods built before World War II.

FBCs differ greatly from conventional zoning codes. Whereas conventional zoning codes are primarily concerned with land use and density, FBCs are primarily concerned with the form of the built environment. In practice, land use may be regulated in an FBC but as a secondary consideration to form. FBCs allow communities to focus on what they want from the built environment because they are *prescriptive* (they state the desired physical environment) rather than *proscriptive* (stating what is prohibited).

The standards included in an FBC typically establish these parameters:

- Building height (minimum and maximum).
- Building orientation (placement of structure in relation to fronting streets and adjacent building lots).
- Permissible uses (stated in general terms).

Optional parameters that maybe set by an FBC include:

- Landscape standards for the type, quantity, and placement of trees, shrubs, and groundcover.

- Architectural standard that dictate specific architectural specific architectural styles, buildings materials, exterior colors, and construction techniques.

**Discussion:** Does the Commission concur with Staff's recommendation to move forward with additional analysis of form-based codes related to the long range planning of the Bonanza Park district?

#### Bonanza Park Master Planning – Guiding Concepts

- Circulation in the Bonanza Park area should include primary mobility to pedestrians and cyclists with clear connectivity to our existing trail system.
- The City should develop an urban linear road alignment system that would support a grid network which would include narrow streets, natural traffic calming strategies, and smaller blocks, etc.
- The City should mandate the parking for each structure to be hidden from the front or the sides and at the same time changing the required number of parking spaces from a minimum to a maximum.
- Increased density and zero lot line setbacks should be considered in the building layout.

**Discussion:** Does the Commission concur with Staff's recommendation to move forward with master planning for the Bonanza Park district?

#### Recommendation

Staff recommends the Planning Commission hold a discussion concerning the Bonanza Park Area and provide input to the Planning Department relating to the long range planning of the area.

#### Exhibits

Exhibit A – Bonanza Park Aerial Map

Exhibit B – Envision Utah's 3% Strategy

#### References

Morris, M. (2009). *Smart Codes: Model Land-Development Regulations*. Chicago, Illinois: American Planning Association

# Redevelopment Area



1 in = 250 ft  
September 2009 Aerial



**MINUTES – MARCH 10, 2010**



PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
MARCH 10, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Richard Luskin, Dick Peek, Julia Pettit, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Katie Cattan, Planner

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REGULAR MEETING - 5:30 p.m.

**I. ROLL CALL**

Chair Wintzer called the meeting to order at 5:30 p.m. and noted that all Commissioners were present.

**II. ADOPTION OF MINUTES**

January 13, 2010

Commissioner Pettit noted that she was not listed as present in the work session notes, but her comments were reflected in the text. She thought she may have arrived late, which could explain why her name was not listed on the roll.

MOTION: Commissioner Pettit moved to APPROVE the minutes of January 13, 2010 as amended. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

January 20, 2010

Commissioner Hontz noted that her name was spelled incorrectly under Commissioners in Attendance and she corrected the minutes to add an "e" at the end of her first name.

MOTION: Commissioner Pettit moved to APPROVE the minutes of January 20, 2010 as amended. Commissioner Luskin seconded the motion.

VOTE: The motion passed unanimously by those who were present at that meeting. Commissioner Strachan abstained since he had not attended.

February 10, 2010

Commissioner Peek referred to page 66 of the Staff report, page 14 of the minutes, first paragraph. He added closed quotation marks after the first MPD and clarified that the remainder of the

paragraph were his comments and not a direct quote from the Staff report. The end quote after the word boundary was also deleted.

Chair Wintzer referred to page 66, second to the last paragraph, and corrected 50,00 square feet to read 500,000 square feet.

MOTION: Commissioner Peek moved to APPROVE the minutes and the work session notes of February 10, 2010 as amended. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously by those who had attended that meeting. Commissioner Pettit abstained since she had not attended.

#### February 24, 2010

Commissioner Pettit noted that her name was misspelled in the work session notes and changed the "e" at the end of her first name to an "a".

MOTION: Commissioner Strachan moved to APPROVE the minutes of February 24, 2010 as amended. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

### **III. PUBLIC COMMUNICATIONS**

There was no comment.

### **IV STAFF/COMMISSIONER'S COMMUNICATIONS & DISCLOSURES**

Director Eddington reported that the work session item scheduled this evening had been postponed to March 14<sup>th</sup>.

Director Eddington noted that the LMC amendments and General Plan discussion was scheduled for the March 24<sup>th</sup> meeting. He asked if the Planning Commission was willing to cancel the April 14<sup>th</sup> Planning Commission meeting and make the April 28<sup>th</sup> meeting a regular meeting. There were very few applications for the April 14<sup>th</sup> meeting and those could be carried over to April 28<sup>th</sup>. Canceling the first meeting in April would give the Planning Commission the opportunity to schedule time to meet with the Staff member they were assigned to work with at the last meeting on specific General Plan elements.

The Planning Commission had no objections to canceling the April 14<sup>th</sup> meeting.

Planner Cattan noted that Treasure Hill was scheduled for April 14<sup>th</sup>, but that item would be continued. She would work with legal to make sure it is continued correctly.

Commissioner Pettit supported the concept of having the Commissioners meet with their individual Planner on the topics that were selected at the last meeting. Director Eddington recommended that

the Commissioners and Planners contact each other in early April to schedule mutually convenient times.

Director Eddington clarified that April 28<sup>th</sup> would be the only Planning Commission meeting in April and it would be a regular application meeting.

Planner Cattan reported that the Treasure Hill model was displayed in the Planning Department and was available to be viewed Monday through Thursday from 8:00 a.m. to 10:00 p.m. Anyone interested in scheduling a time should contact her through email. The model will be in the Planning Department through March 25<sup>th</sup>.

Chair Wintzer asked if the book of visuals could also be available in the Planning Department so people could look at the model and the visuals in the book at the same time.

Commissioner Pettit stated that when she saw the model in Craig Elliott's office, there was some discussion about the visual presentation that showed other renderings. She asked if those visuals would also be available. Planner Cattan replied that those visuals would be on the laptop for people to see.

Commissioner Peek stated that he would be out of town and unable to attend the March 24<sup>th</sup> meeting.

## **REGULAR AGENDA/PUBLIC HEARINGS/POSSIBLE ACTION**

### **1. 1053 Iron Horse Drive - Consideration for an aluminum siding product exception per LMC Section 15-5-5(B)(10)**

Planner Cattan reported that the LMC allows an exception for the Planning Commission to approve aluminum siding.

Joe Milano, representing the applicant, presented a proposal for using an aluminum siding product on the public works and bus facility at 1053 Iron Horse Drive. Mr. Milano noted that this request was a continuation of the CUP approval for the Iron Horse project. When the Planning Commission approved the CUP, a condition of approval was added stating that, "The materials on the northeast corner addition to the existing Public Works Building must differ from the adjoining stucco facade." He noted that the adjoining maintenance facility is stucco a building and the administration building on the end is brick.

After working with the architectural team, a suggestion was made to use an aluminum thick panel. Mr. Milano noted that the proposed product is different from typical aluminum siding. He reported on everything he knew about the product to help the Planning Commission make a decision on whether or not it was appropriate.

Mr. Milano noted that the product has been used on hundreds of buildings around the Country. It was used on the wine store in Salt Lake City on 3<sup>rd</sup> West and 13<sup>th</sup> South. Mr. Milano provided a sample of the materials for the Commissioners to handle to help them understand the material

being proposed. He noted that the material is an industrial product. It withstands the weather and it is three times thicker than the minimum required by Code. The baked on enamel paint finish is guaranteed for 20 years. The aluminum material itself will not rust. The proposed color is Sierra tan. Mr. Milano stated that as a designer, he felt the material was appropriate for the Public Works Building because of its durability and recycle ability. At the end of the life cycle of the building, all the panels could be completely recycled.

Commissioner Pettit asked if the size of the panel was close to the sample that was passed around. Mr. Milano replied that most of the panels are smaller. He believed the panel used would be approximately 5' x 16 or 18 feet high. Vertical panels would be used in some places to provide a visual change in the look of the panel itself.

Commissioner Peek assumed that all the components of installation were from the manufacturer. He asked if there was an installed life of the system. Mr. Milano replied that the subcontractor is Southland and they have done hundreds of projects around the Country. He was unsure of the exact warranty. Commissioner Peek asked if there were issues of reaction with various components such as clips and screws. Mr. Milano replied that all the components are aluminum. He explained that the building would be wrapped in plywood and a waterproofing membrane, and everything on the exterior would be aluminum. Commissioner Peek clarified that the entire system was supplied by the manufacturer. Mr. Milano answered yes.

Commissioner Peek asked if there was a life span on the coating. Mr. Milano replied that 20 years was the life of the coating. Commissioner Peek commented on the number of steel or aluminum roofing products that are losing their finish. Mr. Milano reiterated that the manufacturer guarantees that the material will look the same for 20 years. Commissioner Peek asked if there were installed examples of this product that were 20 years old. Mr. Milano replied that some examples are more than 20 years old.

Chair Wintzer stated that he would have assumed the material was metal if it had not been identified as an aluminum panel. He believed it was similar to metal systems on nearby structures. Chair Wintzer stated that he has been the wine store in Salt Lake and he was surprised to find out that it was not metal siding. He believes the material is appropriate for the area and appropriate for the Public Works Building. He liked the fact that the material requires no maintenance.

Commissioner Pettit liked that the material was recyclable. She felt it was an appropriate material for this use.

Commissioner Peek thought the Code referred to older, out dated aluminum. He asked if the "shell" aspect in the Code regarding insulation could be modified. Planner Cattan stated that the Planning Commission could make a finding that the shell is insulated and, therefore, the intent of the insulation has been met.

Commissioner Peek asked if there are instances of condensation and whether there were weep holes. Mr. Milano stated that the system allows moisture behind it and it allows moisture to come down the waterproofing membrane behind the panel. He noted that there are holes along the foundation to weep out any moisture that may get in.

Assistant City Attorney, Polly Samuels McLean, believed the insulation met the intent of the Code, and she thought the Staff could draft a finding to support that. Ms. McLean suggested that the Planning Commission could look at changing the LMC to better meet the intent.

Commissioner Peek asked if the lower panels could be replaced if they were every punched through by a blade. Mr. Milano replied that the panels could be individually replaced.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to grant the use of aluminum siding at the 1052 Iron Horse Drive project in accordance with the finding that the application of the siding at this site will meet the intent of Section 15-5-5(B)(10). Commissioner Strachan seconded the motion.

Commissioner Peek clarified that the finding should read, "The application of the aluminum siding at installation at the gauge proposed, meets the intent of Section 15-5-5(b)(10)."

Planner Cattan stated that she would write an action letter and make that finding.

VOTE: The motion passed unanimously.

2. 2060 Snow Creek Drive - Snow Creek Cottages - Subdivision  
**(Application #PL-10-00894)**

Planner Cattan reviewed the application for a plat amendment at 2060 Snow Creek Drive, to divide Lot 9B into two lots of record. One lot would be the Police station and the second lot would be for the Snow Creek Cottages. If the plat amendment is approved, the Planning Commission would be asked to approve a condominium plat as the next item.

The Staff recommended that the Planning Commission review the application, conduct a public hearing and consider forwarding a positive recommendation to the City Council for the plat amendment, in accordance with the findings of fact, conclusions of law, and conditions of approval.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to forward a POSITIVE recommendation to the City Council for the Snow Creek Crossing Lot No. 9B Subdivision, according to the Findings of Fact,

Conclusions of Law, and Conditions of Approval outlined in the attached ordinance. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 2060 Snow Creek Drive - Subdivision

1. The property is located at 2060 Park Avenue.
2. The lot area of Lot 9b of the Snow Creek Crossing Lot No. 9 is 7.84 acres in area.
3. The plat amendment creates two lots of record from Lot 9B of the Snow Creek Crossing Lot No. 9.
4. The plat amendment creates Lot 9B-1 (Police Station) which will be 5.43 acres and Lot 9b-2 (Snow Creek Cottages), which will be 2.38 acres.
5. The Park City Police station exists on Lot 9b-1.
6. The Snow Creek Cottages are being built on Lot 9B-2.
7. The zone is Residential Development Medium Density (RDM).
8. The two proposed lots and the existing buildings on the lots comply with the lot and site requirements for development in the RMD zone as explained within the analysis section of this report.
9. The neighborhood is characterized multi-family condominium, public facilities, a bike trail, and commercial.
10. All findings within the Analysis section are incorporated herein.

Conclusions of Law - 2060 Snow Creek Drive - Subdivision

1. There is good cause for this subdivision.
2. The subdivision 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 subdivision.
4. As conditioned, the subdivision is consistent with the Park City General Plan.

Conditions of Approval - 2060 Snow Creek Drive - Subdivision

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. The applicant will record the subdivision 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 and the plat will be void.
3. 2060 Snow Creek Drive, Snow Creek Cottages - Condominium Plat  
(Application #PL-10-00919)

Planner Cattan reviewed the application for the condominium plat for the Snow Creek Cottages. The Snow Creek Cottages are currently owned by the City. Creating a condominium plat would allow the City to sell the detached single family homes separately. A Home Owners Association would be created to manage the tasks outlined within the Codes, Covenants and Restrictions (CC&Rs) documents.

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

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to forward a POSITIVE recommendation to the City Council for the condominium plat for the Snow Creek Cottages condominiums, in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the attached ordinance. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact - 2060 Snow Creek Drive - Condominium Plat

1. The property is located at 2060 Park Avenue.
2. The Condominium Plat for the Snow Creek Cottages Condominiums is located on the proposed Lot 9b-2 of the Snow Creek Crossing Lot No. 9B Subdivision.
3. Lot No. 9b-2 is 2.3803 acres.
4. The Condominium Plat for the Snow Creek Cottages Condominiums contains thirteen (13) detached single family homes.

5. The Condominium Plat reflects the MPD approval of the Snow Creek Cottages as approved by the Planning Commission on July 9, 2008.
6. The zone is Residential Development Medium Density (RDM).
7. The neighborhood is characterized multi-family condominium, public facilities, a bike trail, and commercial.
8. All findings within the Analysis section are incorporated herein.

Conclusions of Law - 2060 Snow Creek Drive - Condominium Plat

1. There is good cause for this condominium plat.
2. The condominium plat 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 condominium plat.
4. As conditioned, the condominium plat is consistent with the Park City General Plan.

Conditions of Approval - Snow Creek Cottages - Condominium Plat

1. The City Attorney and City Engineer review and approval of the final form and content of the condominium plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording 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 and the plat will be void.
3. The applicant will record the Snow Creek Crossing Lot No. 9B Subdivision prior to or at the same time as the Condominium Plat.
4. North Silver Lake - Conditional Use Permit  
**(Application #PL-08-00392)**

Planner Cattan noted that the Planning Commission has reviewed this application on five separate occasions. The last time it was reviewed on July 8, 2009, the Planning Commission approved the application with a 3-1-1 vote. Commissioner Murphy had abstained. Planner Cattan stated that the 3-2 vote written in the Staff report was incorrect because it did not reflect the abstention. She corrected page 121 of the Staff report to reflect the 3-1-1 vote.

Planner Cattan reported that on July 18, 2009 the conditional use permit was appealed. The City Council reviewed that appeal on October 15, 2009 and requested additional information. On November 12, 2009, the City Council remanded the CUP application to the Planning Commission with direction to address three specific items. The Planning Commission has held two work sessions on this project since the City Council remand, at which time the applicants presented changes that had not been through a Staff analysis.

Planner Cattan had prepared an analysis based on the findings of the City Council, and requested feedback from the Planning Commission on whether or not the findings have been addressed. Planner Cattan explained that the appeal was granted in part and denied in part and the CUP was remanded to the Planning Commission for further consideration regarding the following matters:

1. The height, scale mass and bulk of Building 3 shall be further reduced to meet the compatibility standards;
2. Further specificity regarding a final landscape plan and bond with consideration for Wild Land interface regulations shall be reviewed and/or further conditioned;
3. Construction phasing and additional bonding beyond public improvement guarantee shall be required.

Planner Cattan believed the applicant was prepared to address the first issue this evening.

Regarding the second issue, Planner Cattan stated that there were previous concerns that the landscape plan had not been checked for Wild Land Interface regulations. The Building Department conducted a review and determined that six trees must be removed due to fire risk and proximity to the proposed buildings. Planner Cattan noted that the applicants had revised the landscape plan and removed those six trees. The proposed landscape mitigation plan replaces those trees with two 20-30 foot trees and all second tier trees at a ratio of 1.5 20-30 foot trees.

To address the third issue, Planner Cattan stated that the City Council made the finding that construction phasing and bonding is necessary to mitigate visual and construction impacts that would result if the external ring of units were allowed to be completed without the central structures and parking, due to disproportionate site exposure of the interior of the site. Planner Cattan stated that the Building Department typically approves the bonding whenever there is construction. After working with Ron Ivie, Planner Cattan drafted a new condition to require that each phase of the plan would have a bonding plan to ensure site restoration and re-vegetation, including the existing disturbance, to mitigate visual and construction impacts within each phase of construction. The Building Department would approve each phasing plan along with the bonding. Planner Cattan stated that Ron Ivie had offered to attend the next meeting to discuss this matter with the Planning Commission.

Planner Cattan reported on a letter she received from Bob Dillon, the attorney for the appellants, regarding the construction phasing and bonding plan. She believed Ron Ivie could address the issues raised in Mr. Dillon's letter when he speaks to the Planning Commission.

Planner Cattan had received a significant amount of public comment. She explained that the internal policy is that all public comment should be received by the Friday prior to the Planning Commission meeting. She requested that the public keep to that schedule to ensure that the Planning Commission receives their comments in the Staff report and has time to review them.

Commissioner Pettit pointed out that the public does not have access to the Staff report until it is posted late in the day on Friday. She felt it was unfair to expect the public to submit comments on a project before they have the opportunity to read the Staff report. For that reason, she was uncomfortable asking the public to submit their comments by Friday. Commissioner Pettit asked if it was possible to change the deadline for receiving public comment to Monday morning. Chair Wintzer shared the same concern.

Assistant City Attorney, McLean, explained that the reason for requesting public input by Friday was to include the comments in the Staff report. Ms. McLean stated that the policy could be changed to a different date to allow the public time to read the Staff report and make their comments, but the issue was giving the Planning Commission sufficient time to review those comments. Ms. McLean clarified that the Planning Commission is given everything that comes from the public if it is not included in the Staff report they continue to receive it piecemeal.

Commissioner Pettit suggested that this was a discussion for another day. She only raised the issue because she understood the difficulty for the public to make helpful comments without the benefit of the details and analysis in the Staff report. Ms. McLean stated that the Staff could look at alternatives to address this concern.

Doug Clyde, representing the applicant, recapped that the project was remanded back to the Planning Commission on the design of Building 3 and the two other items outlined by Planner Cattan. Mr. Clyde noted that during two work sessions the applicants had shown the Planning Commission incremental progress on the design. Based on comments during those meetings, the applicant submitted a complete conditional use application.

On the issue of bonding, Mr. Clyde stated that he and Planner Cattan met with Ron Ivie and reviewed the actual language in the remand. He noted that the language was very specific to bonding for a specific case, where the developer would build the perimeter units without having built the center of the project. In that event, the bonding language should be written to require the applicant to re-vegetate the disturbed area that currently exists on the site. Mr. Clyde felt that was the direction given by the City Council in Finding of Fact #28 and he was comfortable with the interpretation by Mr. Ivie and the Staff based on the remand finding.

Mr. Clyde stated that the applicants were also directed to look at the potential for loss of trees for the implementation of the defensible space plan. He recalled that when the Planning Commission approved the plan, there was some discussion on the matter. At that time Ron Ivie spoke to the Planning Commission and acknowledged that some trees would need to be removed. Mr. Clyde noted that based on the language in the remand, the applicants presented Mr. Ivie with a plan that specifically addressed the issue. He pointed out that every tree on the site was surveyed and

numbered. Mr. Ivie and the Staff reviewed the plan and determined that seven trees needed to be removed in order to meet the defensible space requirements. Mr. Clyde clarified that the seven trees were small and no large trees were removed. He noted that the tree removal had no impact on the visual analysis of the building. In most cases they were smaller trees that were behind other trees. Mr. Clyde remarked that the plan is no different than what was disclosed during the original approval, however, now they have a specific answer that no significant impacts are created.

Mr. Clyde reported that the remand was primarily about reducing the bulk and mass of Building 3. John Shirley, Jr., the project architect, was prepared to comment on this issue. John Shirley, Sr., stated that during the work session the applicants presented a massing model that they had brought back again this evening. Since that time the design was revised in response to some of the comments made during the work session meetings. Mr. Shirley clarified that the model was available this evening for reference purposes, but he did not intend to repeat the same exercise.

Mr. Shirley explained that the intent this evening was to address the basic height issue, and the massing and stepping of the project.

John Shirley, Jr, reviewed the aerial site plan to show how the design had been refined. He believed it was a better plan that blends in with the community. The new northeast and northwest buildings are more compatible in footprint size to the home and condos in the surrounding neighborhoods and inside the project.

Mr. Shirley reviewed specific changes that were made in the site itself and compared it to the previous site plan to demonstrate the changes. The building has been separated to two masses, the northeast, which is the smaller building, and the northwest building. The two buildings have terraced facades that blend with the surrounding homes and condos. A portion of the mass was moved up and over the road between the northwest building and the west building, which screens more of the mass from public view.

Mr. Shirley noted that the smaller northeast building was rotated towards Home 13 in an effort to pull the masses apart and to place more of the mass behind the existing vegetation. The funicular was also eliminated, which reduced the amount of excavation and allows the grade to run naturally up to the building. Mr. Clyde pointed out that they were also able to create a planting of trees on the east end of the building positioned between the building and the view from Main street.

Mr. Shirley commented on a previous issue about the length of the facade of the old building. He noted that the previously approved north building was 220 feet long. The buildings were separated and the building on the northeast is 68 feet wide and the northwest building is 87 feet wide, which is smaller than any other building on site. Separating the buildings allowed them to take advantage of the space between the structures to plant additional trees.

Mr. Shirley compared the previous landscaping to the current landscaping proposed. The open space in the project allows for keeping the large mature trees on top of the plaza for screening.

Mr. Shirley reviewed and compared the section drawings of the old building to the new building. He thought an important element was the facade height on the north facade. Previously, the north facades had a full six stories exposed. By removing the funicular lift and allowing the grade to run up, the entire basement level is hidden. The floor plates on the fourth and fifth levels were pulled back so the facades along the northeast building are only three stories tall, which is comparable to the homes within and surrounding this project.

Mr. Shirley provided a comparison of the floor plans to show how they had reduced the mass, scale and bulk of the building. He referred to the square footage chart and noted that both the common area and the sellable square foot had been significantly reduced. The sellable units were reduced by 12.83%. The internal common area was reduced by 60%. The below grade square footage resulted in a 30% reduction on the below grade area. The decreased size, scale and mass of the building, coupled with the shift and orientation and the planting of additional trees makes the project less visible from Main Street and more compatible with the neighbors.

Mr. Shirley provided a rendering of the new north building.

Mr. Clyde referred to an exhibit of the modeling of the view from Main Street. He pointed out a fairly significant change in the height of the roofline and the apparent bulk and mass of the building as seen from that location. This was accomplished by slightly rotating the building, but primarily because of greater stepping.

In response to a question from Commissioner Pettite regarding the trees, Mr. Clyde explained that 20 and 30 foot trees were planned in both scenarios. However, the revised scenario adds a few more trees because of the planting pod between the buildings. Mr. Clyde clarified that the trees are approximately 25-30 feet in height. Over time the trees would obviously be tall enough to cover the building.

Mr. Clyde pointed out that this process began in May of 2008 and over time many changes have been made to the site plan in response to direction by the Planning Commission. They finally reached an approval and that approval was appealed and Building 3 was remanded back to the Planning Commission for further review. Mr. Clyde remarked that in resolving the City Council's concern regarding Building 3, they believe they have produced a much better product and have accomplished all the goals and objectives of the remand. Mr. Clyde requested that the Planning Commission direct the Staff to prepare findings.

Chair Wintzer clarified that the items for discussion and comment this evening were the three items outlined in the Staff report and reviewed by Planner Cattan. The rest of the project was not remanded back and remains unchanged.

Chair Wintzer opened the public hearing.

Bob Dillon, an attorney with the law firm of Jones Waldo, stated that he was representing 29 individual landowners surrounding this project, as well as one of the HOA's in American Flag. Mr. Dillon remarked that the first notice anyone received for this public hearing was posted on the fence

outside the property. Mr. Dillon commented on the short time period for giving comments and apologized for giving the Planning Commission his letter on short notice. He had tried to react as quickly as possible after reading the Staff report and learning what he could about the project.

Mr. Dillon agreed with the limitation of only addressing the three items that the City Council remanded to the Planning Commission and that the rest of the approval by the Planning Commission action stays in place. Mr. Dillon stated that Building 3 was a much better design, but it was still not good enough. His clients believe the structure is still too large. Mr. Dillon remarked that when he and others attended earlier public hearings, they made strong appeals to make the applicant provide three-dimension graphics. Mr. Dillon noted that the model never materialized until after the City Council appeal and they are now dealing with the hand they were dealt. He thought the buildings were still massive and incompatible.

Mr. Dillon pointed out that during the appeal, City Council Member, Jim Hier, who was on the Planning Commission when the original project was approved in 2001, stated that for all the years he served on the Planning Commission, he only regretted two projects and the North Silver Lake project was one. Mr. Dillon noted that another City Council Member, the late Roger Harlan, stated that he had visited the site and was shocked at how inappropriate the project was for the site. Mr. Dillon stated that even though Building 3 is better, they still object to it.

Mr. Dillon commented on construction phasing and bonding and mitigation issues. He and his clients strongly believe that construction activity is part of a use that is defined in the Land Management Code, and that construction activities that are operated, maintained and conducted on the property must meet compatibility requirements of the Land Management Code. Mr. Dillon remarked that the developer has a tremendous benefit because he can come into neighborhoods that have already matured. When the MPD was originally approved 20 plus years ago, this property sat undeveloped when all the surrounding neighborhoods were developed. However, with that benefit comes a burden. The developer needs to conduct construction activities responsibly and the project must be phased. The City and the surrounding neighborhoods need assurance that construction would be appropriate and compatible with the surrounding neighborhoods. Mr. Dillon remarked that this was the reason why they appealed the project and why they asked for phasing and bonding. He noted that the City Council agreed, which is why it was part of the remand.

Mr. Dillon stated that the LMC and the MPD require construction phasing to complete this project appropriately to the neighborhood. Mr. Dillon noted that the developer phased the project but left a completion date open-ended for the fourth phase. In addition, time limits were not put on the first three phases. Mr. Dillon pointed out that the six acre parcels would be completely covered. The developer is using the legal fiction of the four-acre parcel as the open space. Mr. Dillon stated that the developer is building in a very exposed area and the Planning Commission must require that they make construction activity use compatible. He requested that the Planning Commission require start and finish time limits on each phase and require a fourth phase with a completion date for the entire project. The City cannot allow construction on this huge project to drag on for years. Mr. Dillon reiterated that the phasing plan must have time lines to assure the City and the adjoining neighbors that the project would be completed in a timely manner. Mr. Dillon requested a three year construction period from start to finish.

Mr. Dillon stated that he and the people he represents definitely want bonds to insure that if the project is not completed on time, the CUP and their vested rights would be terminated. He felt the bond amount should be sufficient enough to restore the disturbed areas with something compatible to both the project and the surrounding neighborhoods. Mr. Dillon stated that he met with Ron Ivie on the bonding and phasing issue and he came away with a different take than Mr. Clyde. He shared his letter with Ron Ivie and Mr. Ivie acknowledged that they may be on the cutting edge in phasing and bonding this project.

Regarding the Wild Land Interface, Mr. Dillon stated that one concern is a retention facility. He remarked that there should not be any ground water runoff on this project. The City has already been affected and they were able to reduce the flood panning area in the lower areas of the pan, which is critical in terms of insurance and financing. Mr. Dillon was confident that there would not be any excess ground water allowed to run off this project because they are covering all of the six acres. He commented on the need for the developer to build a retention facility. He understands that this matter is typically addressed at the permit stage; however, he would like a condition of approval stating that the developer cannot build a retention facility that violates the compatibility standards of the LMC. Depending on the size of the retention facility, Mr. Dillon suggested that the open space may need to be re-calculated.

Mr. Dillon addressed the issue of construction traffic. He commented on a dangerous collision his wife had with a semi-truck on Royal Street. He has had the same experience without a collision twice with large semi-trucks on that hairpin and has witnessed other accidents. Mr. Dillon stated that Royal Street is not a construction road. The Mine Road is a State Road that was widened and straightened and has a runaway ramp. There is no reason to continue to require construction traffic down Royal Street. All construction vehicles should use the Mine Road and he would like to see that mandated in the construction mitigation plan.

Mr. Dillon did not think the Planning Commission was limited by Finding of Fact 28. He believes the City Council wanted the Commissioners to address phasing and bonding to insure that the project is built properly and on time. Mr. Dillon summarized his requests and asked the Planning Commission to place appropriate time limits on the project and to insure that the construction use is compatible with the standards in the LMC.

Tom Bennett, legal counsel to the developer, stated that he had not intended to speak until Mr. Dillon raised issues that he felt needed to be addressed. Mr. Bennett remarked that some of Mr. Dillon's comments skewed the truth and did not make sense. With respect to the comment Council Member Hier made during the City Council meeting, Mr. Dillon made it sound like Council Member Hier was sorry that he had help approve this project when he was on the Planning Commission. Mr. Bennett clarified that Mr. Hier was referring to a project that was approved for this property in 2001; not the project being proposed today. Regarding the City Council's intent when they asked the Planning Commission to review and address the issue of bonding for reparation of the site if construction is discontinued, Mr. Bennett thought the Planning Commission should look at the record from the City Council meeting rather than take Mr. Dillon's interpretation of what the City Council said. He believed Mr. Dillon's interpretation was improper and inaccurate.

Mr. Bennett commented on the phasing plan Mr. Dillon had requested. He stated that a phasing plan will be created through the normal course of the construction process if this project is approved. Mr. Bennett pointed out that a phasing plan cannot be determined at this stage of the process. The phasing plan will be determined by the economy and other conditions at the time the phasing plan is being considered. To impose a specific start date on a project or to require that a project of this magnitude be completed within three years goes beyond the scope of authority that the LMC gives to the Planning Commission. Secondly, he was unaware of any other development in Park City where such a condition was imposed as part of the CUP process. If the developer is obligated to construct this project in three years or lose the entitlements, and the project gets 1/2 years into the process but for some reason cannot be completed in six months, they would end up with a partially completed project. This is the scenario Mr. Dillon was trying to avoid by imposing the condition; however if the developer loses his entitlements, the project would never be finished. Mr. Bennett pointed out that to impose a condition of this manner would insure that the project would never be financed. To honor Mr. Dillon's request would be inconsistent with the LMC and unfeasible.

Mr. Bennett preferred to let Doug Clyde respond to the retention facility issue. Mr. Bennett stated that if for some reason it would be a retention pond, it would not impact the open space allocation. Mr. Bennett was certain that the developer would not object to using the Mine Road for construction traffic. Mr. Bennett believed the developer had been extremely responsible in responding to the comments of the City Council and the Planning Commission. He encouraged the Planning Commission to authorize the Staff to proceed with findings for action. Chair Wintzer closed the public hearing.

Regarding the ground water, Mr. Clyde stated that no detention pond has been planned. The engineers have looked at the project and it will all be done by infiltration pipes underground. The International Building Code requires that the engineered post-construction runoff is the same as the pre-construction runoff. That is a matter of law that cannot be varied. Mr. Clyde noted that construction traffic is an issue for the Building Department, but they would not object to using the Mine Road. Mr. Clyde commented on the phasing plan. He clarified that the plan presented was a construction mitigation plan and not a phasing plan. It was in response to the question of whether the construction activities of this project could be contained on site. Mr. Clyde stated that it was a conceptual program that was presented to Ron Ivie and Mr. Ivie conceptually thought the construction activities could be contained on site. Mr. Clyde remarked that the language from the remand shows that the discussion was very specific.

Commissioner Peek referred to page 147 of the Staff report, the north elevation of Building 3. He noted that no railings were drawn above level 3 and asked if there were decks on levels four and five. Mr. Shirley replied that there would be decks on the top levels. Commissioner Peek asked if there would be hot tubs on the decks. Mr. Shirley stated that there would be a spa in the building but they had not discussed hot tubs on the decks. Mr. Shirley understood the concern and stated that if someone wanted to put in a hot tub, there would need to be privacy screens. The hope is to discourage personal hot tubs by providing the health spa.

Commissioner Peek referred to the rendering of the project and tried to equate the floor plans to the elevations. He thought there appeared to be exterior doors where there were no decks. Mr. Shirley explained that in many cases where there is a flat roof, the space is used as a roof top garden where people can walk out to it. Because it is a roof, there is vegetation along the edge. Commissioner Peek clarified that if it is a raised area to provide fall protection, it would have more mass than what was drawn. It would be similar to downstairs with the wire. Commissioner Peek assumed that the pillars of snow shown on the rendering would be shoveled to eliminate pillars of snow on the roof. Mr. Shirley stated that because the railing would not go out to the edge, a band of snow would encompass in lieu of decks.

Commissioner Peek understood that Level 5 of Building 3A has a center deck that appears to be completely snow covered. He noted that Level 3 on the west side in the northwest corner has a door exiting out but there was no deck. He pointed out a similar situation on the west side of Building 3A, where a door was drawn on the exterior with no apparent deck. Commissioner Peek asked if the landscaping and the tree placement reflected in the rendering had been checked according to the approved Wildland Interface Plan.

Mr. Clyde stated that the landscaping was coordinated with the Wildland Interface Plan. He explained that the changes from the Wildland Interface Plan were nominal and could not be seen on the plan. Planner Cattan stated that the trees that were affected in the Wildland Plan were behind Buildings 13 and 14. Mr. Clyde pointed out the trees in question and noted that they were fairly small trees. Commissioner Peek clarified that the rendering showed the currently adjusted landscape plan. Mr. Clyde replied that it showed the adjusted and the proposed landscape. Commissioner Peek asked what year of landscape maturity was reflected in the rendering. Mr. Clyde replied that it was year one.

Commissioner Strachan was unclear what the City Council meant in Finding #28 when they wrote "disproportionate site exposure of the interior of the site". He understood everything about that condition up to that point.

Commissioner Pettit thought it was important for the Planning Commission to have the minutes from the City Council meeting so they could see for themselves how the discussion unfolded and how it led to the intent of the remand and the language written. Commissioner Strachan agreed he had attended that meeting, but he could not recall the exact wording or why it was written. Commissioner Pettit was uncomfortable acting on Finding #28 without understanding the full concept of the discussion.

Planner Cattan stated that from the Staff perspective, the intent of the finding was that if the applicant builds the periphery buildings first, the center of the site would need to be brought back to standard with landscaping to mitigate construction impacts.

Director Eddington explained that part of that issue came about as a result of the existing hole on site. If the applicant builds the external units first, they would still need to resolve the hole that exists in the middle. He believed that was the reference for disproportionate site exposure.

Planner Cattan stated that a public improvement guarantee does not include bringing back soil or significant vegetation. The City Council required a phasing and bonding plan beyond a public improvement guarantee to make sure the site is returned to its pre-construction state.

Commissioner Strachan concurred with the importance of having the minutes of the City Council meeting provided in the next Staff report.

In terms of the general idea of the bond, Commissioner Strachan thought it was a fair requirement. He was unsure how much discretion the Planning Commission had in setting the bond amount. To his knowledge, it was not an action the Planning Commission has ever taken. Commissioner Strachan believed that Finding #28 from the Council directs the Planning Commission to take that action.

Commissioner Pettit recalled that the matter has come up in other contracts. One recent project was a historic stone wall that was adjacent to property in Old Town. There was concern about disturbing or destroying the wall and the Planning Commission had discussed bonding. Commissioner Pettit thought the Planning Commission should define what the bond should cover beyond the seeding required in the public improvement bond. She thought it would be helpful to provide specifics on the types of remediation the bond should cover and what they are trying to protect through the bonding process. Commissioner Pettit felt it was more appropriate for the Building Department to determine the bond amount.

Commissioner Peek suggested that it be similar to the preservation guarantee. He noted that the applicant is required to submit a preservation plan and there are certain triggers for capturing the bond. He suggested a phasing plan that establishes and defines a complete phase. When that phase is completed, the bonding gets released and a new phasing plan and a new bond is required. Planner Cattan stated that this was exactly how it was set up within the condition.

Assistant Attorney McLean clarified that the bond must relate to what it is mitigating. She concurred with the approach Commissioner Pettit had suggested.

Planner Cattan read the condition written in the Staff report, "A phasing and bonding plan beyond a public improvement guarantee must be approved by the Building Department in which phasing shall ensure site restoration with re-vegetation including the existing disturbance, to mitigate visual and construction impacts within each phase of construction." She explained that the Building Department would approve a phasing plan and each portion of the phasing plan would be bonded to ensure site restoration with re-vegetation.

The Commissioners discussed the level of re-vegetation that would be required. Mr. Clyde stated that Ron Ivie realizes that while the site is stable, the slopes are too steep to be a successful re-vegetation. Therefore, in addition to top soil, there would be some amount of re-contouring. Mr. Clyde stated that the development rights have not gone away on this site and planting trees may not be the best use of planting material. He assumed standard re-vegetation would be grasses and shrubs.

Planner Cattan remarked that the re-vegetation material would be dependent upon the order of phasing. She noted that they were also asked to include the Wildland Interface with the bonding. The Staff also suggests that the bond shall be placed prior to issuance of a grading or building permit to cover the cost of the landscape plan as approved by the Planning Commission.

Commissioner Pettit stated that until she has the opportunity to see the full set of City Council minutes and to hear from Ron Ivie on this issue, she was not prepared to make any decisions on the CUP issue.

Commissioner Strachan remarked that the bonding issue was his only concern at this point.

City Council Member, Alex Butwinski, stated that Planner Cattan had correctly interpreted the intention of the City Council. If the perimeter is built, the bond should be sufficient enough to restore the center portion of the site.

Commissioner Strachan reiterated his consistent opinion that the amount of excavation required for the site does not meet the criteria of the CUP. However, that issue has passed and the City Council has given direction for the project to move forward once the concerns of the North Building have been addressed. He disagreed with that assessment, but at this point the project is in the hands of the City Council. Commissioner Strachan felt the North Building was still too large, but he assumed it would pass the City Council's review.

Commissioner Hontz concurred with Commissioner Pettit regarding the requested information and the discussion points. In terms of phasing, Commissioner Hontz stated that in reading the packet she could not find where Buildings 1 and 2 and eight of the single family homes were ever built. Therefore, that staging was never accounted for. Commissioner Hontz needed to see the final plan to know where the entire project was going.

Mr. Clyde stated that the exhibit in the packet was prepared for the purpose of determining whether Ron Ivie thought the project could be contained on site. While phases were alluded to in the exhibit, they were only conceptual. Mr. Clyde stated that based on his discussion with Ron Ivie, if the project progresses through the final phases, once the parking lot is in and the major parts of the construction are completed, the balance of construction could occur within its own footprint. Mr. Clyde noted that this was typical in most developments with similar scale. A final phasing plan for this project has not yet been determined.

Commissioner Hontz referred to page 152 of the Staff report and noted that Buildings 1 and 2 and eight single family homes are quite large. She pointed out that five of those areas are used as staging just for Building 4. She felt that more thought needed to be given to see where staging could be accomplished on site for Buildings 1 and 2.

Commissioner Hontz referred to page 126 under open space and asked for clarification of the open space calculation. She noted that Finding of Fact #10, on page 129, specified a different number. Planner Cattan replied that currently the open space for the cottages is at 70.6%.

Commissioner Luskin stated that he was not on the Planning Commission when this application was originally approved. However, he was on the Planning Commission for the work sessions following the remand. He appreciated the effort from the applicant to make this a better project. Commissioner Luskin stated that comments were made during the public hearing that may be outside of their purview, but the comments resonated with him. One comment addressed compatibility in a broad sense and the length of construction. The question was whether there could be phasing and controls on the phasing to require time limits. Commissioner Luskin noted that the only response he heard to that question was that three years was unrealistic. He wanted to know what time frame would be realistic.

Commissioner Luskin agreed that Royal Street is not a suitable street for large construction trucks, and certainly not for the construction traffic generated by a project this large. He pointed out that the applicant's representatives this evening indicated that they would not object to using the Mine Road. Commissioner Luskin recognized that many of the public comments were not directly related to construction of the project or the impacts, but he felt those comments were important and should be considered.

Assistant City Attorney McLean, stated that the City Council was very specific that the Planning Commission only had jurisdiction to address the three items that were remanded back. She noted that their concerns could be voiced, but Ron Ivie is the one who determines construction mitigation. Ms. McLean recommended that Ron Ivie attend a meeting to address their concerns.

Commissioner Luskin reiterated that another issue is the time frame for construction. In his opinion, a ten or twenty year construction project is a compatibility impact. Commissioner Pettit believed the matter goes to the question of whether or not a time line can be put in place with respect to the CUP approval. She noted that often times the Planning Commission specifies that the developer must pull a building permit within one year of the approval or the CUP expires. Commissioner Peek further explained that a project cannot sit idle for more than six months or the CUP expires. Ms. McLean pointed out that in those cases the Building Department institutes a phasing plan and bonding to make sure that if construction stops after a year and a half, there would be money available to restore the site so it would not remain an eyesore.

Planner Cattan stated that another issue discussed with Ron Ivie was whether it would be reasonable to have a completion bond. Mr. Ivie made it clear that the City would never ask for a completion bond because it is too expensive and it would prohibit a project from ever re-starting.

Commissioner Peek clarified that they were talking about converting one form of dirt to landscaping in construction phasing, and not necessarily a framed building to a closed in building. Planner Cattan replied that this was correct. Ms. McLean stated that it would be inappropriate to require a completion bond because the conditions need to relate to mitigation. The mitigation is that the site cannot be an eyesore and must be prepared in a way that brings it back to an appropriate form. Commissioner Peek asked if it would be brought back to a form or carried forward to a form. Ms. McLean replied that either way would be appropriate. Commissioner Peek asked if it would be a continuation bond, but not a completion bond. Ms. McLean replied that the condition as written addresses that mitigation concern. There would be enough money to either demolish what exists

and to either bring the site back or forward. That is different from a completion bond, which requires the project to be completed per the plan. The condition needs to address what they are trying to achieve as the end goal.

Bob Dillon noted that everyone had their own recollection of the City Council discussion. In addition to the minutes, he had an audio recording of that meeting and the full discussion. Mr. Dillon remarked that when the findings came back a week later, he wrote a letter to the City Attorney questioning some of the items. He encouraged the Planning Commission to look at the minutes. He understood the phasing and bonding was a Building Department matter, but he always thought the City Council was mandating that the applicant identify the various phases of construction and what would be accomplished in each phase. Mr. Dillon was confused after hearing Mr. Clyde say that the exhibit was only a conceptual plan.

Chair Wintzer explained that Ron Ivie would issue a building permit, which would have a limit of disturbance. At that time, they would specify a bond to guarantee that the site that was disturbed would be brought back into some type of vegetation. Chair Wintzer stated that the Planning Commission could request that the bond also include enough money to complete the outside of the building. He did not think the Planning Commission had the purview to say when and how the building should be built. He believed the economy would dictate how the project is phased and that would be handled during the building permit.

Planner Cattan believed that having the minutes in hand and Ron Ivie at the meeting would help clarify many of the issues.

Mr. Clyde noted that the applicants have offered to meet with the neighbors at the time the mitigation plan occurs. He pointed out that the City has put limits on other projects that prohibit trucks from using Marsac. In addition, it is unclear what the conditions are going to be at the time they pull the mitigation plan. Relative to the overall time frame, Mr. Clyde stated that everyone in this project is more motivated to make sure that all the phases of the project are completed. It would not be good for marketing the completed units if there is a hole in the ground next door. Mr. Clyde remarked that he has worked on numerous projects substantially larger in scale and he has never seen a completion date apply to a project. It all depends on the market.

Planner Cattan asked for Planning Commission input on the three issues of the remand.

The height, scale, mass and bulk of Building 3 shall be further reduced to meet the compatibility standards.

She asked if the Commissioner felt the issue had been met or what they wanted to see addressed.

Commissioner Peek thought the scale, mass and bulk had been mitigated. Regarding the height, he read the City Council Finding #24, as written in the Staff report addressing the height and the scale of the facade. In looking at the elevations, he calculated a 70 foot facade. Commissioner Peek understood that stepping of the various levels created a change, but the number had only

changed slightly. The height was not mitigated and he did not believe it met the direction given by the City Council.

Commissioner Peek referred to page 147 of the packet and noted that Level 0 was 72 feet and the fascia line was at 142 feet, which calculated to 70 feet.

Commissioner Pettit agreed with Commissioner Peek and requested additional analysis. Commissioners Hontz and Luskin echoed Commissioners Peek and Pettit.

Commissioner Strachan thought the applicants had done everything they could to mitigate the impacts of a project that would have substantial impacts, and they had mitigated the impacts created by building to the MPD. He felt that no project that could be built with this MPD would be compatible. For that reason, Commissioner Strachan was unable to say this project met the compatibility standard.

Chair Wintzer thought the applicants had reduced the height and he felt they had done a good job stepping the building back and working with what was already approved.

Further specificity regarding a final landscape plan and bond with consideration for Wild Lane Interface regulations shall be reviewed and/or further conditioned.

Chair Wintzer suggested that they hold their comments until they hear from Ron Ivie at the next meeting. Chair Wintzer was satisfied that the applicants had gone through the process with Ron Ivie to show that it could be done.

Commissioner Pettit stated that the condition written in the Staff report satisfied her concerns with respect to the issue. Commissioners Strachan and Hontz concurred.

Construction phasing and additional bonding beyond public improvement guarantee shall be required.

The Commissioner felt their earlier comments was sufficient direction on this item.

Planner Cattan summarized that the Planning Commission would like the phasing plan to show development of all the buildings; Ron Ivie should attend a meeting to discuss the bond and phasing; clear boundary parameters would be set; the minutes of the City Council meeting would be provided to the Planning Commission. Commissioner Strachan asked if it was possible to provide the Commissioners with a DVD of the audio from the City Council meeting. Planner Cattan understood that there was interest for not using Royal Street for construction traffic and to require the use of the Mine Road, but there was not concurrence.

Commissioners Strachan, Pettit and Wintzer stated that they did not concur with using the Mine Road. Chair Wintzer felt it was an equal impact by running construction vehicles through Old Town. Commissioner Peek preferred to leave that decision to the Building Department.

Planner Cattan noted that the Planning Commission wanted further analysis by Staff regarding the height on Finding #24 with regards to the 70 foot calculation. Planner Cattan asked if the Staff should prepare findings for the next meeting, as requested by the applicant.

Commissioner Peek felt findings were premature, since two of the items were contingent on input from Ron Ivie. Commissioner Strachan suggested that the Staff draft findings for everything but those two issues. Chair Wintzer concurred.

Assistant City Attorney McLean, clarified that the applicant was asking for a ruling at the next meeting. She stated that Planner Cattan would prepare the findings for action and additional findings could be drafted based on input.

Commissioner Pettit felt it was important for everyone to understand that certain findings of fact would need to be made after the Commissioners hear from Ron Ivie.

Ms. McLean explained the process and noted that under State Code, the applicant has the ability to request a vote and the vote needs to occur within 45 days of a formal request. It is due process to keep an application from being continued indefinitely. Commissioner Peek asked if action by the Planning Commission was concurrence to continue, whether that would require a formal request for a continuance. Ms. McLean replied that the applicant has the ability to waive their request for a vote. She stated that if a formal request is submitted for action, and no action is taken within 45 days, the project is deemed approved.

Commissioner Pettit asked if the next meeting is in a month, if the Commissioners would have 45 days from that meeting to act on the request or if the 45 days time period starts with the day the request was made. Ms. McLean stated that she would need to verify State Code, but she believed it was 45 days from the date of the letter. However, since the applicant has verbally asked for a vote and there is no new information, the Planning Commission should honor that request.

Commissioner Peek pointed out that the next meeting on April 28<sup>th</sup> would be 48 days from the current request. Director Eddington agreed that they would need to have that first meeting in April that was previously canceled, unless the applicant would agree to wait until the April 28<sup>th</sup> meeting. Ms. McLean pointed out that the applicant had not submitted the formal letter required to trigger the 45 days.

Tom Bennett was not opposed to waiting until April 28<sup>th</sup>, but he felt it was time for a decision and did not want it delayed any further. He offered to wait a few days before submitting the request so the 45 days would run beyond the April 28<sup>th</sup> meeting.

MOTION: Commissioner Pettit moved to CONTINUE the CUP application for the North Silver Lake Lodges to April 28, 2010. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

Planning Commission Meeting  
March 10, 2010  
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Mr. Bennett clarified that the Staff report for the April 28<sup>th</sup> meeting would have findings based on comments this evening, with the exception of the issues that Ron Ivie would be addressing.

The Park City Planning Commission meeting adjourned at 8:15 p.m.

Approved by Planning Commission: \_\_\_\_\_



## **REGULAR AGENDA**



# Planning Commission Staff Report



Planning Department

**Subject:** Land Management Code (LMC)  
Amendments  
**Application #:** PL-09-00784  
**Author:** Kirsten Whetstone, AICP  
Thomas Eddington, AICP  
**Date:** March 24, 2010  
**Type of Item:** Legislative

## Summary Recommendations

The Planning Commission should review and discuss proposed amendments to the Land Management Code for:

- Chapter 1 General Provisions and Procedures
- Chapter 2.3 Historic Residential HR-2
- Chapter 6 Master Planned Developments
- Chapter 10 Board of Adjustment
- Chapter 11 Historic Preservation
- Chapter 12 Planning Commission

Staff recommends the Commission conduct a public hearing, consider input, and consider forwarding a positive recommendation to the City Council based on the findings of fact and conclusions of law as stated in the draft Ordinance.

## Topic

**Project Name:** LMC Amendments for Chapters 1, 2.3, 6, 10, 11, and 12  
**Applicant:** Planning Department  
**Proposal:** Revisions to the Land Management Code (LMC)

## Background

On February 24, 2010, the Planning Commission conducted a public hearing and discussed Land Management Code (LMC) amendments that 1) address planning and zoning issues that have arisen in the past year and 2) address development and design issues for the east side of upper Park Avenue in the HR-2 zoning district. Previous discussions occurred on June 11, 2008, September 23, 2009, November 11, 2009, and January 20, 2010. Please refer to the Staff Report from January 20, 2010, for additional background information, a detailed description of amendments, and staff analysis.

New amendments are being proposed to Chapter 1 concerning the appointment of a hearing officer to hear appeals from Planning Commission final action on Conditional Use Permits and Master Planned Developments in certain circumstances.

The following amendments are proposed:

- **Chapter 1 (General Provisions and Procedures)-** Procedural amendment:  
Allows the City Council to designate an independent appeal authority (typically

called a hearing officer or administrative law judge) for appeals and call-ups for land in all zones under certain circumstances.

- **Chapter 2.3 (HR-2 Zoning District)** - Additional regulations for Conditional Use Permits and Master Planned Developments within HR-2 Subzone A.
- **Chapter 6 (MPD)** – Clarification of the how the 5% Support Commercial Floor Area is calculated for Master Planned Developments and regulations for Master Planned Developments (MPD) within the HR-2 zoning district.
- **Chapter 11 (Historic Preservation)**- Streamlining the Historic District Design Review process for minor projects within the Historic District or at a Historic site.
- **Chapters 10 and 12 (BOA and Planning Commission)** - Specifies 45 day time frame for hearing of appeals to Planning Commission and the Board of Adjustment and clarifies that call-ups from City Council may be heard by the BOA if requested by City Council. These amendments provide consistency with regulations in Chapter One and apply to land in all zones.

### **Summary of Planning Commission direction from February 24, 2010 meeting**

The following are revisions based on input from the Planning Commission at the February 24<sup>th</sup> meeting:

#### **Chapter 2.3 - (HR-2 Zoning District)**

- Deleted Height Exception for Master Planned Developments in HR-2 district due to potential for unintended consequence of incompatible building heights on Park Avenue (Section 15-2.3-6, 15-2.3-8 (B) (3), and 15-6-5 (F)). **Page # 70, 74, 89**
- Amended language throughout Chapter 15-2.3 to require “compatibility with the historic character of the surrounding residential neighborhood” to re-iterate the importance of preserving the historic character or fabric of the neighborhood.
- Clarify that below grade parking structures and below grade commercial floor area extending from Main Street, may occupy side yard setbacks in Subzone A as part of a Master Planned Development, only when granted by the Planning Commission (Section 15-2.3-8 (B) (2)) subject to compliance with Building and Fire codes. **Page # 74**
- Added language “up to 40” to Maximum Building Width (Section 15-2.3-8 (B) (13)) and “Building Width shall reflect the variation, pattern, and historic character of building widths in the surrounding residential neighborhood.” **Page # 75**
- Deleted “commercial” from 15-2.3-10 (H) Parking Regulations indicating that no HCB uses may have parking within the HR-2 zone. **Page # 76**
- Revised mechanical service language to “No free standing mechanical equipment is allowed in the HR-2 zone, with the exception of individual residential mechanical equipment serving single family and duplex dwelling units within the HR-2 zone, subject to the Lot and Site Requirements of Section 15-2.3-4”. (15-2.3-13). **Page # 78**
- Allow Planning Commission to modify Building Footprint in the HR-2 Subzone A for MPDs for below grade parking, below grade commercial, and detached single car Garages (Section 15-2.3-4 (L) and references to 15-6-5 (B)). **Page # 69**
- No density transfers between HCB and HR-2. 15-2.3-8 B (14). **Page # 75**

## **Chapter 6 - (MPD)**

- No Height Exception for MPDs in HR-1 and HR-2 (Section 15-6-5 (F) and see above). **Page # 92**
- No density transfers for MPDs in the HR-1 and HR-2 Districts (15-6-3 and 15-6-5(A)). **Page # 85, 89**
- Additional language added for increasing setbacks for historic compatibility (15-6-5 (C) Setbacks). **Page # 90**
- Clarified language regarding support commercial and meeting space area within MPDs (Section 15-6-8 (A)). **Page # 98**
- Additional language for up to 200 sf Building Footprint allowance for detached single car Garages, subject to approval of an MPD. **Page # 90**

## **Chapters 10 and 12 - (BOA and Planning Commission)**

- Added specific language to Sections 15-10-3 (A) describing the Board of Adjustment's powers and duties regarding call-ups and appeals. **Page # 101**
- Added specific language to Sections 15-10-7 and 15-12-15 (B) (8) requiring appeals to be heard by the BOA and Planning Commission within 45 days of the filing date. **Page # 103, 111**

## **Additional Revisions recommended by Planning Staff**

### **Chapter 1- General Provisions and Procedures-**

The amendment enables the City Council to designate a Hearing Officer as the appeal authority for appeals and call-ups of Planning Commission decisions for land in all zones (Section 15-1-18 (C)) where 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 Planning Commission process remains unchanged. Only in the event of an appeal (or call-up which the Council will retain the ability to do) the Hearing Officer would replace the City Council in hearing the appeal or call up and will have the same scope and standard of review. Whether to expand the scope of the appeal or allow public input in the appeal will still be determined by the City Council pursuant to LMC 15-1-18 (I) Similar to an administrative law judge, a hearing officer would preside over any appeal or call up, review factual matters de novo (anew), and determine whether the Planning Commission correctly applied the LMC to proposed project based upon the testimony and record. The Hearing Officer would step into the shoes of the Council in hearing an appeal or call up. **Page # 55**

### **Is the City Considering Using a Hearing Officer for Treasure Hill/Sweeney CUP?**

Yes, if the Ordinance is adopted after hearings and a recommendation from the Planning Commission, and the Council will have to make that decision by majority vote at an open meeting.

### **Why?**

Three reasons:

1. Under state law and local ordinance, the Council's role in hearing an appeal is very limited- determining if the Planning Commission correctly applied the Code

to the project. Utah State Code prohibits the Council from participating in any decision that it will be the appeal authority on. Due to overlapping issues resulting from the role of the Council as owner and/or Redevelopment Authority (RDA) in relation to possible alternatives for the Treasure Hill project, such as buying down density or transferring density to another site, it would be difficult for the City Council to proactively negotiate for such changes while remaining objective and disinterested as an appeal authority in the regulatory process.

2. Regardless of their merit or lack thereof, potential claims of conflict, due process, or predetermined disposition may cause the Mayor and Council to further limit their efforts to seek the best possible outcome for the applicant, neighbors and community as a whole.
3. The length and complexity of the public process before the Planning Commission: After over six years of public and technical review, the public, the applicants and the planning/engineering professionals have presented and reviewed relevant information, debated and provided testimony, and such will continue in the remaining hearings before the Planning Commission. A Hearing Officer potentially offers a better balance between the independent accountability needed for an administrative remedy, and the increased efficiency and technical capabilities better served for such an appeal limited to technical correctness.

The Council would appoint an appeal officer if and when an appeal is filed. The City currently uses a similar process with administrative code enforcement and staff will provide examples of such use at the hearing.

### **Chapter 11- (Historic Preservation)**

- Clarification of the Historic Design Review process for minor projects within the Historic District or Sites (Section 15- 11-12(A)). Compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites continues to be a requirement for all projects within the Historic district and at historic sites. **Page # 106**

### **Department Review**

These amendments have been reviewed by the City's Planning, Engineering, Building, and Legal Departments.

### **Process**

Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption and become pending upon publication of legal notice. City Council action may be appealed to a court of competent jurisdiction per LMC Section 15-1-18.

### **Notice**

Notice was published in the Park Record and posted according to requirements of the Land Management Code.

### **Public Input**

Public input was received at the open house, as outlined in the January 20<sup>th</sup> Staff Report, and at the public hearings as documented in meeting minutes attached as

Exhibits to that report. Comments received at the February 24<sup>th</sup> meeting are summarized in the meeting minutes attached as Exhibit G.

### **Alternatives**

- Conduct a public hearing on the LMC amendments describe herein or as amended and forward a positive recommendation to the City Council.
- Conduct a public hearing and forward a negative recommendation to the City Council.
- Continue action on the LMC amendments to a date certain.

### **Significant Impacts**

There are no significant negative fiscal impacts on the City as a result of these amendments. The amendments provide clarifications of processes and procedures in the historic district, consistency of code application between Chapters, and are consistent with City's goals to: preserve Park City's character, maintain and protect Park City's residential neighborhoods, and promote economic development within the Main Street business district. The amendments to Chapter 2.3 may provide fiscal benefits in the future.

### **Consequences of not taking the Suggested Recommendation**

Not taking the suggested recommendation will leave the LMC unchanged and may result in lack of clarity or consistency regarding processes and procedures, definitions, LMC section references, and specific interpretation of Sections of the Code. Not taking suggested recommendations may result in continued negative impacts on the Park Avenue neighborhood from adjacent Main Street businesses and activity.

### **Recommendation**

The Planning Commission should review and discuss proposed amendments to the Land Management Code as outlined in this report and in Exhibits (A-E) for the following Chapters:

- Chapter 1- General Provisions and Procedures (Exhibit A)
- Chapter 2.3- Historic Residential 2 (Exhibit B)
- Chapter 6- Master Planned Developments (Exhibit C)
- Chapter 10- Board of Adjustment (Exhibit D)
- Chapter 11- Historic Preservation (Exhibit E)
- Chapter 12- Planning Commission (Exhibit F)

Staff recommends the Commission conduct a public hearing, consider input, and consider forwarding a positive recommendation to the City Council based on the findings of fact and conclusions of law as stated in the draft Ordinance.

### **Exhibits**

Ordinance

Exhibit A- Chapter 1- General Provisions and Procedures

Exhibit B- Chapter 2.3- Historic Residential 2

Exhibit C- Chapter 6- Master Planned Developments

Exhibit D- Chapter 10- Board of Adjustment

Exhibit E- Chapter 11- Historic Preservation  
Exhibit F- Chapter 12- Planning Commission  
Exhibit G- Minutes of February 24<sup>th</sup> PC meeting

**AN ORDINANCE AMENDING  
THE LAND MANAGEMENT CODE  
OF PARK CITY, UTAH,  
REVISING**

**SECTIONS 15-1, 15-2.3, 15-6, 15-10, 15-11, and 15-12 REGARDING  
DEVELOPMENT REGULATIONS AND MASTER PLANNED DEVELOPMENTS IN  
THE HR-2 AND HCB DISTRICTS, STREAMLINING THE HISTORIC DESIGN REVIEW  
PROCESS FOR MINOR PROJECTS, CLARIFYING THE APPEALS PROCESS FOR  
LAND WITHIN ALL ZONING DISTRICTS, AND REQUIRING A 45 DAY TIMEFRAME  
FOR APPEALS TO BE HEARD BY THE BOARD OF ADJUSTMENT AND PLANNING  
COMMISSION**

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 owner's of Park City;

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

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

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;

WHEREAS, the City's goals include maintaining effective transportation and parking, maintaining the resort community regarding economic development, and enhancing the economic viability of Park City's Main Street Business District; and

WHEREAS, Chapter 1, General Provisions and Procedures, provides a description of general requirements, provisions and procedures and the City desires to clarify and revise these requirements, provisions and procedures regarding appeals of Planning Commission decisions in all zoning districts, as outlined in the staff report; and

WHEREAS, Chapter 2.3, Historic Residential-2 Zoning District, provides a description of requirements, provisions and procedures specific to Subzone A of the HR-2 zoning district, specifically for the east side of upper Park Avenue south of Heber

Avenue and the City desires to clarify and revise these requirements, provisions and procedures as outlined in the staff report; and

WHEREAS, Chapter 6 - Master Planned Developments, provides regulations, requirements, and procedural requirements regarding Master Planned Developments, and the City desires to clarify and revise these regulations and procedures as they pertain to 1) development in the HR-2 and HCB Zoning Districts and 2) calculation of Support Commercial and Meeting Space within Master Planned Developments as outlined in the staff report; and

WHEREAS, Chapter 10 - Board of Adjustment, provides regulations and procedural requirements for the Board of Adjustment, and the City desires to clarify and revise these regulations regarding the timeframe by which an appeal shall be heard by the Board of Adjustment and clarify the scope of BOA review of City Council call-ups of Planning Commission action items, as outlined in the staff report; and

WHEREAS, Chapter 11 – Historic Preservation, provides regulations and procedural requirements for the Historic Preservation Board and for administrative actions regarding historic preservation in Park City and the City desires to clarify, revise and streamline the administrative process for historic design review, as outlined in the staff report; and

WHEREAS, Chapter 12 - Planning Commission, provides regulations and procedural requirements for the Planning Commission and the City desires to clarify and revise these regulations regarding the timeframe by which an appeal shall be heard by the Planning Commission, as outlined in the staff report; and

WHEREAS, these amendments are changes identified during the 2009 annual review of the Land Management Code that provide clarifications of processes and procedures, and interpretations of the Code for streamlined review and consistency of application between Sections.

WHEREAS, the Planning Department held a neighborhood information meeting on October 27, 2009 and the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on November 11 and December 16, 2009 and January 20<sup>th</sup>, February 24<sup>th</sup>, and March 24<sup>th</sup>, 2010 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 \_\_\_\_\_, 2010; 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 Upper Park Avenue residential neighborhood, preserve historic sites and structures, preserve the historic character of neighborhoods in the Historic

District, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

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

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 1- Section 15-1-18. 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- Section 15-2.3. The recitals above are incorporated herein as findings of fact. Chapter 15-2.3 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B).

SECTION 3. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 6- Master Planned Development. The recitals above are incorporated herein as findings of fact. Chapter 6 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit C).

SECTION 4. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 10- Board of Adjustment. The recitals above are incorporated herein as findings of fact. Chapter 10 of the Land Management Code is hereby amended as redlined (see Exhibit D).

SECTION 5. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 11- Historic Preservation. The recitals above are incorporated herein as findings of fact. Chapter 11 of the Land Management Code is hereby amended as redlined (see Exhibit E).

SECTION 6. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 12- Planning Commission. The recitals above are incorporated herein as findings of fact. Chapter 12 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit F).

SECTION 7. SEVERABILITY OF ORDINANCE. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2010

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
Dana Williams, Mayor

Attest:

\_\_\_\_\_  
Janet M. Scott, City Recorder

Approved as to form:

\_\_\_\_\_  
Mark Harrington, City Attorney

**PARK CITY MUNICIPAL CODE  
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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). All appeals must be filed with the Planning Department within ten (10) days of Final Action.

There shall be no additional notice for appeal of the 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.

(B) **HISTORIC PRESERVATION BOARD (HPB)**. Final Actions by the Historic Preservation Board may be appealed to the Board of Adjustment.

(C) **PLANNING COMMISSION**. Final Actions by the Planning Commission on appeals of Staff action may be appealed to the Board of Adjustment. 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 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 a hearing officer as appeal authority to hear any appeal or call up that the Council would otherwise have jurisdiction to hear. The hearing officer 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.

(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. Except for appeals to the Board of Adjustment, 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. Appeals to the Board of Adjustment will 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 below.

(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 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

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issues, and need not take public input at the hearing. 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.** 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; and

(2) By mailing courtesy notice 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.

(L) **STAY OF APPROVAL PENDING REVIEW OF APPEAL.** Upon the filing of an appeal, any approval granted by the Planning Commission will be suspended until the City Council 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)*

**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

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Comment [kaw1]: Administrative clean up of language-typo gran:2012-09 substantive change.

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)

**PARK CITY MUNICIPAL CODE  
TABLE OF CONTENTS  
TITLE 15 LAND MANAGEMENT CODE - CHAPTER 2.3**

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**TITLE 15 - LAND MANAGEMENT CODE**

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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 and the HR-1 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 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 historic character of the 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 continued 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,

Comment [kaw1]: Highlights indicate new language since the Feb 24 PC meeting

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Comment [kaw2]: Added purpose statements to provide clarification and direction regarding the purpose and uniqueness of the HR-2 District.

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(K) minimize impacts of Commercial Uses on surrounding residential neighborhoods

**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 Unit<sup>1</sup>
- (3) Nightly Rental<sup>2</sup>
- (4) Home Occupation
- (5) Child Care, In-Home Babysitting<sup>3</sup>
- (6) Child Care, Family<sup>3</sup>
- (7) Child Care, Family Group<sup>3</sup>
- (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

**(B) CONDITIONAL USES.**

- (1) Duplex Dwelling
- (2) Secondary Living Quarters
- (3) Accessory Apartment<sup>4</sup>

<sup>1</sup>Nightly Rental of Lockout Units requires a Conditional Use Permit

<sup>2</sup>Nightly Rental does not include the use of dwellings for Commercial Uses

<sup>3</sup>See LMC Chapter 15-4-9 for Child Care Regulations

<sup>4</sup>See LMC Chapter 15-4, Supplemental Regulations for Accessory

- (4) Group Care Facility
- (5) Child Care Center
- (6) Public or Quasi-Public Institution, church or School
- (7) Essential Municipal Public Utility Use, Facility, Service, and Structure
- (8) Telecommunication Antenna<sup>5</sup>
- (9) Satellite Dish Antenna greater than thirty-nine inches (39") in diameter<sup>6</sup>
- (10) Bed & Breakfast Inn<sup>7</sup>
- (11) Boarding House, Hostel<sup>7</sup>
- (12) Hotel, Minor, fewer than sixteen (16) rooms<sup>7</sup>
- (13) Office, General<sup>8</sup>
- (14) Office, Moderate Intensive<sup>8</sup>
- (15) Office and Clinic, Medical<sup>8</sup>
- (16) Retail and Service Commercial, Minor<sup>8</sup>
- (17) Retail and Service Commercial, personal improvement<sup>8</sup>
- (18) Cafe or Deli<sup>8</sup>
- (19) Restaurant, General<sup>8</sup>
- (20) Restaurant, Outdoor Dining<sup>9</sup>

Apartments

<sup>5</sup>See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

<sup>6</sup>See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

<sup>7</sup>In Historic Structures only

<sup>8</sup>In Historic Structures and within Sub-Zone B only. Subject to requirements of Section 15-2.3-9. Except that these Uses are permitted in Sub-Zone A only when all criteria of Section 15-2.3-8 are met.

<sup>9</sup>Subject to an Administrative

- (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 Facility<sup>10</sup>
- (25) Ski tow rope, ski lift, ski run, and ski bridge<sup>10</sup>
- (26) Recreation Facility, Private
- (27) Fences greater than six feet (6') in height from Final Grade<sup>11</sup>
- (28) Limited Commercial expansion necessary for compliance with Building and Fire Code egress and Accessibility requirements and Support Uses associated with HCB Commercial Use<sup>12</sup>

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

(C) **PROHIBITED USES.**  
Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.  
(Amended by Ord. No. 04-08)

**15-2.3-3. CONDITIONAL USE PERMIT REVIEW.**

Conditional Use Permit, and permitted in Sub-Zone B only, subject to requirements in Section 15-2.3-9.

<sup>10</sup> See LMC Chapter 15-4-18, Passenger Tramways and Ski-Base Facilities

<sup>11</sup> See LMC Chapter 15-4-2, Fences and Walls

<sup>12</sup> Subject to compliance with the criteria set forth in Section 15-2.3-8(B).

The Historic Preservation Board shall review any Conditional Use permit (CUP) Application in the HR-2 District and shall forward a recommendation to the Planning Commission regarding the application's compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites. The Planning Commission shall review this Application 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, and the Historic Preservation Board's recommendation.

(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 Buildings 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

**Comment [kaw4]:** Replace Historic District Design Guidelines with title of current Guidelines

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**Comment [kaw3]:** Removed Private Residence Club ownership of a condominium unit

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**Comment [kaw5]:** Emphasize compatibility with the surrounding neighborhood. Deleted 1 ½ and 2 story height because it conflicts with the Building Height Section and 3 stories allowed in the HR-2 District.

**Deleted:** New Structures and additions must be two (2) Stories in height or less. Primary facades should be one (1) to one and a half (1 ½) Stories at the Street

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**Deleted:** Said expansion is limited to the minimum footprint necessary to achieve compliance with Building and Fire Code egress and Accessibility requirements, and may include additional Building Footprint for ADA restrooms.

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)

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;

Comment [kaw6]: Allows flexibility in parking requirements. In lieu fees are determined by the Council and subject to change.

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Comment [kaw7]: Fencing and screening may not be possible along the HR-2/HCB property line

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- (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.

(2) See Section 15-6-5 (B) for maximum allowed Building Footprint for Master Planned Developments within the HR-2 District.

**Comment [kaw8]:** Refers to the MPD Chapter where Building Footprint is allowed to be calculated based on the number of original lots and/or on any conditions of the plat amendment or subdivision. This allows development compatible with the surrounding neighborhood.

**Deleted:** Historic District Design Guidelines

$$\text{MAXIMUM FP} = (A/2) \times 0.9^{A/1875}$$

Where FP= maximum Building Footprint and A= Lot Area.

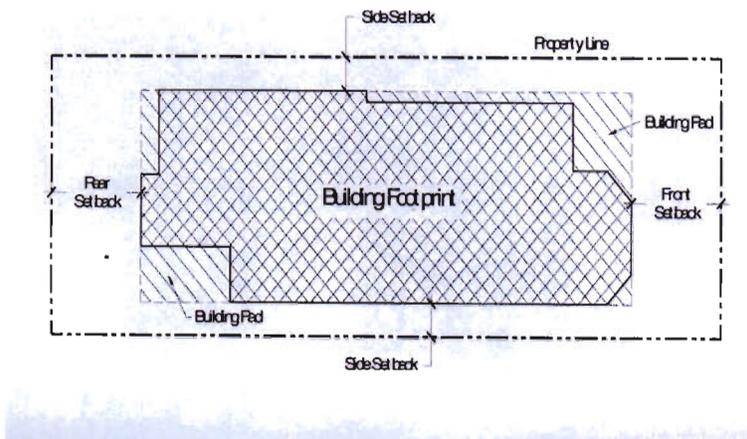
Example: 3,750 sq. ft. lot:  $(3,750/2) \times 0.9^{(3750/1875)} = 1,875 \times 0.81 = 1,519 \text{ sq. ft.}$

See the following Table 15-2.3. for a schedule equivalent of this formula.

TABLE 15-2.3.

Lot Depth, <math>\leq</math> 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.



(E) **FRONT AND REAR YARDS.** Front and Rear Yards are as follows:

TABLE 15-2.3.a

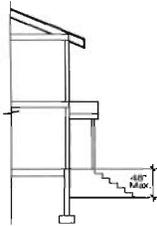
Lot Depth	Min. Front/Rear Setback	Total of Setbacks
Up to 75 ft., inclusive	10 ft.	20 ft.
From 75 ft. to 100 ft.	12 ft.	25 ft.
Over 100 ft.	15 ft.	30 ft.

(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.



Front Yard ← →

(3) Decks, porches, or Bay Windows not more than ten feet (10') wide projecting not more than three feet (3') into the Front Yard.

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(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.**

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(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.

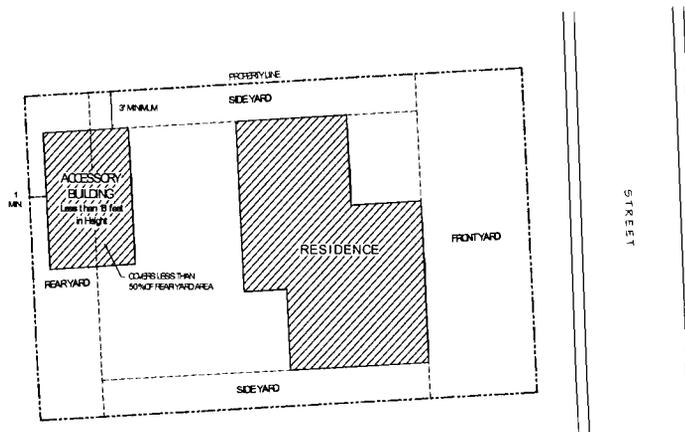
(3) Window wells or light wells projecting not more than four feet (4') into the Rear Yard.

(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 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.<sup>12</sup>

(2) Chimneys not more than five feet (5') wide projecting not more than two feet (2') into the Side Yard.<sup>12</sup>

(3) Window wells or light wells projecting not more than four feet (4') into the Side Yard.<sup>12</sup>

(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').<sup>12</sup>

(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 to a City staircase or pathway.

(10) Detached Accessory

---

<sup>12</sup> Applies only to Lots with a minimum Side Yard of five feet (5')

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 a minimum of 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.

**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)

**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:

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Comment [kaw9]: Title of new Historic Guidelines

Comment [kaw10]: Allow exceptions to setbacks for detached single car garages as an incentive to see this building form return to Park City.

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(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

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(4) When the new construction,

complies with the Uniform Building and Fire Codes and snow shedding and snow storage issues are mitigated.

**15-2.3-6 BUILDING HEIGHT.**

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

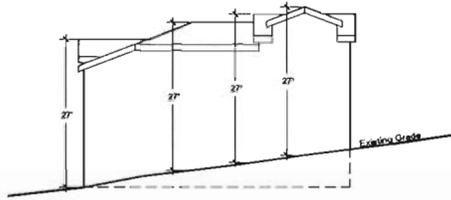
Final Grade must be within four vertical feet (4') from Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The Planning Commission may grant an exception to the Final Grade requirement as part of a Master Planned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

(A) A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone. Attics that are not Habitable Space do not count as a Story. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A for the extension of below Grade HCB Commercial Uses.

(B) A ten foot (10') minimum horizontal step in the downhill façade is required for a third (3<sup>rd</sup>) Story of a Structure unless the First Story is located completely under the finish Grade on all sides of the Structure. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A consistent with the MPD

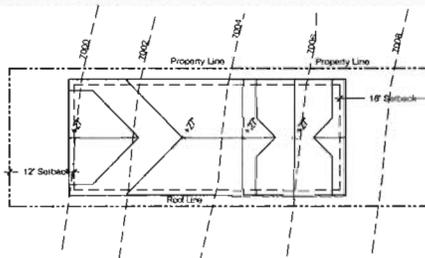
requirements of Section 15-6-5(F). On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed.

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



Comment [kaw11]: Previous height exception language deleted.

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

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(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)*

**15-2.3-7. 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 [Design Guidelines for Park City's Historic Districts and Historic Sites](#), Chapter 15-5.

**Deleted:** 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-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 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)*

**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

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<p><u>Avenue, or</u> expanding a Main Street Business into the HR-2 zoned Lot:</p>	<p>(4) Existing and new Structures fronting on Park Avenue may not contain Commercial Uses, <u>except as permitted in Section 15-2.3-8 B (1).</u></p>	<p><b>Deleted:</b> scg  <b>Deleted:</b> the  <b>Formatted:</b> Highlight  <b>Deleted:</b> above ground</p>
<p>(1) All Commercial Uses extending from Main Street <u>into</u> the HR-2 Zone are subject to Conditional Use Permit review requirements of Section 15-1-10 <u>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</u> below the Grade of Park Avenue projected across the HR-2 Lot <u>and beneath the Main Floor of a residential Structure or Structures facing Park Avenue.</u></p>	<p>(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.</p>	<p><b>Deleted:</b> the  <b>Deleted:</b> /or</p>
<p>(2) All Buildings <u>within the HR-2 portion of the development</u> must meet the minimum Side and Front Yard Setbacks of the HR-2 District as stated in Section 15-2.3-4, <u>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).</u> <u>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.</u></p>	<p>(6) The number of residential units allowed in the HR-2 portion of the <u>development</u> is limited by the Lot and Site Requirements of the HR-2 District as stated in Section 15-2.3-4.</p>	<p><b>Deleted:</b> and  <b>Deleted:</b> the  <b>Deleted:</b> Property  <b>Comment [kaw12]:</b> Require CUP or MPD for extending Main Street business uses into HR2 zone. Such uses must be located below the grade of Park Avenue.  <b>Deleted:</b> facing or fronting on</p>
<p>(3) <u>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.</u></p>	<p>(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. <u>Alarms shall be installed on all emergency doors that provide access to Park Avenue.</u></p>	<p><b>Deleted:</b> unit  <b>Deleted:</b> s  <b>Deleted:</b> y  <b>Deleted:</b> s  <b>Deleted:</b> unless the Planning Commission grants an exception to this requirement during the MPD review and the development is consistent with Section 15-6-5 (F). -  <b>Deleted:</b> The height of the Building at the Zone District boundary, within the HCB District, must be Compatible with the twenty seven foot (27') height restriction on the adjacent HR-2 Lot.</p>
<p>(3) <u>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.</u></p>	<p>(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</p>	<p><b>Deleted:</b> The height of the Building at the Zone District boundary, within the HCB District, must be Compatible with the twenty seven foot (27') height restriction on the adjacent HR-2 Lot.</p>

include such things as noise, odor, and glare, intensity of activity, parking, signs, lighting, access, and aesthetics.

(9) No loading docks, service yards, 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) No Density transfer from the HCB property to the HR-2 property

is allowed.

(15) Maximum allowed Building Footprint is subject to Section 15-6-5 (B).

**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

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Comment [kaw14]: Refers to the MPD Chapter where Building Footprint is allowed to be calculated based on the number of original lots and/or on any conditions of the plat amendment or subdivision. This allows development compatible with the surrounding neighborhood.

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Comment [kaw13]: The intent is that houses fronting on Park Avenue need to maintain the pattern of building façade and spacing typical of and compatible with the surrounding residential neighborhood.

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.

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Deleted: PARKING REGULATIONS

(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. 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)*

**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 Park City's 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 Park City's 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)*

**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

Comment [kaw15]: Deleted Commercial Uses

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(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. No. 06-56)*

**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.**

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(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)*

**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. No. 06-56)*

**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. No. 06-56)*

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**PARK CITY MUNICIPAL CODE  
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TITLE 15 - LAND MANAGEMENT CODE (LMC)
CHAPTER 6 - MASTER PLANNED DEVELOPMENTS

Chapter adopted by Ordinance No. 02-07

CHAPTER 6 - MASTER PLANNED DEVELOPMENTS (MPD)

15-6 -1. PURPOSE.

The purpose of this Chapter is to describe the process and set forth criteria for review of Master Planned Developments (MPDs) in Park City. The Master Planned Development provisions set forth Use, Density, height, parking, design theme and general Site planning criteria for larger and/or more complex projects having a variety of constraints and challenges, such as environmental issues, multiple zoning districts, location within or adjacent to transitional areas between different land Uses, and infill redevelopment where the MPD process can provide design flexibility necessary for well-planned, mixed use developments that are compatible with the surrounding neighborhood. The goal of this section is to result in projects which:

- (A) complement the natural features of the Site;
(B) ensure neighborhood Compatibility;

(C) strengthen the resort character of Park City;

(D) result in a net positive contribution of amenities to the community;

(E) provide a variety of housing types and configurations;

(F) provide the highest value of open space for any given Site;

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(G) efficiently and cost effectively extend and provide infrastructure;

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(H) provide opportunities for the appropriate redevelopment and reuse of existing structures/sites and maintain compatibility with the surrounding neighborhood;

(I) protect residential uses and residential neighborhoods from the impacts of non-residential uses using best practice methods and diligent code enforcement; and

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(J) encourage mixed use, walkable and sustainable development and redevelopment that provide innovative and energy efficient

design, including innovative alternatives to reduce impacts of the automobile on the community.

**15-6 -2. APPLICABILITY.**

(A) The Master Planned Development process shall be required in all zones except the Historic Residential (HR-1, HR-2), Historic Residential - Low Density (HRL), and Historic Residential - Medium Density (HRM) for the following:

- (1) Any residential project larger than ten (10) Lots or units.
- (2) All Hotel and lodging projects with more than fifteen (15) Residential Unit Equivalents.
- (3) All new Commercial or industrial projects greater than 10,000 square feet Gross Floor Area.

(B) The Master Planned Development process is allowed but not required in the Historic Commercial Business (HCB), Historic Recreation Commercial (HRC), Historic Residential (HR-2) and Historic Residential (HR-1) zones, provided the subject property and proposed MPD meet the following criteria:

- (1) The Property includes two (2) or more zoning designations, and
- (2) The Property has significant Historic Structures that either have been restored or are proposed to be restored as part of the MPD; and

(3) The proposed Master Planned Development includes reduced surface parking.

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(C) MPDs are allowed in Historic Residential (HR-1) and (HR-2) zones only when:

- (1) HR-1 or HR-2 zoned parcels are combined with adjacent HRC or HCB zone Properties as part of an allowed MPD, see criteria above; or
- (2) Property is not a part of the original Park City Survey or Snyder's Addition to the Park City Survey and which may be considered for affordable housing MPDs consistent with Section 15-6-7 herein.

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*(Amended by Ord. Nos. 04-08; 06-22)*

**15-6 -3. USES.**

A Master Planned Development (MPD) can only contain Uses, which are Permitted or Conditional in the zone(s) in which it is located. The maximum Density and type of Development permitted on a given Site will be determined as a result of a Site Suitability Analysis and shall not exceed the maximum Density in the zone, except as otherwise provided in this section. The Site shall be looked at in its entirety, including all adjacent property under the same ownership, and the Density located in the most appropriate locations. When Properties are in more than one (1) Zoning District, there may be a shift of Density between Zoning

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Districts if that transfer results in a project which better meets the goals set forth in Section 15-6-1 herein, **except that Density transfers are not allowed between the HR-2 and HCB Zoning Districts.** Density for MPDs will be based on the Unit Equivalent Formula, as defined in LMC Chapter 15-15, and as stated in Section 15-6-8 herein.

*(Amended by Ord. No. 06-22)*

**15-6 -4. PROCESS.**

**(A) PRE-APPLICATION CONFERENCE.** A pre-Application conference shall be held with the Planning Department staff in order for the Applicant to become acquainted with the Master Planned Development procedures and related City requirements and schedules. The Planning Department staff will give preliminary feedback to the potential Applicant based on information available at the pre-Application conference and will inform the Applicant of issues or special requirements which may result from the proposal.

**(B) PRE-APPLICATION PUBLIC MEETING AND DETERMINATION OF COMPLIANCE.** In order to provide an opportunity for the public and the Planning Commission to give preliminary input on a concept for a Master Planned Development, all MPDs will be required to go through a pre-Application public meeting before the Planning Commission. A pre-Application will be filed with the Park City Planning Department and shall include conceptual plans as stated on the Application form and the applicable fee. The public will be

notified and invited to attend and comment in accordance with LMC Chapters 15-1-12 and 15-1-21, Notice Matrix, of this Code.

At the pre-Application public meeting, the Applicant will have an opportunity to present the preliminary concepts for the proposed Master Planned Development. This preliminary review will focus on identifying issues of compliance with the General Plan and zoning compliance for the proposed MPD. The public will be given an opportunity to comment on the preliminary concepts so that the Applicant can address neighborhood concerns in preparation of an Application for an MPD.

The Planning Commission shall review the preliminary information to identify issues on compliance with the General Plan and will make a finding that the project initially complies with the General Plan. Such finding is to be made prior to the Applicant filing a formal MPD Application. If no such finding can be made, the applicant must submit a modified Application or the General Plan would have to be modified prior to formal acceptance and processing of the Application. For larger MPDs, it is recommended that the Applicant host additional neighborhood meetings in preparation of filing of a formal Application for an MPD.

For MPDs that are vested as part of Large Scale MPDs the Planning Commission may waive the requirement for a pre-Application meeting, but the Commission shall make a finding at the time of approval that the project is consistent with the Large Scale MPD.

**Comment [kaw1]:** No Density transfer between HR-2 and HCB.

(C) **APPLICATION.** The Master Planned Development Application must be submitted with a completed Application form supplied by the City. A list of minimum requirements will accompany the Application form. The Application must include written consent by all Owners of the Property to be included in the Master Planned Development. Once an Application is received, it shall be assigned to a staff Planner who will review the Application for completeness. The Applicant will be informed if additional information is necessary to constitute a Complete Application.

(D) **PLANNING COMMISSION REVIEW.** The Planning Commission is the primary review body for Master Planned Developments and is required to hold a public hearing and take action. All MPDs will have at least one (1) work session before the Planning Commission prior to a public hearing.

(E) **PUBLIC HEARING.** In addition to the preliminary public input session, a formal public hearing on a Master Planned Development is required to be held by the Planning Commission. The Public Hearing will be noticed in accordance with LMC Chapters 15-1-12 and 15-1-21, Notice Matrix. Multiple Public Hearings, including additional notice, may be necessary for larger, or more complex, projects.

(F) **PLANNING COMMISSION ACTION.** The Planning Commission shall approve, approve with modifications, or deny a requested Master Planned

Development. The Planning Commission action shall be in the form of written findings of fact, conclusions of law, and in the case of approval, conditions of approval.

Action shall occur only after the required public hearing is held. To approve an MPD, the Planning Commission will be required to make the findings outlined in Section 15-6-6 herein.

Appeals of Planning Commission action shall be conducted in accordance with LMC Chapter 15-1-18.

(G) **DEVELOPMENT AGREEMENT.** Once the Planning Commission has approved Master Planned Development, the approval shall be put in the form of a Development Agreement. The Development Agreement shall be in a form approved by the City Attorney, and shall contain, at a minimum, the following:

- (1) A legal description of the land;
- (2) All relevant zoning parameters including all findings, conclusions and conditions of approval;
- (3) An express reservation of the future legislative power and zoning authority of the City;
- (4) A copy of the approved Site plan, architectural plans, landscape plans, Grading plan, trails and open space plans, and other plans, which are a part of the Planning Commission approval;

- (5) A description of all Developer exactions or agreed upon public dedications;
- (6) The Developers agreement to pay all specified impact fees; and
- (7) The form of ownership anticipated for the project and a specific project phasing plan.

The Development Agreement shall be ratified by the Planning Commission, signed by the City Council and the Applicant, and recorded with the Summit County Recorder. The Development Agreement shall contain language, which allows for minor, administrative modifications to occur to the approval without revision of the agreement. The Development Agreement must be submitted to the City within six (6) months of the date the project was approved by the Planning Commission, or the Planning Commission approval shall expire.

**(H) LENGTH OF APPROVAL.**  
Construction, as defined by the Uniform Building Code, will be required to commence within two (2) years of the date of the execution of the Development Agreement. After construction commences, the MPD shall remain valid as long as it is consistent with the approved specific project phasing plan as set forth in the Development Agreement. It is anticipated that the specific project phasing plan may require Planning Commission review and reevaluation of the project at specified points in the Development of the project.

**(I) MPD MODIFICATIONS.**  
Changes in a Master Planned Development, which constitute a change in concept, Density, unit type or configuration of any portion or phase of the MPD will justify review of the entire master plan and Development Agreement by the Planning Commission, unless otherwise specified in the Development Agreement. If the modifications are determined to be substantive, the project will be required to go through the pre-Application public hearing and determination of compliance as outlined in Section 15-6-4(B) herein.

**(J) SITE SPECIFIC APPROVALS.**  
Any portion of an approved Master Planned Development may require additional review by the Planning Department and/or Planning Commission as a Conditional Use permit, if so required by the Planning Commission at the time of the MPD approval.

The Planning Commission and/or Planning Department, specified at the time of MPD approval, will review Site specific plans including Site layout, architecture and landscaping, prior to issuance of a Building Permit.

The Application requirements and review criteria of the Conditional Use process must be followed. A pre-Application public meeting may be required by the Planning Director, at which time the Planning Commission will review the Application for compliance with the large scale MPD approval.

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

15-6 -5. MPD REQUIREMENTS.

All Master Planned Developments shall contain the following minimum requirements. Many of the requirements and standards will have to be increased in order for the Planning Commission to make the necessary findings to approve the Master Planned Development.

(A) **DENSITY.** The type of Development, number of units and Density permitted on a given Site will be determined as a result of a Site Suitability Analysis and shall not exceed the maximum Density in the zone, except as otherwise provided in this section. The Site shall be looked at in its entirety and the Density located in the most appropriate locations.

When Properties are in more than one (1) Zoning District, there may be a shift of Density between Zoning Districts if that transfer results in a project that better meets the goals set forth in Section 15-6-1. **Except that Density transfers between the HR-2 and HCB Zoning Districts are not allowed.**

Density for MPDs will be based on the Unit Equivalent Formula, as defined in Section 15-6-8 herein.

(1) **EXCEPTIONS.** The Planning Department may recommend that the Planning Commission grant up to a maximum of ten percent (10%) increase in total Density if the Applicant:

- (a) Donates open space in excess of the sixty percent

(60%) requirement, either in fee or a less-than-fee interest to either the City or another unit of government or nonprofit land conservation organization approved by the City. Such Density bonus shall only be granted upon a finding by the Planning Director that such donation will ensure the long-term protection of a significant environmentally or visually sensitive Area; or

(b) Proposes a Master Planned Development (MPD) in which more than thirty percent (30%) of the Unit Equivalents are employee/Affordable Housing consistent with the City's adopted employee/Affordable Housing guidelines and requirements; or

(c) Proposes an MPD in which more than eighty percent (80%) of the project is open space as defined in this code and prioritized by the Planning Commission.

**(B) MAXIMUM ALLOWED BUILDING FOOTPRINT FOR MASTER PLANNED DEVELOPMENTS WITHIN THE HR-1 and HR-2 DISTRICTS.**

(1) The HR-1 and HR-2 Districts sets forth a Maximum Building Footprint for all Structures based on Lot Area. For purposes of establishing the maximum Building Footprint for Master Planned Developments, which include Development in the HR-1 and HR-2 Districts, the maximum Building Footprint for the HR-1 and HR-2 portions shall be calculated based on the conditions of the Subdivision Plat, or the Lots of record prior to a Plat Amendment combining the lots as stated in Section 15-2.3-4.

(a) The Area of below Grade Parking in the HR-1 and HR-2 zones, shall not count against the maximum Building Footprint.

(b) The Area of below Grade Commercial Uses extending from a Main Street business into the HR-2 Subzone A shall not count against the maximum Building Footprint.

(c) The maximum FAR of the HCB zoning district continues to apply to the HCB zoned portion and may be reduced as part of a Master Planned Development.

(d) The Floor Area for a detached, single car Garage, not to exceed two-hundred

and twenty square feet (220 sf) of Floor Area, shall not count against the maximum Building Footprint.

(C) **SETBACKS.** The minimum Setback around the exterior boundary of an MPD shall be twenty five feet (25') for Parcels greater than one (1) acre in size. In some cases, that Setback may be increased to retain existing Significant Vegetation or natural features, to create an adequate buffer to adjacent Uses, or to meet historic compatibility requirements. The Planning Commission may decrease the required perimeter Setback from twenty five feet (25') to the zone required Setback if it is necessary to provide desired architectural interest and variation. The Planning Commission may reduce Setbacks within the project from those otherwise required in the zone to match an abutting zone Setback, provided the project meets minimum Uniform Building Code and Fire Code requirements, does not increase project Density, maintains the general character of the surrounding neighborhood in terms of mass, scale and spacing between houses, and meets open space criteria set forth in Section 15-6-5(D).

(D) **OPEN SPACE.**

(1) **MINIMUM REQUIRED.** All Master Planned Developments shall contain a minimum of sixty percent (60%) open space as defined in LMC Chapter 15-15 with the exception of the General Commercial (GC) District, Historic Residential Commercial (HRC),

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Historic Commercial Business (HCB), Historic Residential (HR-1 and HR-2) zones and wherein cases of redevelopment of existing Developments the minimum open space requirement shall be thirty percent (30%).

For Applications proposing the redevelopment of existing Developments, the Planning Commission may reduce the required open space in exchange for project enhancements in excess of those otherwise required by the Land Management Code that may directly advance policies reflected in the applicable General Plan sections or more specific Area plans. Such project enhancements may include, but are not limited to, Affordable Housing, greater landscaping buffers along public ways and public/private pedestrian Areas that provide a public benefit, increased landscape material sizes, public transit improvement, public pedestrian plazas, pedestrian way/trail linkages, public art, and rehabilitation of Historic Structures.

(2) **TYPE OF OPEN SPACE.**  
The Planning Commission shall designate the preferable type and mix of open space for each Master Planned Development. This determination will be based on the guidance given in the Park City General Plan. Landscaped open space may be utilized for project amenities such as gardens,

greenways, pathways, plazas, and other similar Uses. Open space may not be utilized for Streets, roads, driveways, Parking Areas, commercial Uses, or Buildings requiring a Building Permit.

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(E) **OFF-STREET PARKING.**

(1) The number of Off-Street Parking Spaces in each Master Planned Development shall not be less than the requirements of this code, except that the Planning Commission may increase or decrease the required number of Off-Street Parking Spaces based upon a parking analysis submitted by the Applicant at the time of MPD submittal. The parking analysis shall contain, at a minimum, the following information:

- (a) The proposed number of vehicles required by the occupants of the project based upon the proposed Use and occupancy.
- (b) A parking comparison of projects of similar size with similar occupancy type to verify the demand for occupancy parking.
- (c) Parking needs for non-dwelling Uses, including traffic attracted to Commercial Uses from Off-Site.

(d) An analysis of time periods of Use for each of the Uses in the project and opportunities for Shared Parking by different Uses. This shall be considered only when there is Guarantee by Use covenant and deed restriction.

(e) A plan to discourage the Use of motorized vehicles and encourage other forms of transportation.

(f) Provisions for overflow parking during peak periods.

The Planning Department shall review the parking analysis and provide a recommendation to the Commission. The Commission shall make a finding during review of the MPD as to whether or not the parking analysis supports a determination to increase or decrease the required number of Parking Spaces.

(2) The Planning Commission may permit an Applicant to pay an in-lieu parking fee in consideration for required on-site parking provided that the Planning Commission determines that:

(a) Payment in-lieu of the on-Site parking requirement will prevent a loss of significant open space, yard

Area, and/or public amenities and gathering Areas;

(b) Payment in-lieu of the on-Site parking requirement will result in preservation and rehabilitation of significant Historic Structures or redevelopment of Structures and Sites;

(c) Payment in-lieu of the on-Site parking requirement will not result in an increase project Density or intensity of Use; and

(d) The project is located on a public transit route or is within three (3) blocks of a municipal bus stop.

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The payment in-lieu fee for the required parking shall be subject to the provisions in the Park City Municipal Code Section 11-12-16 and the fee set forth in the current Fee Resolution, as amended.

(F) **BUILDING HEIGHT**. The height requirements of the Zoning Districts in which an MPD is located shall apply except that the Planning Commission may consider an increase in height based upon a Site specific analysis and determination.

Height exceptions will not be granted for Master Planned Developments within the HR-1 and HR-2 Zoning Districts

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The Applicant will be required to request a Site specific determination and shall bear the

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burden of proof to the Planning Commission that the necessary findings can be made. In order to grant Building height in addition to that which is allowed in the underlying zone, the Planning Commission is required to make the following findings:

(1) The increase in Building Height does not result in increased square footage or Building volume over what would be allowed under the zone required Building Height and Density, including requirements for facade variation and design, but rather provides desired architectural variation;

(2) Buildings have been positioned to minimize visual impacts on adjacent Structures. Potential problems on neighboring Properties caused by shadows, loss of solar Access, and loss or air circulation have been mitigated to the extent possible as defined by the Planning Commission;

(3) There is adequate landscaping and buffering from adjacent Properties and Uses. Increased Setbacks and separations from adjacent projects are being proposed;

(4) The additional Building Height has resulted in more than the minimum open space required and has resulted in the open space being more usable;

(5) The additional Building height shall be designed in a manner so as to provide a transition in roof elements in compliance with Chapter 5, Architectural Guidelines or the Design Guidelines for Park City's Historic Districts and Historic Sites if within the Historic District;

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(6) The additional Building height does not negatively impact the surrounding neighborhood or adjacent Buildings in terms of aesthetics, mass, scale, and volume and the proposed Building or Buildings are Compatible with the surrounding neighborhood.

Comment [kaw3]: Revised to be compatible with the neighborhood. However not always residential and not always historic in MPD section.

Comment [kaw4]: This was deleted because the Steep Slope CUP section does not allow height exceptions.

If and when the Planning Commission grants additional height due to a Site specific analysis and determination, that additional height shall only apply to the specific plans being reviewed and approved at the time. Additional Building Height for a specific project will not necessarily be considered for a different, or modified, project on the same Site.

(G) **SITE PLANNING.** An MPD shall be designed to take into consideration the characteristics of the Site upon which it is proposed to be placed. The project should be designed to fit the Site, not the Site modified to fit the project. The following shall be addressed in the Site planning for an MPD:

(1) Units should be clustered on the most developable and least

visually sensitive portions of the Site with common open space separating the clusters. The open space corridors should be designed so that existing Significant Vegetation can be maintained on the Site.

(2) Projects shall be designed to minimize Grading and the need for large retaining Structures.

(3) Roads, utility lines, and Buildings should be designed to work with the Existing Grade. Cuts and fills should be minimized.

(4) Existing trails should be incorporated into the open space elements of the project and should be maintained in their existing location whenever possible. Trail easements for existing trails may be required. Construction of new trails will be required consistent with the Park City Trails Master Plan.

(5) Adequate internal vehicular and pedestrian/bicycle circulation should be provided. Pedestrian/bicycle circulations shall be separated from vehicular circulation and may serve to provide residents the opportunity to travel safely from an individual unit to another unit and to the boundaries of the Property or public trail system. Private internal Streets may be considered for Condominium projects if they meet the minimum emergency and safety requirements.

(6) The Site plan shall include adequate Areas for snow removal and snow storage. The landscape plan shall allow for snow storage Areas. Structures shall be set back from any hard surfaces so as to provide adequate Areas to remove and store snow. The assumption is that snow should be able to be stored on Site and not removed to an Off-Site location.

(7) It is important to plan for refuse storage and collection and recycling facilities. The Site plan shall include adequate Areas for dumpsters and recycling containers. These facilities shall be Screened or enclosed. Pedestrian Access shall be provided to the refuse/recycling facilities from within the MPD for the convenience of residents and guests.

(8) The Site planning for an MPD should include transportation amenities including drop-off Areas for van and shuttle service, and a bus stop, if applicable.

(9) Service and delivery Access and loading/unloading Areas must be included in the Site plan. The service and delivery should be kept separate from pedestrian Areas.

(H) **LANDSCAPE AND STREET SCAPE**. To the extent possible, existing Significant Vegetation shall be maintained on Site and protected during construction. Where landscaping does occur, it should

consist primarily of appropriate drought tolerant species. Lawn or turf will be limited to a maximum of fifty percent (50%) of the Area not covered by Buildings and other hard surfaces and no more than seventy-five percent (75%) of the above Area may be irrigated. Landscape and Streetscape will use native rock and boulders. Lighting must meet the requirements of LMC Chapter 15-5, Architectural Review.

(I) **SENSITIVE LANDS COMPLIANCE.** All MPD Applications containing any Area within the Sensitive Areas Overlay Zone will be required to conduct a Sensitive Lands Analysis and conform to the Sensitive Lands Provisions, as described in LMC Section 15-2.21.

(J) **EMPLOYEE/AFFORDABLE HOUSING.** MPD Applications shall include a housing mitigation plan which must address employee Affordable Housing as required by the adopted housing resolution in effect at the time of Application.

(K) **CHILD CARE.** A Site designated and planned for a Child Care Center may be required for all new single and multi-family housing projects if the Planning Commission determines that the project will create additional demands for Child Care.

*(Amended by Ord. Nos. 04-08; 06-22; 09-10)*

**15- 6- 6. REQUIRED FINDINGS AND CONCLUSIONS OF LAW.**

The Planning Commission must make the following findings in order to approve a Master Planned Development. In some cases, conditions of approval will be attached to the approval to ensure compliance with these findings.

(A) The MPD, as conditioned, complies with all the requirements of the Land Management Code;

(B) The MPD, as conditioned, meets the minimum requirements of Section 15-6-5 herein;

(C) The MPD, as conditioned, is consistent with the Park City General Plan;

(D) The MPD, as conditioned, provides the highest value of open space, as determined by the Planning Commission;

(E) The MPD, as conditioned, strengthens and enhances the resort character of Park City;

(F) The MPD, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible;

(G) The MPD, as conditioned, is Compatible in Use, scale, and mass with adjacent Properties, promotes neighborhood Compatibility, and protects residential neighborhoods and Uses;

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(H) The MPD provides amenities to the community so that there is no net loss of community amenities;

(I) The MPD, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.

(J) The MPD, as conditioned, meets the Sensitive Lands requirements of the Land Management Code. The project has been designed to place Development on the most developable land and least visually obtrusive portions of the Site;

(K) The MPD, as conditioned, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections; and

(L) The MPD has been noticed and public hearing held in accordance with this Code.

(M) The MPD incorporates best planning practices for sustainable development, including energy efficient design and construction.

*(Amended by Ord. No. 06-22)*

**15-6-7. MASTER PLANNED AFFORDABLE HOUSING DEVELOPMENT.**

(A) **PURPOSE.** The purpose of the master planned Affordable Housing Development is to promote housing for a diversity of income groups by providing Dwelling Units for rent or for sale in a price range affordable by families in the low-to-moderate income range. This may be

achieved by encouraging the private sector to develop Affordable Housing. Master Planned Developments, which are one hundred percent (100%) Affordable Housing, as defined by the housing resolution in effect at the time of Application, would be considered for a Density incentive greater than that normally allowed under the applicable Zoning District and Master Planned Development regulations with the intent of encouraging quality Development of permanent rental and permanent Owner-occupied housing stock for low and moderate income families within the Park City Area.

(B) **RENTAL OR SALES PROGRAM.** If a Developer seeks to exercise the increased Density allowance incentive by providing an Affordable Housing project, the Developer must agree to follow the guidelines and restrictions set forth by the Housing Authority in the adopted Affordable Housing resolution in effect at the time of Application.

(C) **MIXED RENTAL AND OWNER/OCCUPANT PROJECTS.** When projects are approved that comprise both rental and Owner/occupant Dwelling Units, the combination and phasing of the Development shall be specifically approved by the reviewing agency and become a condition of project approval. A permanent rental housing unit is one which is subject to a binding agreement with the Park City Housing Authority.

(D) **MPD REQUIREMENTS.** All of

the MPD requirements and findings of this section shall apply to Affordable Housing MPD projects.

(E) **DENSITY BONUS.** The reviewing agency may increase the allowable Density to a maximum of twenty (20) Unit Equivalents per acre. The Unit Equivalent formula applies.

(F) **PARKING.** Off-Street parking will be required at a rate of one (1) space per Bedroom.

(G) **OPEN SPACE.** A minimum of fifty percent (50%) of the Parcel shall be retained or developed as open space. A reduction in the percentage of open space, to not less than forty percent (40%), may be granted upon a finding by the Planning Commission that additional on or Off-Site amenities, such as playgrounds, trails, recreation facilities, bus shelters, significant landscaping, or other amenities will be provided above any that are required. Project open space may be utilized for project amenities, such as tennis courts, Buildings not requiring a Building Permit, pathways, plazas, and similar Uses. Open space may not be utilized for Streets, roads, or Parking Areas.

(H) **RENTAL RESTRICTIONS.** The provisions of the moderate income housing exception shall not prohibit the monthly rental of an individually owned unit. However, Nightly Rentals or timesharing shall not be permitted within Developments using this exception. Monthly rental of individually owned units shall comply with the guidelines and restrictions set forth by

the Housing Authority as stated in the adopted Affordable Housing resolution in effect at the time of Application.

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

**15-6-8. UNIT EQUIVALENTS.**

Density of Development is a factor of both the Use and size of Structures built within a project. In order to allow for, and to encourage, a variety of unit configurations, Density shall be calculated on the basis of Unit Equivalents. Unless otherwise stipulated, one (1) Unit Equivalent equates to one (1) single family Lot, 2,000 square feet of Multi-Family Dwelling floor area, or 1,000 square feet of commercial or office floor area. A duplex Lot equates to two (2) Unit Equivalents, unless otherwise stipulated by the Master Planned Development (MPD). The MPD may stipulate maximum Building Footprint and/or maximum floor area for single family and duplex Lots. Residential Unit Equivalents for Multi-Family Dwellings shall be calculated on the basis of one (1) Unit Equivalent per 2,000 square feet and portions of Unit Equivalents for additional square feet above or below 2,000. For example: 2,460 square feet of a multi-family unit shall count as 1.23 Unit Equivalents.

Affordable Housing units required as part of the MPD approval, and constructed on Site do not count towards the residential Unit Equivalents of the Master Plan. Required ADA units do not count towards the residential Unit Equivalents.

Support Uses and accessory meeting space use Unit Equivalents as outlined in Section 15-6-8(C) and (D) below.

(A) **CALCULATING RESIDENTIAL UNIT SQUARE FOOTAGE.** Unit square footage shall be measured from the interior of the exterior unit walls. All bathrooms, halls, closets, storage and utility rooms within a unit will be included in the calculation for square footage. Exterior hallways, common circulation and hotel use areas, such as lobbies, elevators, storage, and other similar Areas, will not be included. Common outdoor facilities, such as pools, spas, recreation facilities, ice-skating rinks, decks, porches, etc. do not require the Use of Unit Equivalents.

(B) **LOCKOUTS.** For purposes of calculating Unit Equivalents, Lockouts shall be included in the overall square footage of a unit.

(C) **SUPPORT COMMERCIAL WITHIN RESIDENTIAL MASTER PLANNED DEVELOPMENTS.** Within a Hotel or Nightly Rental Condominium project, **Support Commercial Floor Area may not exceed five percent (5%) of the total Floor Area of the approved Residential Unit Equivalents. Any unused Support Commercial Floor Area may be utilized for Meeting Space Floor Area.**

(D) **MEETING SPACE.** Within a Hotel or Condominium project, **Meeting Space Floor Area may not exceed five percent (5%) of the total Floor Area of the approved Residential Unit Equivalents. Any unused Meeting Space Floor Area may be**

**utilized for Support Commercial Floor Area within a Hotel or Nightly Rental Condominium project.**

(E) **COMMERCIAL UNIT EQUIVALENTS.** Commercial spaces, approved as a part of a Master Planned Development, shall be calculated on the basis of one (1) Unit Equivalent per 1000 square feet of Net Leasable Floor Area, exclusive of common corridors, for each part of a 1,000 square foot interval. For example: 2,460 square feet of commercial Area shall count as 2.46 Unit Equivalents.

(F) **RESIDENTIAL ACCESSORY USES.** Residential Accessory Uses include those facilities that are for the **administration or benefit of the residents of a commercial Residential Use, such as a Hotel or Nightly Rental Condominium project, that, are common to the residential project and are not locate within any individual Residential Unit.** Residential Accessory Uses do not require the use of Unit Equivalents and include such Uses as:

- Ski/Equipment lockers
- Lobbies
- Registration
- Concierge
- Bell stand/luggage storage
- Maintenance Areas
- Mechanical rooms **and shafts**
- Laundry facilities and storage
- Employee facilities
- Common pools, saunas and hot tubs not open to the public
- Telephone Areas
- Public restrooms

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**Deleted:** Any square footage, which is not used in the five percent (5%) support commercial allocation can be used as meeting space.

**Deleted:** Meeting space in excess of the five percent (5%) allocation for meeting rooms and the five percent (5%) allocation for support commercial shall be counted as commercial Unit Equivalents. Accessory meeting spaces, such as back of house, administrative areas, banquet offices, banquet preparation areas, and storage areas are spaces normally associated with and necessary to serve meeting and banquet activities and Uses. These accessory meeting spaces do not require the use of Unit Equivalents. ¶

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**Comment [kaw5]:** Staff is conducting research to determine a maximum floor area for these types of back of house uses.

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**Deleted:** Gross Floor Area

**Deleted:** Support Commercial Uses, which shall not count against any allotted commercial Unit Equivalents approved as part of the MPD. Any Support Commercial Uses in excess of five percent (5%) of the total Gross Floor Area will be required to use commercial Unit Equivalents, if approved as a part of the MPD. If no commercial allocation has been granted for an MPD, no more than five percent (5%) of the floor area can be support Commercial Uses, and no other Commercial Uses will be allowed. ¶

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**Deleted:** up to

**Deleted:** Gross Floor Area

**Deleted:** may be dedicated for meeting room space without the Use of Unit Equivalents. Meeting space in excess of five percent (5%) of the total Gross Floor Area, excluding Parking Areas, will be counted as commerc ... [11]

Administrative offices  
Hallways and circulation  
Elevators and stairways

(G) **RESORT ACCESSORY USES.**

The following Uses are considered accessory for the operation of a resort for winter and summer operations. These Uses are incidental to and customarily found in connection with the principal Use or Building and are operated for the convenience of the Owners, occupants, employees, customers, or visitors to the principal resort Use. Accessory Uses associated with an approved summer or winter resort do not require the Use of a Unit Equivalent. These Uses include such Uses as:

Information  
Lost and found  
First Aid  
Mountain patrol  
Administration  
Maintenance and storage facilities  
Emergency medical facilities  
Public lockers  
Public restrooms  
Employee restrooms and Areas  
Ski school/day care facilities  
Instruction facilities  
Ticket sales  
Equipment/ski check  
Circulation and hallways

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

**Comment [kaw6]:** Staff will do additional research on the back of house issue and determine whether a maximum % of UE limitation is reasonable.

**Deleted:** Back of house Uses

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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) Special exceptions to the terms of the Land Management Code; and
- (3) Variances from the terms of the Land Management Code.

~~(4) Appeals and Call-ups of final action by Planning Commission at the request of the City Council.~~

(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. No. 06-35)*

**15-10-4. GROUND 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 official 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.**

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. 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)*

#### 15-10-8. SPECIAL EXCEPTIONS.

The Board may hear Applications for special exceptions to the terms of the Land Management Code, which apply to variances, modifications of Non-Conforming Uses, appeals and other matters upon which the Board is required to pass judgment. Applications for special exceptions must be filed with the Planning Department, and the required fee paid in advance. No Application for a special exception shall be approved unless the

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Comment [kaw1]: To be consistent with Chapter 1 and Section 15-10-3

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the Application for compliance with the "Criteria for Designating Historic Sites to the Park City Historic Sites Inventory." The HPB shall review the Application "de novo" giving no deference to the prior determination. The Applicant has the burden of proof in removing the Site from the inventory. If the HPB finds that the Application does not comply with the criteria set forth in Section 15-11-10(A)(1) or Section 15-11-10(A)(2), the Building (main, attached, detached, or public) Accessory Building, and/or Structure will be removed from the Historic Sites Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(d) **Appeal.** The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Historic Preservation Board decision. Notice of pending appeals shall be made pursuant to Section 15-1-21

of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board and will be reviewed for correctness.

*(Amended by Ord. Nos. 09-05; 09-23)*

**15-11-11. DESIGN GUIDELINES FOR PARK CITY'S HISTORIC DISTRICTS AND HISTORIC SITES.**

The HPB shall promulgate and update as necessary Design Guidelines for Use in the Historic District zones and for Historic Sites. These guidelines shall, upon adoption by resolution of the City Council, be used by the Planning Department staff in reviewing Historic District/Site design review Applications. The Design Guidelines for Park City's Historic Districts and Historic Sites shall address rehabilitation of existing Structures, additions to existing Structures, and the construction of new Structures. The Design Guidelines are incorporated into this Code by reference. From time to time, the HPB may recommend changes in the Design Guidelines for Park City's Historic Districts and Historic Sites to Council, provided that no changes in the guidelines shall take effect until adopted by a resolution of the City Council.

*(Amended by Ord. No. 09-23)*

**15-11-12. HISTORIC DISTRICT OR HISTORIC SITE DESIGN REVIEW.**

The Planning Department shall review and approve, approve with conditions, or deny,

all Historic District/Site design review Applications involving an Allowed or Conditional Use associated with a Building Permit to build, locate, construct, remodel, alter, or modify any Building, accessory Building or Structure, located within the Park City Historic Districts or Historic Sites.

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, LMC Chapter 15-11, and LMC Chapter 15-5. Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provision shall apply to the extent allowed by law.

**(A) PRE-APPLICATION CONFERENCE.**

(1) The Owner and/or Owner's representative shall be required to attend a pre-Application conference with representatives of the Planning and Building Departments for the purpose of determining the general scope of the proposed Development, identifying potential impacts of the Development that may require mitigation, providing information on City-sponsored incentives that may be available to the Applicant, and outlining the Application requirements.

(2) Each Application shall comply with all of the Design Guidelines for Historic Districts and Historic Sites unless the Planning

Department determines ~~that~~, because of the scope of the proposed Development, ~~certain guidelines are not applicable.~~

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If the Planning Department determines certain guidelines do not apply to an Application, the Planning Department staff shall communicate, via electronic or written means, the information to the Applicant. It is the responsibility of the Applicant to understand the requirements of the Application.

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~~(3) The Planning Director, or his designee, may, upon review of a Pre-Application submittal, determine that due to the limited scope of a project the Historic District or Historic Site Design Review process as outlined in LMC Sections 15-11-12 (B- E) is not required and is exempt.~~

~~If such a determination is made, the Planning Director, or his designee may, upon reviewing the Pre-Application for compliance with applicable Design Guidelines, approve, deny, or approve with conditions, the project and the Applicant may submit the project for a Building Permit.~~

~~Applications that may be exempt from the Historic Design Review process, include, but are not limited to the following:~~

~~(a) For Non-Historic Structures and Sites- minor routine maintenance,~~

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, such as work on roofing, decks, railings, stairs, hot tubs and patios, foundations, windows, doors, trim, lighting, mechanical equipment, paths, driveways, retaining walls, landscaping, interior remodels, temporary improvements, and similar work.

(b) For Significant Historic Structures and Sites- minor routine maintenance, minor routine construction work and minor alterations having little or no negative impact on the historic character of the surrounding neighborhood, the Historic Structure or the Historic District, such as work on roofing, decks, railings, stairs, hot tubs and patios, replacement of windows and doors in existing or to historic locations, trim, lighting, mechanical equipment located in a rear yard area or rear facade, paths, driveways, repair of existing retaining walls, landscaping, interior remodels, temporary improvements, and similar work.

(c) For Landmark Historic Structures and Sites- minor routine maintenance and minor routine construction having no negative impact on the historic character of the surrounding neighborhood, the Historic Structure, or the Historic District, such as re-

roofing; repair of existing decks, railings, and stairs; hot tubs and patios located in a rear yard; replacement of existing windows and doors in existing or historic locations; repair of existing trim and other historic detailing; lighting, mechanical equipment located in a rear yard area or rear facade, repair of paths, driveways, and existing retaining walls; landscaping, interior remodels, temporary improvements, and similar work.

(B) **COMPLETE APPLICATION.**

The Owner and/or Applicant for any Property shall be required to submit a Historic District/Site design review Application for proposed work requiring a Building Permit in order to complete the work.

(C) **NOTICE.** Upon receipt of a Complete Application, but prior to taking action on any Historic District/Site design review Application, the Planning staff shall provide notice pursuant to Section 15-1-12 and 15-1-21 of this Code.

(D) **DECISION.** Following the fourteen (14) day public notice period noted in Section 15-1-21 of this Code. The Planning Department staff shall make, within forty-five (45) days, written findings, conclusions of law, and conditions of approval or reasons for denial, supporting the decision and shall provide the Owner and/or Applicant with a copy. Staff shall also provide notice pursuant to Section 15-1-21.

(1) Historic District/Site design review Applications shall be

approved by the Planning Department staff upon determination of compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites. If the Planning Department staff determines an Application does not comply with the Design Guidelines, the Application shall be denied.

(2) With the exception of any Application involving the Reconstruction of a Building, Accessory Building, and/or Structure on a Landmark Site, an Application associated with a Landmark Site shall be denied if the Planning Department finds that the proposed project will result in the Landmark Site no longer meeting the criteria set forth in 15-11-10(A)(1).

(3) An Application associated with a Significant Site shall be denied if the Planning Department finds that the proposed project will result in the Significant Site no longer meeting the criteria set forth in 15-11-10(A)(2).

(E) **APPEALS.** The Owner, Applicant, or any Person with standing as defined in Section 15-1-18(D) of this Code may appeal any Planning Department decision made on a Historic District/Site design review Application to the Historic Preservation Board.

All appeal requests shall be submitted to the Planning Department within ten (10) days of the decision. Appeals must be written and

shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project, and a comprehensive statement of the reasons for the appeal, including specific provisions of the Code and Design Guidelines that are alleged to be violated by the action taken. 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.

Notice of all pending appeals shall be made by staff, pursuant to Section 15-1-21 of this Code. The appellant shall provide required stamped and addressed notice envelopes within fourteen (14) days of the appeal. The notice and posting shall include the location and description of the proposed Development project. The scope of review by the Historic Preservation Board shall be the same as the scope of review at the Planning Department level.

(1) The Historic Preservation Board shall either approve, approve with conditions, or disapprove the proposal based on written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the Owner and/or Applicant with a copy.

(2) Any Historic Preservation Board decision may be appealed to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Historic Preservation

Board decision. Notice of all pending appeals shall be made by staff, pursuant to Section 15-1-21 f this Code. Appeals shall be considered only on the record made before the Historic Preservation Board and will be reviewed for correctness.

*(Amended by Ord. No. 09-23)*

**15-11-13. RELOCATION AND/OR REORIENTATION OF A HISTORIC BUILDING OR HISTORIC STRUCTURE.**

It is the intent of this section to preserve the Historic and architectural resources of Park City through limitations on the relocation and/or orientation of Historic Buildings, Structures, and Sites.

**(A) CRITERIA FOR THE RELOCATION AND/OR REORIENTATION OF THE HISTORIC BUILDING(S) AND/OR STRUCTURE(S) ON A LANDMARK SITE OR A SIGNIFICANT SITE.**

In approving a Historic District or Historic Site design review Application involving relocation and/or reorientation of the Historic Building(s) and/or Structure(s) on a Landmark Site or a Significant Site, the Planning Department shall find the project complies with the following criteria:

- (1) A portion of the Historic Building(s) and/or Structure(s) encroaches on an adjacent Property and an easement cannot be secured; or

- (2) The proposed relocation and/or reorientation will abate demolition of the Historic Building(s) and/or Structure(s) on the Site; or

- (3) The Planning Director and the Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation on the existing Site; or

- (4) The Planning Director and the Chief Building Official determine that unique conditions warrant the proposed relocation and/or reorientation to a different Site.

**(B) PROCEDURE FOR THE RELOCATION AND/OR REORIENTATION OF A LANDMARK SITE OR A SIGNIFICANT SITE.**

All Applications for the relocation and/or reorientation of any Historic Building(s) and/or Structure(s) on a Landmark Site or a Significant Site within the City shall be reviewed by the Planning Department pursuant to Section 15-11-12 of this Code.

*(Created by Ord. No. 09-23)*

**15-11-14. DISASSEMBLY AND REASSEMBLY OF A HISTORIC BUILDING OR HISTORIC STRUCTURE.**

It is the intent of this section to preserve the Historic and architectural resources of Park City through limitations on the disassembly

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**(8) REVIEW OF APPEALS OF THE PLANNING STAFF'S INTERPRETATION OF THE LAND MANAGEMENT CODE.**

The Owner, Applicant, or any non-Owner with standing as defined in Section 15-1-18(D) of this Code may request that Planning Staff Final Action on a project be reviewed by the Planning Commission. The standard of review by the Planning Commission shall be the same as the scope of review at the Staff level. Appeal process shall be in accordance with Section 15-1-18. Appeals shall be heard by the Planning Commission within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise.

**(9) SUBDIVISION AND RECORD OF SURVEY PLAT AND PLAT AMENDMENT REVIEW.** The Commission shall review all plats affecting land within the City limits or annexations to the City, according to Section 15-7. The scope of review on plat approval is limited to finding substantial compliance with the provisions of the state statute on recording of plats, and that all previously imposed conditions of approval, whether imposed by the Staff or the Commission have been satisfied.

Upon finding that the plat is in compliance with the state statute, and that conditions of approval have been

satisfied, the plat must be approved. The City Engineer, City Attorney, City Recorder, City Council, and Mayor shall all review the plat as required by statute before recording. Plats may be approved on the consent agenda.

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**(10) TERMINATION OF INACTIVE APPLICATIONS.** See Termination of Projects, Section 15-1-14.

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**(11) SENSITIVE LANDS REVIEW.** Any project falling within the Sensitive Lands Area Overlay Zone is subject to additional requirements and regulations as outlined in the Sensitive Area Overlay Zone Regulations, Section 15-2.21.

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**(12) EXTENSION OF CUP AND MPD APPROVAL.** See extension of Conditional Use Permit, Section 15-1-10(G) and MPD Section 15-6-4(H), Length of Approval.

*(Amended by Ord. Nos. 06-35; 09-10)*

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
FEBRUARY 24, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Richard Luskin, Dick Peek, Julia Pettit, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Kayla Sintz, Planner; Katie Cattan, Planner; Mark Harrington, Assistant City Attorney

=====

REGULAR MEETING

**I. ROLL CALL**

Chair Thomas called the meeting to order at 6:42 p.m. and noted that all Commissioners were present.

**III. PUBLIC COMMUNICATIONS**

There were no comments.

**IV STAFF/COMMISSIONER'S COMMUNICATIONS & DISCLOSURES**

Planner Cattan reported that a date was not set for when the Treasure Hill model would be displayed. The applicant is still in the process of building a protected cover around the model. Once that is done, the model will be displayed in the Planning Department. She would continue to update the Planning Commission on the matter.

Planner Cattan stated that the Staff was not a hundred percent certain on whether the Sweeney's were making changes to the plan. Currently the Staff and applicant are communicating back and forth and she would update the Planning Commission as soon as she has any information.

Commissioner Luskin asked if the Treasure Hill model would be located in the Planning Department or somewhere readily available to the public. Planner Cattan stated that because the model is very expensive, the Staff preferred to keep it in the Planning Department where they could keep a close eye on it. The public will have access and she is working on a possible schedule for times it could be viewed. Due to the controversial nature of the project, the Staff did not think the model should be displayed in the hallway.

Commissioner Pettit noted that she was unable to attend the last meeting and asked if she could make an appointment to see the model before it was displayed for the public. Planner Cattan replied that the model is currently at Craig Elliott's office and the Commissioners could contact Mr. Elliott to set an appointment to see the model.

**REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

1. Land Management Code - Amendments to Chapter 2.3(HR-2 District), Chapter 5, Chapter 6, Chapter 10, and Chapter 11 regarding the Master Planned Development within HR-2 District and the application and appeal process of the Historic Design Review(Application #PL-09-00784))

Planner Kirsten Whetstone reported that the Planning Commission previously discussed these amendments on January 20<sup>th</sup>, 2010, at which time three main issues were raised.

The first issue was the time frame for appeals. Language was amended in Chapter 10 to be consistent with Chapter 1, General Procedures. The revised language specifies that appeals shall be heard within 45 days for the Planning Commission and the Board of Adjustment. Planner Whetstone noted that this amendment had not changed since the last meeting.

The second group of LMC Amendments relate to Upper Park Avenue and the residential street for the HR-2 zone, and provides additional regulations for conditional use permits and Master Planned Developments within Subzone A.

The third set of amendments relate to Chapter 6, the MPD, and attempt to clarify how the calculations for the 5% Support Commercial floor area is calculated for Master Planned Developments. Changes also provide regulations for an MPD within the HR-2 Zoning District.

Planner Whetstone stated that additional revisions were being proposed based on comments from the Planning Commission at the January 20<sup>th</sup> meeting. She reviewed the new revisions as outlined in the Staff report. The revisions addressed the 40 foot maximum facade width as being the width of the entire house, excluding any structure located entirely below grade; flexibility in building height, final grade versus altered existing grade; and the intent to return final grade to within 4' of existing grade.

Planner Whetstone provided an insert to replace page 56 of the Staff report, showing deleted text from a previous revision. She reviewed the language which addressed building height in the HR-2 zone.

Director Eddington noted that the Planning Commission had discussed height exceptions at the last meeting. Based on that discussion, revised language would eliminate the height exception, even in an MPD. He referred to a diagonal line on the slide which represented existing grade on a 28% sloped lot. On the right hand side he assumed a scenario of a 25 foot high building with the middle line as the zone line. Each lot would be 75 feet deep. In looking at the left hand side in the HR-2 zone, the tallest part of the back side of the building would be 27' high. If it had the 10' indentation that is required as part of the new LMC language, the front end of the building would only be 17' feet tall. Director Eddington stated that it would be comparable to what currently exists on Park Avenue and what anyone could build right now in the HR-2 or HR-1 District.

Director Eddington pointed out that although the height exception was removed, the Staff was requesting a story exception. Three stories are currently permitted and the Staff would like the

flexibility to consider additional stories. Two stories below ground and fully subterranean would be able to be connected to a building on Main Street and used for storage, gallery, parking or other uses. The space would be subterranean, grade would be brought back to within four feet, and the space could only be used for commercial use benefitting a Main Street building.

Commissioner Peek asked if it was possible to require an egress core in the building on Park Avenue to avoid a situation like the NoName, where an exterior egress stairway comes up to Park Avenue. The Staff and Planning Commission discussed different possibilities for accomplishing appropriate egress. Director Eddington believed they could find a way to integrate emergency egress into the structure of the house.

Commissioner Pettit referred to page 73 of the Staff report and noted that reference to the height exception needed to be removed from Section 15-6, the MPD section.

Planner Whetstone noted that language on page 74 of the Staff report that talks about additional height being compatible with the neighborhood should also be removed.

Commissioner Pettit stated that if height exceptions were eliminated for MPDs in the HR-2 and the HR-1 zone, she wanted to know if height exceptions would be allowed for any MPDs in the HR Districts. She was told that the Sky Lodge may be an example where a height exception would be allowed.

Planner Whetstone referred to page 73 of the Staff report and added a portion of the language that was originally deleted. The revised added language would read, "Height would not be granted for master planned developments within the HR-1 and HR-2 zones".

Planner Whetstone stated that the discussion on Chapter 11, Historic District Design Review process, should be a separate process and was no longer a part of these amendments. She requested that Chapter 11 be continued to a date uncertain.

Planner Whetstone noted that "private residence club" was removed from the language based on comments from the last meeting. Language was revised to require "compatibility with residential neighborhoods" rather than "compatibility with adjacent structures". All references to "Historic District Guidelines" was replaced with "Design Guidelines for Historic Districts and Historic Sites", to be consistent with the title of the new Historic Design Guidelines. Language was added to clarify regulations for a setback exception for detached single car garages. Planner Whetstone reviewed the inserted language on page 51 of the Staff report. She explained that the existing language allows for new construction consistent with the Design Guidelines and allows the Planning Commission to grant an exception to the building setback and driveway location standards for additions to historic buildings. The new language expands that to include setback exceptions for a single car detached garage.

Commissioner Peek assumed the designer would be responsible for adequately addressing snow storage and other hurdles associated with a setback exception. Planner Whetstone replied that this was correct. Planner Whetstone remarked that another question is whether the garage should be part of the footprint. The Planning Commission would address that issue as part of the MPD review, based on the individual lot.

Chair Wintzer asked if the Planning Commission was comfortable voting on the amendments discussed to this point for Chapter 2.3.

Commissioner Strachan stated that if the Planning Commission grants themselves the flexibility to play with the height and setbacks, they should assume that the applicants would always request the maximum. That practice puts the Planning Commission in the position of having to say "no" to the applicant, who may also be a community member and a friend.

Chair Wintzer pointed out that the height exception was eliminated and it was no longer an issue. Commissioner Strachan agreed, but felt they would face the same issue with a setback exception. Chair Wintzer clarified that the setback exception was only to allow flexibility to build a detached garage. He explained that if the setback to the back yard was reduced by five feet, the front yard setback would have to increase to 15 feet. The exception is actually an offset, not a reduction.

Planner Whetstone clarified that the MPD would only come into play if a plat amendment removed the line between the zones. In that case, there would no longer be a setback. Chair Wintzer remarked that the exception would shift the density and square footage on the lot, but it would not be an increase. He thought the exception would provide flexibility to achieve a better design. Director Eddington pointed out that the setback can only be decreased if it still maintains the character of the neighborhood.

The Planning Commission discussed amendments in Chapter 6, Master Planned Development. Planner Whetstone summarized that the amendments eliminate the height exception in an MPD for the HR-1 and HR-2 zones.

Planner Whetstone summarized changes in Chapters 10. She referred to page 81 of the Staff report, under Powers and Duties of the Board of Adjustment, and noted that language was added to include, "Appeals and call-ups of final action by Planning Commission at the request of the City Council. The language was consistent with Chapter 1, which allows the City Council to render a decision on whether an appeal or a call up would be heard by the Board of Adjustment. Planner Whetstone stated that she would work with the Legal Department prior to the next meeting to determine if that power of duty needs to be further described in the Chapter. Planner Whetstone noted that language was added to indicate that appeals are heard by the Planning Commission within 45 days of when the appeal is submitted.

Planner Whetstone recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council on the LMC amendments to Chapters 2.3, 6, 10 and 12; and to continue Chapter 11 to a date uncertain.

Commissioner Strachan recalled that Planner Whetstone had talked about changing the LMC to recalculate the amount of commercial space and back of house. Planner Whetstone replied that the change was addressed in Chapter 6 on page 78 of the Staff report. She noted that the change was made to clarify confusing language regarding gross floor area calculations. The language was changed to indicate that support commercial floor area may not exceed five percent of the total floor area of the residential unit equivalent of a master planned development.

Commissioner Pettit noted that "support commercial" was not defined in the definitions section of the LMC and she suggested that the definition be added. Planner Whetstone pointed out that support commercial was defined under the definition for commercial.

Commissioner Luskin referred to page 78 and the reference to support commercial units. He understood and agreed with the concept, but he felt the language was poorly written and difficult to understand. Commissioner Strachan agreed. Commissioner Luskin suggested that the language be re-written.

Commissioner Strachan wanted to know why support commercial uses are not counted against commercial unit equivalents. Planner Whetstone replied that historically 5% of the total residential area is allowed for a use that supports the development. Commissioner Strachan questioned why that area could not be counted against the commercial units and let the developer decide how to allot the commercial space. Commissioner Peek pointed out that commercial space creates more demand on parking, traffic, etc. Commissioner Strachan thought the impacts could be limited by granting a specific amount of commercial unit equivalents in the MPD process. The amount would be determined based on the impacts of those commercial unit equivalents. Commissioner Strachan could not understand why they would differentiate between commercial and support commercial.

Commissioner Peek remarked that the impacts are different with internal uses because people are already on site versus a restaurant or bar that attracts people from the outside. City Attorney, Mark Harrington, explained that the historic nemesis for the allowance stems from the hybrid uses caught between commercial and residential. They are add on uses such as ski storage, laundry facilities, and similar uses. In some cases they are independent of the HOA and other times they are related to the HOA. In the late 1990's the section was re-written and the caveat was added that put a limitation on the on-site owner uses only. Without the allowance and the commercial UE's, more traffic would be generated because people would need to frequent other places for these services.

Commissioner Strachan suggested eliminating the language, "support commercial floor area shall be dedicated to support commercial uses" because the language was redundant. Director Eddington agreed and read revised language he had drafted, "Within a hotel or nightly rental condominium projects, support commercial floor area may be allowed and may not exceed 5% of the total floor area of the residential unit equivalents. Support commercial floor area shall not count against any allotted commercial unit equivalents approved as part of the MPD. However, any support commercial uses in excess of the 5% will be counted as commercial unit equivalents". Director Eddington had deleted the remaining language that was written. Commissioner Strachan believed the last sentence was necessary and should not be deleted. Commissioner Pettit agreed that the last sentence should remain for clarity. Commissioner Strachan stated that the last sentence answers the question of what happens if there are no commercial units.

Commissioner Pettit stated that one of the biggest issues she has seen in projects with the support commercial concept of the commercial unit equivalents is that the back of house area does not get calculated into the use of unit equivalents. She asked if there was a metric being used where they

could begin to measure or limit the back of house. Commissioner Pettit thought the list of uses that constitute back of house was vague and questionable.

Planner Whetstone stated that the Staff is looking into the standards and best practice for back of house uses. Commissioner Pettit believed this would continue to be an issue, particularly in the larger combination hotels/convention space projects.

Commissioner Strachan asked if it was possible to determine a percentage and say that the back of house shall not exceed that percentage of the total floor area. Commissioner Peek thought it might be possible if they could define an efficient design and draft language on that basis. Commissioner Strachan asked how they would determine whether a hotel could function if only 15% of its total space was dedicated to back of house. Planner Whetstone offered to research back of house spaces to help answer that question. Commissioner Strachan requested that they revisit the section and amend it.

Commissioner Pettit was not opposed to moving forward with the amendments proposed, but she agreed with Commissioner Strachan that the matter should be revisited.

Chair Wintzer opened the public hearing.

Ruth Meintsma, referred to page 34 of the Staff report under Summary of Revisions, and the revised language throughout Chapter 2.3 that changes "compatibility with adjacent structures" to "compatibility with the residential neighborhood". Ms. Meintsma stated that many applicants come in demonstrating compatibility with the residential neighborhood by using houses that were built in the last five years. She suggested revising the language to say, "compatible with the historic character of the surrounding residential neighborhood". Ms. Meintsma did not think "historic character" was mentioned often enough in the language. She cited several places in Chapter 2.3 where "historic character" should be inserted when talking about neighborhood compatibility.

Chair Wintzer suggested adding "surrounding historic residential neighborhoods" in the purpose statement for the HR-2 zone under Section (E), on page 42 of the Staff report. He believed that would address Ms. Meintsma's concerns about preserving the historic character of the neighborhood.

Ms. Meintsma referred to page 51 of the Staff report and commented on the amendment regarding the setback exception for detached single garages. She asked if the language only pertained to existing historic structures or if the exception would be allowed for new construction.

Planner Whetstone replied that it only applies to historic structures.

Ms. Meintsma referred to language on page 51 that an addition must comply with building footprint and asked if that language applied to historic structures. She pointed out that currently an existing accessory structure is not counted in the footprint.

Director Eddington explained that Ms. Meintsma was correct on the current policy. However, the proposed language requires a new detached garage to count towards the footprint. If an accessory structure is currently on the historic site inventory, it is not counted in the footprint.

Ms. Meintsma asked if it was possible that a new residential structure on Park Avenue could have a single-car garage in-lieu of a garage and a driveway. Planner Whetstone stated that the Staff would need to research the impacts before making that recommendation. Ms. Meintsma encouraged the Staff to consider the possibility.

Laura Guercio stated that her in-laws live at 331 Park Avenue. She and her father-in-law had concerns regarding the height exception and they were very pleased that it was removed. Ms. Guercio appreciated the discussion on the setback exception. Because her in-laws' house is directly across from the Mall, they oppose an exception to the front yard setback in the HR-2, which are the yards fronting on to Park Avenue. Ms. Guercio noted that her comments referred to language on pages 51 Item (L), "The Planning Commission may increase or decrease setbacks in accordance with the MPD provisions in 15-6-5." She pointed out that the language on page 71 talks about the potential to reduce the 25' setback. Ms. Guercio requested that the Planning Commission consider the impacts of changing the front yard setback because it would affect the street and the adjacent residents.

Ms. Guercio referred to the open space language on page 71, Item (D). In reading the language, she understood that re-development in the HR-2 zone would have a 30% minimum open space requirement. However, the language allows the Planning Commission to reduce the open space in exchange for project enhancement. She referred to a list of enhancement spelled out in the paragraph that may be considered. Ms. Guercio was uncomfortable with the language "may include but not limited to", because it is vague and open-ended and may include items that are not listed. She requested that the item for greater landscaping buffer along public ways and public/private pedestrian areas specifically identify Park Avenue in the language, as a requirement for reducing the open space. Ms. Guercio stated that if open space is exchanged for project enhancement, the open space should still be a minimum of 15%.

Ms. Guercio referred to page 70, Item (A) Density. She understood that in the HR-2 density is based on the lot. She specifically referred to language in the middle of the paragraph that talks about density transfers when a property is in more than one zoning district. She was concerned that the language created a loophole that should be closed to protect the residents in the HR-2 zone.

Ms. Guercio referred to Chapter 2.3, page 58 and discussed parking. She read the language in Item (H), and commented that a number of residential uses are allowed in the HCB and not just commercial. She understood the need for the residences that front Park Avenue to have a potential underground common parking structure, but it would greatly impact traffic on Park Avenue if all the residential HCB access parking off of Park Avenue. Ms. Guercio preferred to see an exclusion for all the HCB uses, including residential. She believed that uses on Park Avenue should access from Park Avenue and the HR-2 should service the HCB residential. Ms. Guercio referred to Mechanical Service on page 59, and the language "No free-standing outdoor mechanical equipment for

commercial use in the adjacent zoning districts is allowed in the HR-2. She requested that the language also include residential and not just commercial.

Ms. Guercio was pleased that the Private Residence Club was removed because it was not in keeping with the historic character of Park Avenue. She encouraged the Planning Commission to continue to carefully review and assess the need for proposed amendments in the HR-Zone and the MPD provisions in Chapter 6.

Ms. Guercio stated that Park Avenue is a one-way street in the winter time, but the proposed amendments should not be a one-way street for developers. Any amendments recommended to the City Council should carefully consider the likely and potential impacts of existing Park Avenue single-family residences. Any adopted amendment should represent a two-way street of balance and reciprocal give and take between the HR-2, HCB developers and the residents of Park Avenue.

Ralph Guercio, a resident at 371 Park Avenue, stated that one goal of the Mission Statement is to protect the spirit of Old Town in Park City. He believes the best way to protect Old Town is to make sure that when new development is brought in, the historic character of Park City and of Old Town, which is the core of Park City, is protected. Mr. Guercio. He stated that Ms. Guercio had mentioned specific elements that were important for the Planning Commission to consider. He did not favor density transfers and he thought setbacks should be consistent with the HR-1 zone. Mechanical services should not affect the HR-1 zone. Mr. Guercio believed there should be a buffer between the HCB, HR-2 and HR-1 to protect the character of Old Town as these amendments move forward.

Doug Stephens referred to page 44, 15-2.3-3 (E) that addressed parking requirements. He read, "The Planning Commission may waive parking requirements for Historic Structures and may consider in-lieu fees for all or a portion of parking." Mr. Stephens asked if the language referred to historic and non-historic structures.

Planner Whetstone replied that it was an in-lieu fee for parking requirement programs for master planned developments. Director Eddington pointed out that the remainder of the language was continued on page 45.

Mr. Stephens clarified that the in-lieu fee pertained to both existing and new structures. Planner Whetstone replied that this was correct.

Mr. Stephens read language on page 45 that addressed parking for historic structures. "The Planning Commission may allow on-street parallel parking adjacent to the front yard to count as parking for historic structures."

Planner Whetstone explained that it would only be allowed for existing structures.

Mr. Stephens asked if historic structures have a parking requirement. Director Eddington answered no. Mr. Stephens was unsure why that language was written if it only applied to historic structures.

Since there are only a few historic structures on the west side of Park Avenue, he thought the language should also apply to new construction. Based on the size of the vacant lots, Mr. Stephens believed the MPDs in the HR-2 would be on a smaller scale.

Planner Whetstone noted that it was existing language and the only change was to allow it within a master planned development. The language itself remained the same. Director Eddington pointed out that the current language has no meaning because parking is not required for historic structures. He understood that Mr. Stephens suggesting a change to allow some of that parking count as parking for an MPD development. He offered to talk to Matt Cassel and Kent Cashel, since they are currently working on a transportation plan addressing Old Town. He would speak with them before making changes to that particularly section.

Commissioner Peek referred to the five level drawing and noted that the two levels of commercial uses coming off the HCB zone could exist under a historic structure. This could create a condominium that would create a parking demand and the Planning Commission could allow an in-lieu fee for parallel parking on the street. Planner Whetstone noted that parallel parking is not allowed on Park Avenue for a commercial use.

Mr. Stephens referred to page 51, Existing Historic Structures, Exception (A) with regards to detached single car garages, and understood that it only applies to historic buildings. He commented on the building patterns that exist in Park City. Some structures were built near the rear property lines with flat terrain in front and a detached garage in front. Another situation is where there is steep terrain on the uphill side, and existing house high above the street level with a garage down two street levels in the setbacks. Mr. Stephens noted that those situations do not exist with historic homes on the east side of Park Avenue. A home would have to be close to the rear property line before they could see a detached garage. Even though the language as written works, it could never occur on Park Avenue. Using Chair Wintzer's comment as an example of pushing the building back on the lot, Mr. Stephens believed that better designs could be achieved if they allow the opportunity to put a garage in the front yard setback. Regarding the issue of fire egress, Mr. Stephens stated that personally he would put his fire egress behind the garage, if he could move the garage forward.

Mr. Stephens referred to Page 57, Item 13, "The maximum building width above final grade is 40 feet." He stated that they have a tendency to let multiple building go through the design process that are the same width. He would not like to see people maximize a wide lot by allowing 40 foot wide buildings. It is rare to see multiple buildings on Park Avenue that are 40 feet wide. He believed those structures should be interspersed with typical 19 foot wide buildings. Mr. Stephens thought the issue could be handled through the design review process, but suggested that it might be worth writing into the language.

Chair Wintzer remarked that if an owner combines two lots and constructs a wider building, they could not restrict the neighboring owner from doing the same thing just because the previous owner did it first.

The Staff and Mr. Stephens discussed setbacks. Chair Wintzer understood from the language on page 51 that setbacks could not be increased or decreased in an MPD. Commissioner Pettit

pointed out that page 71 under the MPD indicates that the Planning Commission may decrease the required 25 foot setback. Commissioner Pettit referred to the language, "In some cases, that setback may be increased to retain existing significant vegetation or natural features or to create an adequate buffer to adjacent uses." She noted that this was the basis upon which setbacks could be increased, but the language does not talk about increasing the setbacks to maintain the general character in terms of mass and scale. Commissioner Pettit suggested adding language for when it is appropriate to increase the setbacks.

Regarding the buffer to adjacent uses, Commissioner Peek believed the City Engineer requires 18 feet from the garage face to back of curb. With that requirement they would not get the situation Mr. Stephens had described for a garage at the curb line.

Chair Wintzer closed the public hearing.

Chair Wintzer thanked the public for their great comments. Commissioner Peek suggested that some of the comments be included in the amendments. Chair Wintzer agreed.

Planner Whetstone reviewed the public comments. She believed questions regarding the setback exception had been clarified to address the concern for reducing the front yard setback. She did not believe there were language changes to the setbacks.

Commissioner Strachan pointed out that Commissioner Pettit had requested that language be added to allow the Planning Commission to increase the setbacks for certain elements. Director Eddington drafted language to say, "Or if appropriate to meet compatibility requirements." Commissioner Pettit was not comfortable with leaving the ability to increase setbacks only for existing significant vegetation, because an increase could be appropriate in that district for other reasons. Director Eddington suggested adding language to the end of the list of reasons for increasing a setback. The added language would read, "...or if appropriate to meet historic compatibility requirements." Commissioner Strachan requested that the beginning of the sentence be changed to indicate that setbacks can be "increased or decreased" for the stated reasons.

Commissioner Peek asked if the Staff analysis for the next meeting could include opinions and comments from the City Engineer on the issue of pulling cars off the street and/or clearing the curb.

On the public comments regarding open space, Planner Whetstone reported that in the HCB District, which would be part of the MPD in the HRC zone, there are zero lot line setbacks. Therefore, open space needs to be created in a different manner in the MPD. Director Eddington noted that a request was made for a minimum of 15% open space if the 30% requirement is reduced for project enhancement. He was unsure if that 15% minimum should be spelled out in the amendments, because the amendment alters the open space requirement for all MPDs in all zones. Director Eddington pointed that the setbacks in the HR-2 zone would provide some open space. He was concerned that specifying a 15% minimum could adversely affect open space in other zones. Director Eddington suggested leaving the open space requirement open-ended to protect the ability for good design.

Planner Whetstone noted that another public comment was to create landscaping buffer along public ways, especially on Park Avenue. She stated that it is not typical to see a boulevard landscape strip on a historic street and it does not meet the historic character of the zone. Commissioner Peek recalled that Park Avenue was historically a tree-lined street with large trees. He was unsure if that had been the case on upper Park Avenue. Commissioner Peek commented on the front porch area elements of three historic homes and the front porches on the Deer Valley Drive affordable housing project. He stated that people use those front porches and he would like to promote that same type of development.

Commissioner Strachan agreed with Commissioner Peek. If lots are small, people would not waste lot space on landscaping buffers. Commissioner Strachan did not think the language should be changed.

On concerns regarding density, Commissioner Strachan felt it was important to change the language. However, because the language was in the MPD section it applies citywide. Commissioner Strachan felt language should be added that specifically prohibits density transfers between HCB and HR-1. Planner Whetstone agreed that a carve-out made sense. Commissioner Strachan pointed out that the carved-out language should be in Paragraph A, and not in the exceptions. Director Eddington agreed. The Staff would draft the language.

Regarding comments on parking, Planner Whetstone referred to page 58 and noted that parking in the HR-2 is not intended to be used for any HCB uses. She suggested striking "commercial" from the language. The Planning Commission and Staff discussed language changes for the Mechanical Equipment on page 59 and determined that the language should remain as written.

Planner Whetstone asked for comments about adding "historic character" throughout Chapter 2.3 as suggested by Ms. Meintsma. Commissioner Strachan thought it was a valid point. The Commissioners concurred.

In terms of the detached single-car garage, Planner Whetstone offered to look into options as suggested by Mr. Stephens.

Commissioner Pettit referred to page 57, Item 13 and requested that the language be changed to read, "The maximum building width above final grade is up to 40 feet." She felt the language as written implies that 40 feet is a given width. Commissioner Pettit stated that in thinking about lot combinations and the comments regarding detached single-car garages, she wondered if they could create incentives for lot combinations to break up the 40 foot width. For instance, an incentive could be that the detached garage would not count as part of the footprint. Commissioner Pettit was interested in trying to create a pattern that is historically compatible and residential. She has always favored the idea of providing a parking structure that is separate from the house, because it is consistent with existing situations in town. Commissioner Pettit thought they should think about ways to meld the two together to provide flexibility and creativity.

Chair Wintzer stated that if they give owners an additional 200 square foot footprint in Old Town , they would see detached garages. If that were the case, he believed that would be compatible.

Commissioner Strachan clarified that Commissioner Pettit was suggesting that they provide incentives that would encourage detached garages. Commissioner Pettit thought the Planning Commission should at least think about it in terms of alternative design solutions. She was concerned about the pattern and series of 40 foot wide facades along the street, and whether they could incentivize people to break up the facade.

Chair Wintzer stated that if they do nothing they will have 40 foot wide structures all the way up the street, because people will combine lots to build a 40 foot wide house. He was unsure if any property on Park Avenue was large enough to allow the opportunity to break up the facade.

Commissioner Strachan assumed that the Planning Commission would have the power at both the MPD and the CUP stage to impose restrictions on an eight lot subdivision or a combination of two lots to avoid a 40 foot wide wall. If the Staff could find ways to address Commissioner Pettit's idea for incentives, he would support that suggestion. However, in terms of preventing a series of 40 foot facades, Commissioner Strachan felt the Planning Commission already had the necessary tools.

Commissioner Pettit was unsure if those tools were adequate to accomplish the goal. Chair Wintzer thought the Planning Commission had the tools, but they tend not to impose them.

Director Eddington stated that the Staff could further research Commissioner Pettit's suggestion. They could also take quick measurements of the majority of structures on that side of Park Avenue to see if the 40 feet number may need to be reduced. Commissioner Strachan offered another option of staggering the setbacks.

Commissioner Peek suggested that if they survey incentives for a detached single car garage, they should also survey to find the historic fabric of those structures.

MOTION: Commissioner Strachan made a motion to CONTINUE the amendments to the Land Management Code Chapters 2,3, 6,10, and 12 to March 24, 2010. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Peek moved to CONTINUE the LMC amendments for Chapter 11 to a date uncertain. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 8:45 p.m.

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Approved by Planning Commission: \_\_\_\_\_