

CITATIONS OF CODE, GOVERNING DOCUMENTS, AND SUPPORTING DOCUMENTS AS PRESENTED IN THE ADMINISTRATIVE CUP HEARING PACKET AND RELATED TO THIS APPEAL:

1. *LAND MANAGEMENT CODE*

15-1-11 Special Applications

4. **ADMINISTRATIVE CONDITIONAL USE PERMITS.** The Planning Director, or his or her designee, shall review and take Final Action on Administrative Conditional Use permits. Review process shall be consistent with Section 15-1-10(A-H), with the exception that no published notice, as described in Section 15-1-12, shall be required.

15-2.7-2 Uses

Uses in the ROS District are limited to the following:

1. **ALLOWED USES.**

1. Conservation Activity
2. Food Truck Locations⁴

2. **ADMINISTRATIVE CONDITIONAL USES**¹.

1. Trail and Trailhead Improvement
2. Outdoor Recreation Equipment
3. Essential Municipal Public Utility Use, Service, or Structure, less than 600 sq. ft.
4. Accessory Building, less than 600 sq. ft.
5. Ski-related Accessory Building, less than 600 sq. ft.
6. Parking Area or Structure with four (4) or fewer spaces
7. Outdoor Event, Outdoor Music
8. Temporary Construction Improvement
9. Raising, grazing of horses
10. Raising, grazing of livestock
11. Anemometer and Anemometer Towers

3. **CONDITIONAL USES.**

1. Agriculture
2. Recreational Outdoor and Trail Lighting
3. Recreation Facility, Private
4. Recreation Facility, Public
5. Recreation Facility, Commercial
6. Golf Course
7. Passenger Tramway Station and Ski Base Facility
8. Ski Tow Rope, Ski Lift, Ski Run and Ski Bridge
9. Recreational Sports Field
10. Skating Rink
11. Skateboard Park
12. Public and Quasi-Public Institution, Church, and School, Park, Plaza, Structure for Public Assembly, greater than 600 sq. ft.
13. Essential Municipal Public Utility Use, Facility, Service, and Structure, greater than 600 sq. ft.
14. Accessory Building, greater than 600 sq. ft.
15. Ski-Related Accessory Building, greater than 600 sq. ft.
16. Child Care Center
17. Commercial Stable, Riding Academy

18. Vehicle Control Gates²
19. Resort Support, Commercial
20. Cemetery
21. Parking Area or Structure with five (5) or more spaces
22. Telecommunications Antenna³
23. Mines and Mine Exploration
24. Plant and Nursery stock products and sales
25. Fences greater than six feet (6') in height from Final Grade.
26. Small Wind Energy Systems

15-1-10 Conditional Use Review Process

A Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use in accordance with applicable standards.

If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, the Conditional Use may be denied.

The City must review all proposed Conditional Uses according to the following procedure, unless a subsequent provision of this LMC specifically sets forth an administrative approval process for a specific Conditional Use, in which case that section shall control:

The Planning Commission shall conduct a public hearing on the proposed Conditional Use permit Application and shall either approve, deny, or modify and approve the permit.

4. **STANDARDS FOR REVIEW**. The City shall not issue a Conditional Use permit unless the Planning Commission concludes that:
 1. the Application complies with all requirements of this LMC;
 2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;
 3. the effects of any differences in Use or scale have been mitigated through careful planning.
5. **REVIEW**. The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:
 1. size and location of the Site;
 2. traffic considerations including capacity of the existing Streets in the Area;
 3. utility capacity, including Storm Water run-off;
 4. emergency vehicle Access;
 5. location and amount of off-Street parking;
 6. internal vehicular and pedestrian circulation system;
 7. Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
 8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

9. usable Open Space;
10. signs and lighting;
11. physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;
12. noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;
13. control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;
14. expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;
15. within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site; and
16. reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding.

2. 1998 DEVELOPMENT AGREEMENT

2.1.13. The Developer shall comply with the parking mitigation plan attached hereto as Exhibit K. This plan shall be reviewed and modified, if necessary, as a part of the Small Scale MPD (CUP) for each phase to evaluate transit alternatives and demonstrated parking needs. If, in practice, the parking mitigation plan fails to adequately mitigate peak day parking requirements, the City shall have the authority to require the Resort to limit ticket sales until the parking mitigation plan is revised to address the issues. The intent is that if any off-site parking solution include a coordinated and cooperative effort with the City, other ski areas, the Park City School District, Summit County, and the Park City Chamber/Bureau to provide creative solutions for peak day and special event parking.

2.1.15 Developer has chosen to mitigate additional impacts associated with developing the PCMR Concept Master Plan by paying impact fees... in lieu of off-site improvements. Developer's commitment to payment of such impact fees is contractual in nature and will be assessed proportionally, prior to issuance of any building permits...

2.3 Ski Operation Improvements

The Developer has submitted a Mountain Upgrade Plan, which is attached hereto as Exhibit L. Development of the skiing and related facilities as identified in the Mountain Upgrade plan is a conditional use within the City limits and is a [sic] subject to administrative review and approval or rejection for improvements visible from vantage points within the City limits... The following Standards shall apply to the Community Development Director's review:

2.3.1 Consistency with the Mountain Upgrade plan.

2.3.6. Parking. At all times Developer shall assure that it has adequate parking or has implemented other assurances, as provided in the Parking Mitigation Plan, to mitigate the impact of any proposed expansion of lift capacity.

Section 5. IMPLEMENTATION OF THIS AGREEMENT

5.1 Processing and Approvals Site specific plans shall be deemed proposed Small Scale Master Plans pursuant to Section 1.14(a) of the Park City Municipal Corporation Land Management

Code (or its equivalent) and shall be subject to the conditional use permit process as set forth in the Park City Municipal Corporation Land Management Code. City shall review and approve or deny site-specific plans according to the Concept Master Plan and Land Management Code.

3. UTAH CODE

10-9a-507. Conditional uses.

- (1) (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in the applicable ordinance.
- (2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

10-9a-103. Definitions.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application

(34) "Legislative body" means the municipal council.

4. MOUNTAIN UPGRADE PLAN

3. Analysis of Comfortable Carrying Capacity

As a result of the upgrading program, the CCC would increase from 9,910 to 13,700 skiers per day, which represents a total of 3,890 additional skiers, or an increase of 38 percent.

It is a common practice at ski areas, and one that has been generally accepted by the ski industry, to exceed the CCC on peak ski days by as much as 25 percent. Based upon historical skier-visit performance records, PCSA anticipates future peak skier days to reach 110 percent of the CCC. This policy is acceptable as long as it does not become common practice... It should be noted, however, that the parking/shuttle accommodations and water and sewer systems must be sized for the capacity of a peak ski day. PCSA's peak ski day capacity is estimated at 15,070 skiers.

5. SE GROUP MEMO ON SILVERLODE AND EAGLE LIFTS

SE Group is currently working with Park City Mountain Resort on the planning and design for the Silverlode and Eagle Lift replacements. SE Group has also recently completed a parking analysis for the PCMR base Area MPD project. The parking analysis studied the parking demand at the base area based on the Comfortable Carrying Capacity (CCC) of the resort under both existing conditions and a future condition following completion of the Mountain Upgrade Plan. That analysis (which was widely shared with the planning commission and the public) documents

the different modes with which guests access the resort, along with the corresponding numbers for each, to reach a conclusion on the needed number of day skier parking spaces at the base area. The conclusion of that analysis is that essentially the skiers from the new base area development would balance out with the increased on-mountain capacity of the resort, meaning that there is no need for additional day skier parking in the future condition. Retaining the existing number of 1200 day skier parking spaces will maintain the day skier population, with the expanded skier capacity coming from the new lodging (which has its own parking). The replacement of the Silverlode and Eagle chairs does not change the findings of this analysis - the 1200 day skier parking spaces will continue to be sufficient to serve the CCC of the resort.

6. NOTICE OF PLANNING DIRECTOR

Findings of Fact

18. The application complies with an Administrative review, per the six criteria listed in the 1998 Development Agreement:

Criteria 6. Parking. At all times Developer shall assure that it has adequate parking or has implemented such other assurances, as provided in the Parking Mitigation Plan (PMP), to mitigate the impact of any proposed expansion of lift capacity. The Applicant submitted a PMP dated April 19, 2022 stating that PCM will implement paid parking with a regulated reservation system starting the 2022/2023 ski season. This plan proposes to increase Average Vehicle Occupancy (AVO), carpool and transit use, and more effectively manage traffic and parking impacts. The Planning Director finds that the PMP mitigates the impact of the lift upgrades.

Conclusions of Law

1. The proposal complies with the Land Management Code requirements pursuant to Chapter 15-2.7, Recreation and Open Space (ROS) District, Chapter 15-2.21, Sensitive Land Overlay Zone (SLO) Regulations, Section 15-1-10(E), Conditional Use Permits, and Section 15-4-18, Passenger Tramways And Ski Base Facilities.
3. The effects of any differences in use or scale have been mitigated through careful planning.
4. The proposal as conditioned complies with Section 2.3 of the Master Planned Development Agreement and the 1998 MUP, however the Parking Compliance will remain an ongoing assessment pursuant to Conditions of Approval 15, 16, and 19.

Conditions of Approval

11. Any proposed overflow parking with Canyons and Park City School District must be approved by Summit County and the School District respectively.
14. The Applicant shall provide information that the proposed Parking Mitigation Plan dated April 19, 2022 is in effect before the start of the 2022/2023 ski season. This includes the implementation of 90 employee parking spaces at Munchkin and a paid parking reservation system.
15. The Applicant shall... provide parking and traffic information demonstrating compliance with the Parking Mitigation Plan and a communications plan to ensure information dissemination to the public. The Applicant shall share relevant parking information with staff, including parking lot occupancy rates and achievement of increased Average Vehicle Occupancy rates.
18. The Applicant shall be responsible for effectively managing the parking reservation system with an on-site parking attendant presence with a turn-away and tow policy for people without a reservation.

19. The Applicant shall use the net proceeds generated from paid parking at the Mountain Village base area of Park City Mountain to reinvest in transportation, traffic mitigation, and/or parking measures to support guest access to the resort and traffic mitigation in and around the resort.

7. PARKING MITIGATION PLAN

IMPACTS OF LIFT IMPROVEMENTS

Section 2.3.6 of the Development Agreement notes that the developer must mitigate any impacts to parking associated with any proposed increase in lift capacity through submission of a Parking Management Plan.

PCM is proposing two lift replacements projects for the 2022 summer construction season, 1) the removal and replacement of Silverlode, and 2) the removal of the existing Eagle and Eaglet and replacement with the installation of the new Eagle lift (Lift A in MUP). As included with our submission, this results in an increase in CCC of 290 (from current 12,570 to 12,860).

As provided in a memorandum from SE Group (see Exhibit A to this memo), these upgrades will not generate an impact on parking. SE Group, who is the leading national expert on ski area planning, states that “the overall capacity of the mountain will not significantly increase” with these lifts, based “largely on the fact that these lifts are replacement lifts.”

8. GENERAL PLAN

STRATEGY: Six Steps to Reduce Vehicle Miles Traveled

1 Build Complete Streets. Invest in alternatives to solo driving, such as:

- Transit (standard bus, bus rapid transit (BRT), light rail, train). Improving accessibility, frequency, quality, routes, pricing, ease of use, etc.
- Biking. Adding lanes, improving trails, bike sharing program, connectivity, safety, etc.
- Walking. Adding and improving sidewalks, pedestrian paths, connectivity, cross-walk safety, etc.

3 Support Carpooling.

- Add freeway High Occupancy Vehicle (HOV) lanes.
- Create programs that would support carpooling i.e. online carpooling database, etc.

4 Vehicle sharing programs.

- Encourage community car share program.
- Provide dedicated public parking spaces throughout town at low or no cost for car share programs.
- Provide charging stations for electric vehicles

APPEAL: This appeal asserts that Planning Director erred in their decision to approve an Administrative Conditional Use Permit for the Park City Mountain lift upgrade plan (per above) for the following reasons:

1. The application does not meet the Standards of Review for granting Administrative CUPS set forth by Park City Land Management Code.

LMC

LMC 15-1-10 provides that a “Conditional Use shall be approved if reasonable conditions... can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use... If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated..., the Conditional Use may be denied.”

Standards for review include:

1. “the Application complies with all requirements of this LMC;
2. the effects of any differences in Use or scale have been mitigated through careful planning.”

MUP

“3. Analysis of Comfortable Carrying Capacity

It is a common practice at ski areas, and one that has been generally accepted by the ski industry, to exceed the CCC on peak ski days by as much as 25 percent. Based upon historical skier-visit performance records, PCSA anticipates future peak skier days to reach 110 percent of the CCC. This policy is acceptable as long as it does not become common practice... It should be noted, however, that the parking/shuttle accommodations and water and sewer systems must be sized for the capacity of a peak ski day. PCSA’s peak ski day capacity is estimated at 15,070 skiers.”

Park City Mountain Resort overflowed at least 68 mornings during the 2021/2022 ski season. Overflow parking at the high school (only available on weekends and holidays and currently not renewed for next season) often saw long lines waiting for buses. No other guaranteed or dedicated offsite solutions with connections to improved bus service getting to or from the resort are included in the Applicant’s PMP. For these reasons alone, paid parking without commensurate offsite services to accommodate displaced drivers is insufficient to prove this mitigation strategy will work, or that paid parking will not cause intrusion into nearby streets and other businesses’ premises thereby violating the LMC. The number of overflow days indicates the number of skiers in excess of the CCC has become common policy and that the 110% Peak Ski Day is also surpassed as common practice in violation of the MUP.

Furthermore and per staff report, “The MUP allows for a maximum CCC of 13,700. A CCC update submitted by SE Group indicates that the Resort has a current CCC of 12,570...”

Per SE Group Memorandum: “SE Group is currently working with Park City Mountain Resort on the planning and design for the Silverlode and Eagle Lift replacements. SE Group has also recently completed a parking analysis for the PCMR base Area MPD project. The parking analysis studied the parking demand at the base area based on the Comfortable Carrying Capacity (CCC) of the resort under both existing conditions and a future condition following completion of the Mountain Upgrade Plan. That analysis

(which was widely shared with the planning commission and the public) documents the different modes with which guests access the resort, along with the corresponding numbers for each, to reach a conclusion on the needed number of day skier parking spaces at the base area. The conclusion of that analysis is that essentially the skiers from the new base area development would balance out with the increased on-mountain capacity of the resort, meaning that there is no need for additional day skier parking in the future condition. Retaining the existing number of 1200 day skier parking spaces will maintain the day skier population, with the expanded skier capacity coming from the new lodging (which has its own parking). The replacement of the Silverlode and Eagle chairs does not change the findings of this analysis - the 1200 day skier parking spaces will continue to be sufficient to serve the CCC of the resort.”

The MUP demands that the PMP address parking and circulation with respect to a Peak Ski Day.

The Applicant links the proposed Lift Upgrade Plan and its mitigation requirements to the base area MPD and the acceptability of its parking, circulation, transit, walkability, and other plans as mitigation. SE Group’s memo falsely claims new lodging “has its own parking,” as PEG is seeking an exception to the LMC for the number of spaces the hotel and condos demand. The MPD has not been presented for approval and therefore cannot confirm this application complies with requirements of the LMC or that the effects of any differences in use or scale have been mitigated through careful planning. And again, the PMP fails to factor Peak Ski Day numbers as demanded by the MUP.

Even when factoring alternate transportation modes (biking, walking, rideshare, etc), one cannot reasonably deduce that there is sufficient parking onsite to support an average skier day, let alone a Peak Skier Day as required under the MUP. By contrast, a Peak Ski Day when calculated properly induces considerable overflow parking requirements in addition to the already existing overflow and drivers deterred from the proposed paid parking that must be accommodated and not just on weekends. Without other confirmed mitigation strategies in place (e.g. dedicated park and rides with expedient transit services and robust nearby street mitigation, HOV lanes, and general address of shuttles as required by the MUP, etc), the increased demand for offsite parking due to Applicant’s PMP and Paid Parking in addition to existing overflow volumes is not sufficiently mitigated or understood to be mitigated. Likewise, neighborhood streets and circulation are not mitigated as required by the LMC.

Finally, per MUP: “It should be noted, however, that the parking/shuttle accommodations and water and sewer systems must be sized for the capacity of a peak ski day.”

As noted already, parking and shuttle accommodations are not mitigated through careful planning where the application is concerned. Furthermore, there is no evaluation of water and sewer system capacity as it relates to current and future CCC.

For these reasons, the application does not meet the Standards of Review for an Administrative CUP and should have gone to Planning Commission for review.

2. The application does not satisfy conditions of approval for Conditional Uses per Utah State Code.

10-9a-507. Conditional uses.

- (3) (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in the applicable ordinance.
- (4) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
- (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

Utah Code allows for Conditional Uses, but certainly does not require them. There are no clear determinations around the application of Administrative Conditional Uses beyond stating that all Conditional Use Permits are administrative in nature. As explained in Appeal Reason 1, one cannot assert that as yet unapproved parking plans and mitigation strategies presented in an MPD currently undergoing Planning Commission review represents reasonable mitigation of detrimental effects.

Additionally, paid parking as the primary mitigation strategy cannot be confirmed as sufficient to bring the application and the MPD in which it roots its conclusions into compliance with applicable standards, including the LMC. Therefore, the Conditional Use should have been denied.

Finally, the PMP on which Applicant bases its reasonable parking and circulation mitigation fails to consider a Peak Ski Day as required by special provision of the MUP which Planning Director asserts supersedes the LMC.

3. The application does not adequately mitigate or address the Review criteria for Conditional Uses as outlined in the Land Management Code.

LMC 15-1-10 provides that a “Conditional Use shall be approved if reasonable conditions... can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use... If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated..., the Conditional Use may be denied.”

Review criteria include:

2. traffic considerations including capacity of the existing Streets in the Area;
3. utility capacity, including Storm Water run-off;
5. location and amount of off-Street parking;
6. internal vehicular and pedestrian circulation system;
13. control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;

Mountain Upgrade Plan p. 35

It should be noted, however, that the parking/shuttle accommodations and water and sewer systems must be sized for the capacity of a peak ski day.”

Applicant’s and its Consultants’ and Planning Director’s and its Consultants’ considerations, calculations, and assumptions are invalid because they fail to take into account a Peak Ski Day as required under the Mountain Upgrade Plan and offer no current assessment of water and sewer systems in relation to peak ski day capacity. Review criteria 2, 3, 5, 6, and 13 are not explored or satisfactorily addressed within the specific context of the Lift Upgrade Plan. Nor are the criteria capable of sufficient and satisfactory address by way of the MPD still subject to Planning Commission review and action. Existing and anticipated detrimental effects are not reasonably mitigated in the application or by the Conditions of Approval. Therefore, the Conditional Use should have been denied.

4. The application does not satisfy Standards for review or approval of Ski Operation Improvements as specified by special provision of the Development Agreement.

Per Section 2.3 Ski Operation Improvements and the Standards that shall apply to the Planning Director's review as specified in "2.3.1 Consistency with the Mountain Upgrade Plan" and "2.3.6. Parking. At all times Developer shall assure that it has adequate parking or has implemented other assurances, as provided in the Parking Mitigation Plan, to mitigate the impact of any proposed expansion of lift capacity."

As the impacts analysis is incomplete and not based on a Peak Ski Day as required by the MUP, the application is inconsistent with the MUP.

Additionally, the DA makes clear that a Developer SHALL assure AT ALL TIMES that it has adequate parking or has implemented other assurances to mitigate the impact of ANY proposed expansion of lift capacity.

Adequate parking means both onsite and offsite parking. The application of a peak ski day combined with paid parking increases the offsite parking requirement significantly. The Applicant's PMP wrongly asserts a surplus of stalls at the base by simple CCC numbers and not Peak Ski Day numbers as required by the MUP. Neither the increase in offsite parking requirements nor the increase in services required to support levels of offsite parking and transit that would assuredly mitigate overflow parking is determined in the application.

Additionally, it is confirmed that an unapproved MPD and its associated PMP do not assure adequate parking and that paid parking without appropriate transit upgrades is insufficient as a mitigation strategy.

5. Planning Director's Conclusions of Law are invalid.

Conclusions of Law

1. The proposal complies with the Land Management Code requirements pursuant to Chapter 15-2.7, Recreation and Open Space (ROS) District, Chapter 15-2.21, Sensitive Land Overlay Zone (SLO) Regulations, Section 15-1-10(E), Conditional Use Permits, and Section 15-4-18, Passenger Tramways And Ski Base Facilities.
3. The effects of any differences in use or scale have been mitigated through careful planning.
4. The proposal as conditioned complies with Section 2.3 of the Master Planned Development Agreement and the 1998 MUP, however the Parking Compliance will remain an ongoing assessment pursuant to Conditions of Approval 15, 16, and 19.

Conclusion of Law No. 1 is only made valid if pursuant to LMC 15-2.7.2 2. ADMINISTRATIVE CONDITIONAL USES Planning Director is authorized to consider Application for an Administrative Conditional Use Permit because "a subsequent provision of this LMC specifically sets forth an administrative approval process..." No such subsequent provision exists in the LMC.

Conclusion of Law No. 3 is valid only if differences in use can be determined mitigated through careful planning. Failure to use Peak Ski Day metrics for the basis of analyses as required by the MUP invalidates this Conclusion. So too does inability to prove paid parking will successfully mitigate car traffic and circulation issues without other mitigation strategies in place.

Conclusion of Law No. 4 is valid only if compliance with the MUP is demonstrated. Failure of the PMP and other mitigation criteria to factor a Peak Ski Day confirms noncompliance.

6. The Application is not eligible for Administrative CUP review per implementation of the Development Agreement as mandated by the DA.

5.1 Processing and Approvals Site specific plans shall be deemed proposed Small Scale Master Plans pursuant to Section 1.14(a) of the Park City Municipal Corporation Land Management Code (or its equivalent) and shall be subject to the conditional use permit process as set forth in the Park City Municipal Corporation Land Management Code. City shall review and approve or deny site-specific plans according to the Concept Master Plan and Land Management Code.

The single greatest Conditions of contention regarding the proposed Concept Master Plan/base area MPD relates to parking demand management and circulation. Until such time as MPD is approved with Conditions or denied, it is impossible to base approval of Small Scale Master Plan CUPs on the MPD. And again, the PMP provided and extrapolated from the base area MPD fails to consider a Peak Ski Day.

7. The Conditions of Approval are inadequate to ensure satisfaction of mitigation of detrimental effects per the LMC.

Condition 13 implies a forthcoming agreement with Park City School District for overflow parking. There is no such agreement in place. If one is renewed, this lot would only be available on weekends. There is no confirmed or guaranteed agreement for sufficient number of stalls at The Canyons base. The existing agreement has limitations that have not been shown to be analyzed against a weekday Peak Ski Day during the 2021/2022 ski season.

Condition 14 presumes paid parking will adequately mitigate parking issues. The Application and Conditional Use Approval lack third party analysis to affirm the comparability of other resorts and their paid parking attributed reductions in Peak Ski Days to the current scenario in Park City, particularly as other proven mitigation strategies such as adequate off-site parking that connects directly to expedient transit to the resort are lacking and not part of PCMC or High Valley Transit 2022/2023 ski season plans. Additionally, applicant has not demonstrated ability to manage a parking reservation system or safe circulation locally.

Condition 15 fails to stipulate what kind of information will be required, on what demand basis and how often, how information and compliance will be verified, how AVO will be verified, how an AVO assures mitigation against a backdrop of unlimited pass sales and unchecked visitor growth, and how non-compliance will be penalized.

Condition 18 presumes ability to adequately staff a paid parking reservation system. Applicant lacked sufficient staff in key critical roles and was unable to operate resort anywhere near full capacity at any point during the 2021/2022 season.

Condition 19 lacks teeth including establishment of baselines of costs associated with current parking management, increases or decreases in operational costs if majority parking moves indoors per proposed MPD, and incremental cost increase to manage a paid reservation system around parking upgrades. There is no incentive per this condition for Applicant to manage a paid parking reservation system from a cost-efficiency standpoint while maintaining levels of service. This condition is not unlike fee in lieu and, while an additional Condition of Approval to come from Planning Director's out of public purview negotiations with Applicant during April 25, 2022 Administrative CUP hearing, does not qualify as a satisfactory mitigation condition relevant to detrimental effects brought by increased CCC.

Anticipated detrimental effects should be based on confirmed 2021/2022 ski season data relating to number of days base parking lots reached capacity, number of days overflow parking was utilized and how successfully, corresponding days overflow parking options were available, days overflow parking options are confirmed available for the 2022/2023 season, and parking requirement calculations rooted in accurate modeling of Peak Ski Day numbers per the Mountain Upgrade Plan created by Sno Engineering in 1998, today known as SE Group and working as Applicant's consultant for purposes of parking analysis at the base. As before, Peak Ski Day numbers are not used as the basis for calculation and evaluation. Therefore, anticipated detrimental effects are neither clearly understood nor stipulated as part of Planning Director's Findings of Fact.

Additionally, there is no third party or qualified engineering review of the PMP to assure its integrity. And there are no quantifiable or audit metrics in the PMP or Conditions of Approval.

8. Planning Director shall be precluded from authority to review and approve an Administrative CUP on Lift Upgrade Plan including current PMP.

The current PMP relies on a circulation change devised in conjunction with PCMC Staff; it is therefore inappropriate for Staff to approve a PMP it had a hand in crafting.

9. The Administrative CUP was improperly applied and improperly noticed.

The current PMP relies on a change of traffic circulation and temporary relocation of the transit hub and parking/drop-off amenities inside of the Commercial Recreational District (CR). Not shown in Applicant's PMP is the temporary erection of barriers and signage to accommodate this change of use. If successful mitigation of impacts borne by the Lift Upgrade Plan depends on circulation considerations and mitigation inside the CR Zone, this demands Conditional Use Permit review and approval by Planning Commission.

In addition to temporary improvements, parking areas of 5 or more spaces represent conditional uses in the CR Zone and thus require a CUP application in accordance with prevailing conditions of law.

10. The application is precluded from Administrative Conditional Use Permit Review and Final Action.

15-1-10 Conditional Use Review Process

A Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use in accordance with applicable standards.

If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, the Conditional Use may be denied.

The City must review all proposed Conditional Uses according to the following procedure, unless a subsequent provision of this LMC specifically sets forth an administrative approval process for a specific Conditional Use, in which case that section shall control:

LMC Section 15-1-11 assigns authority to the Planning Director to review and take Final Action on Administrative CUPs. Section 15-2.7.2 delineates between uses in the ROS Zone. "Ski lifts" are clearly listed in item number eight (8) under Conditional Uses - Section 15-2.7.2 3. CONDITIONAL USES which is altogether different from the Administrative Conditional Uses allowed under Section 15-2.7.2 2. ADMINISTRATIVE CONDITIONAL USES. The City must review all proposed Conditional Uses according to these provisions of the Land Management Code "unless a subsequent provision of this LMC specifically sets forth an administrative approval process..."

Furthermore, no special provision of the LMC exists to supersede LMC sections 15-1-10 and 15-1-11. The only provision cited exists in the Development Agreement which is not sufficient to set forth an administrative approval process with different requirements or burdens of mitigation.

For these reasons, Planning Director is in violation of the Land Management Code in both reviewing the Lift Upgrade Plan and taking final action.

11. The Conditions of Approval attached to the application are not wholly consistent with Park City's General Plan.

The General Plan identifies 6 steps to reduce vehicle miles travel including:

1. "Invest in alternatives to solo driving, such as:
 - Transit (standard bus, bus rapid transit (BRT), light rail, train). Improving accessibility, frequency, quality, routes, pricing, ease of use, etc.
 - Biking. Adding lanes, improving trails, bike sharing program, connectivity, safety, etc.
 - Walking. Adding and improving sidewalks, pedestrian paths, connectivity, cross-walk safety, etc.
3. Support Carpooling.
 - Add freeway High Occupancy Vehicle (HOV) lanes.
 - Create programs that would support carpooling i.e. online carpooling database, etc.
4. Vehicle sharing programs.
 - Encourage community car share program.
 - Provide dedicated public parking spaces throughout town at low or no cost for car share programs.
 - Provide charging stations for electric vehicles

The PMP displaces parking from onsite to offsite , and Applicant has not shown any assurance that adequate offsite parking has been implemented either at Canyons or the High School. Their PMP adds to existing numbers and is not reported to be just at weekends or holidays when the High School is available. Investment in alternatives, support for carpooling by way of HOV lanes and incentivized programs to encourage vehicle and ride sharing are not demonstrated in Application or MUP. The Conditions of Approval are overwhelmingly stick, while the General Plan encourages a carrot approach.