

Resolution No. 03-2026

**A RESOLUTION AUTHORIZING AND APPROVING THE CONSENT
AGREEMENT BETWEEN PARK CITY MUNICIPAL CORPORATION (THE
“CITY”) AND PESKY PORCUPINE, LLC (“PESKY PORCUPINE”)**

WHEREAS, Pesky Porcupine owns certain property located in the City addressed and known as 220 King Road (“220 King Road”);

WHEREAS, Pesky Porcupine submitted applications for a plat amendment (PL-22-05319), single family home conditional use permit (PL-22-05318), outdoor pool (PL-23-00523), steep slope conditional use permit (PL-23-05571), and an application for Historic District Design Review (PL-23-05522) (collectively, the “Applications”);

WHEREAS, in August 2024, the Hermanns initiated litigation in the Third Judicial District Court pursuant Utah Code Ann. § 10-20-1109. *See Hermann v. Park City*, No. 240500344 (3d Dist. Ct. Utah) and *Hermann v. Park City*, No. 240500569 (3d Dist. Ct. Utah);

WHEREAS, in August 2024, Pesky Porcupine initiated litigation in the Third Judicial District Court pursuant to Utah Code Ann. § 10-20-1109. *See Pesky Porcupine, LLC v. Park City*, No. 240500559 (3d Dist. Ct. Utah);

WHEREAS, in an open and public meeting on January 15, 2026, the City Council considered and approved Resolution 03-2026, authorizing the City to enter into a Consent Agreement with Pesky Porcupine to settle the above litigation by affirming the Planning Commission approvals and reinstating the Director’s HDDR approval with such Consent Agreement.

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

1. The recitals are incorporated herein.
2. The City Council hereby approves and authorizes the Consent Agreement between the City and Pesky Porcupine, attached as Exhibit A, in a form approved by the City Attorney.
3. This resolution shall be effective upon adoption and posting.

PASSED AND ADOPTED this 15th day of January, 2026.

PARK CITY MUNICIPAL CORPORATION

Signed by:



6D948D93B56E496
Mayor Ryan Dickey

Attest:

DocuSigned by:



78A88234564F44D...
City Recorder

Deputy City Recorder

Approved as to form:

Signed by:



11B5B6F4AC5F84C7...
Margaret Plane, City Attorney

EXHIBIT A TO RESOLUTION - CONSENT AGREEMENT

**CONSENT AGREEMENT
BETWEEN
PARK CITY
AND
PESKY PORCUPINE, LLC**

THIS CONSENT AGREEMENT (“**Agreement**”) is entered into and effective as of January ___, 2026, by and between the PARK CITY MUNICIPAL CORPORATION, a municipal corporation created under the laws of the State of Utah (the “**City**”), and PESKY PORCUPINE, LLC (“**Pesky Porcupine**”). Pesky Porcupine and the City may be individually referred to as a “Party” or jointly referred to as the “Parties.”

RECITALS:

History of 220 King Road

A. Pesky Porcupine owns certain property located in the City addressed and known as 220 King Road (“**220 King Road**”).

B. Pesky Porcupine intends to construct a new single-family residence (“**Proposed Home**”) on the Property and has submitted several land use applications to the City for the Proposed Home.

C. On May 21, 1985, Sweeney Land Company submitted an application to Park City for a Large-Scale Master Planned Development commonly known as the Sweeney Master Planned Development (“**Sweeney MPD**”) that included the land that would become 220 King Road.

D. The Sweeney MPD is physically located above Old Town and is not in Old Town. Six of the lots within the Sweeney MPD are zoned HR-1 MPD (averaging 1.035 acres each) and are much larger than typical Old Town lots (which are, typically, 0.043 acres with a 25' street frontage and 75' deep).

E. The Sweeney MPD was a tradeoff with the City for large lots with unique standards in return for reduced density and the dedication of significant amounts of open space to the City.

F. The City specifically recognized those tradeoffs, and made findings regarding them, in adopting the Sweeney MPD including, but not limited to the map of the Sweeney MPD, the table of lot sizes, recognizing and discussing during the City Council’s discussion of the Sweeney MPD a letter outlining the Sweeney “neighborhood.”

G. The Sweeney MPD was approved on December 18, 1985, and subsequently amended on or about October 14, 1987, and December 30, 1992.

H. Consistent with the Sweeney MPD, the City Council adopted Ordinance No. 95-50 approving the Treasure Hill Subdivision Phase 1 plat (“**Original Sweeney Plat**”), creating four

single-family lots within the Sweeney MPD.

I. At that time, the Sweeney MPD properties were Zoned HR-1.

J. The HR-1 Zone, for Old Town, at that time provided, in summary, for the preservation of the present land uses and the character of the historic residential areas of Park City, encouraged the preservation of historic structures and the construction of new structures that preserve and contribute to the character of the district, and encouraged densities of development that would preserve the desirable residential environment, and also densities which are consistent with the inherent constraints on development within the narrow canyon areas and on areas that may have steep or substandard street systems.

K. 220 King Road is Lot 2 on the Original Sweeney Plat.

L. In 1990, the City rezoned the King Road parcels, including 220 King Road, from HR-1 to HR-1-MPD, signifying that the City considered that these parcels, including 220 King Road, were intentionally to be treated differently from other HR-1 Parcels.

M. The HR-1 MPD Zone differed from the HR-1 Zone in the following ways:

- i. Building footprints.
- ii. Building area limits
- iii. Construction disturbance areas.
- iv. Building heights
- v. Facade heights
- vi. Building massing
- vii. Fire sprinklers

N. In 1997, the City Council approved an amendment to the Original Sweeney Plat by adopting the Lot 2, Phase 1 Treasure Hill Subdivision Plat, (“**Lot 2 Plat**”).

History of Recent Approvals for 220 King Road

O. Beginning in 2022, Pesky Porcupine submitted applications to the City for a plat amendment (PL-22-05319), single family home conditional use permit (PL-22-05318), outdoor pool (PL-23-00523), and a steep slope conditional use permit (PL-23-05571) (“**Entitlement Applications**”).

P. On January 18, 2023, Pesky Porcupine also submitted an application for Historic District Design Review (“**HDDR Application**”) to the city.

Q. After discussion with the City, it was determined to consider the Entitlement Applications prior to considering the HDDR Application.

R. From time to time, Pesky Porcupine made several material revisions to the Proposed Home’s design based on feedback received from the Planning Commission and the City’s professional planning staff.

S. On February 14, 2024, the Planning Commission approved Pesky Porcupine’s Entitlement Applications (“**Planning Commission Approvals**”).

T. The Planning Commission Approvals were expressly conditioned upon Pesky Porcupine's constructing the Proposed Home consistent with the plans that had been considered and approved by the Planning Commission. True and correct copies of the Planning Commission Approvals are attached hereto as Exhibit A.

U. On March 1, 2024, Eric Hermann and Susan Fredston-Hermann (collectively, the "**Hermanns**") filed an appeal of aspects of the Planning Commission Approvals. The appeal was scheduled before the Park City Appeal Panel ("**Appeal Panel**") for decision.

V. On April 30, 2024, the Appeal Panel denied the appeal in part and remanded questions related to the applicability of Park City's Sensitive Land Overlay zone line back to the Planning Commission.

W. On June 26, 2024, the Planning Commission determined that the Sensitive Land Overlay zone did not apply to the Property and thereby addressed the Appeal Panel's questions.

X. On July 22, 2024, the Appeal Panel issued a final action letter ("**Appeal Panel Final Action Letter**") denying the Hermanns' appeal, constituting Park City's final land use decision upholding the Planning Commission Approvals. A true and correct copy of the Appeal Panel Final Action Letter is attached hereto as Exhibit G.

Y. On August 1, 2024, the Hermanns filed a petition for review regarding the final land use decision appealing the Planning Commission Approval as sustained by the Appeal Panel to the Third Judicial District Court pursuant Utah Code Ann. § 10-20-1109 in a pending case styled *Hermann v. Park City*, No. 240500344 (3d Dist. Ct. Utah) ("**CUP Suit**"), which includes all the Entitlement Applications.

Z. Pesky Porcupine has intervened in the CUP Suit as the owner of the real property at issue.

AA. After obtaining the Planning Commission Approvals, which included approval of components of the Proposed Home's design and a plat amendment, Pesky Porcupine and the City moved forward with the HDDR Application with the more specific building plans that constituted the Planning Commission Approval ("**Updated HDDR**").

BB. On August 15, 2024, the Park City Planning Director ("**Director**") held a public hearing and issued a final action letter approving the Updated HDDR with additional modifications pursuant to specified conditions of approval (the "**HDDR Approval**"). A true and correct copy of the HDDR Approval is attached hereto as Exhibit B.

CC. On August 23, 2024, Pesky Porcupine appealed certain aspects of the HDDR Approval to the Park City Board of Adjustments ("**BOA**").

DD. On August 29, 2024, the Hermanns appealed the HDDR Approval to the Park City BOA, which appeal was later withdrawn or conceded as moot.

EE. On November 12, 2024, the BOA held a public hearing.

FF. At the conclusion of the hearing, the BOA voted three to two to partially overturn the Director's approval of the Updated HDDR application and directed the City's staff to prepare findings of facts and conclusions of law supporting that decision.

GG. On November 19, 2024, the BOA issued a final land use decision in the form of a "Notice of Board of Adjustment Actions" ("Final Action Letter") that contained the findings of facts and conclusions of law for the BOA's decision.

HH. The BOA found that the Proposed Home did not comply with certain provision of the LMC including issues related to existing topography and character-defining site features (LMC 15-13-8(A)(1)(5); the primary façade is not compatible with surrounding historic buildings (LMC 15-13-8(B)(2)(a)(9); and retaining walls not consistent with historic retaining walls (LMC 15-13-8(B)(1)(d).

II. Pesky Porcupine filed a petition for review pursuant to Utah Code Ann. § 10-20-1109 as the property owner appealing certain aspects of the Final Action Letter. That case is styled *Pesky Porcupine, LLC v. Park City*, No. 240500559 (3d Dist. Ct. Utah) (Mrazik, J.).

JJ. The Hermanns also filed a petition for review challenging certain aspects of the Final Action Letter. That case is styled *Hermann v. Park City*, No. 240500569 (3d Dist. Ct. Utah).

KK. The two suits regarding the Final Action Letter have been consolidated into the 240500559 action, pending before the Third Judicial District Court ("HDDR Suits").

Claims in Dispute

LL. The claims in the CUP Suit and in the HDDR Suits have a substantial overlap.

MM. To summarize the overlapping claims in the HDDR Suits and the CUP Suit, the issues related to the approval of the design of the Proposed Home that were approved by the Planning Commission on June 26, 2024, and sustained by the Appeal Panel on July 22, 2024, involve the massing, height, floor area, parking area, glazing, roof design and slope, retaining walls and general compatibility with the historical properties below.

Council Findings

NN. The Council held a public meeting to consider this Agreement on January 15, 2026.

OO. The Council finds that the history of the land use regulations relating to 220 King Road in general and the Proposed Home in particular, including, but not limited to, the Sweeney MPD, the Original Sweeney Plat, the rezoning from HR-1 to HR-1 MPD, the Lot 2 Plat, the mapping and re-mapping of the Sensitive Lands Ordinance, and other factors, distinguish the actual entitlements and applicable law related to 220 King Road within the context of the Sweeney MPD and character area, as specified during the Planning Commission and HDDR review. Application of historic regulations most typically applied to very small lots must be applied to the Proposed Home in the context of the above history and applicable prior approvals.

PP. The Council finds that reasonable people, including members of the land use authorities who considered the application for the Proposed Home, may come to different conclusions about the best way to apply the above history and the various land use regulations in this case, and that this Consent Agreement is in the best interest of the City. Nothing herein shall be construed as a new land use regulation as the City Council hereby determines to re-institute the prior approvals by the initial land use authorities consistent with the Land Management Code.

QQ. The Council finds that the Proposed Home as approved by the HDDR Approval, and the Planning Commission Approvals as upheld by the Appeal Panel on July 22, 2024, substantially and materially comply with the letter, spirit, and intent of the various land use regulations that may be applicable to the Proposed Home.

Consent Agreement Considerations

RR. The Parties are authorized under Utah Code Ann. § 10-20-1110 (2025), to enter into a consent agreement to settle litigation initiated under Section 1109 regarding land use decisions with a property owner.

SS. The City acknowledges that pursuant to case law and Utah Code Ann. § 10-20-901 (2025), ambiguities in applicable land use regulations are required to be construed in favor of the landowner making the application to develop the landowner's private property.

TT. The Parties desire to enter into this Agreement to settle the CUP Suit and the HDDR Suits and replace prior final land use approvals with this Consent Agreement.

UU. By Resolution 03-2026, the City Council approved the execution of this Consent Agreement on the terms set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and in order to settle and resolve the HDDR Suits and the CUP Suit, and the mutual covenants and promises set forth herein, the receipt and sufficiency of which the Parties hereby acknowledged, the Parties agree to the following:

1. **Settlement.** The Parties hereby settle the disputes as between them on the following grounds. Pesky Porcupine agrees to dismiss Pesky Porcupine's claims in the HDDR Suits in exchange for the City agreeing to settle its claims in the HDDR Suits and hereby approves the Proposed Design, as further described below, pursuant to the City's authority under Utah Code Ann. § 10-20-1110. This settlement (i) constitutes a settlement of the claims in the CUP Suit and effects a City-approved exception of any alleged variations or inconsistencies between the applicable standards and legal requirements and the approvals confirmed herein; (ii) resolves all of the claims in the HDDR Suits and CUP Suit because the substantive land use decisions the Hermanns challenged have been replaced by this Agreement, thereby mooting the lawsuits; and (iii) re-institutes a final land use decision, as that term is defined in Utah Code Ann. § 10-20-102, approved by the City Council by the above-referenced resolution. Nothing in this Agreement shall constitute a precedent for other development within the City and does not affect the rights of other parties to make land use applications or obtain land use approvals on any property other than the

Property.

2. **Approval of Design.** The Planning Commission Approvals, which set forth the approved design of the Proposed Home, which approval was confirmed by the Planning Commission on June 26, 2024, and sustained by the Appeal Panel on July 22, 2024, is hereby deemed fully approved by the City, subject to the requirements in Subsection 2.1 – 2.3 below:

- 2.1. **HDDR Approval.** The Planning Commission Approvals are modified by the requirements of the HDDR Approval. Specifically, the modifications are an adjustment to a roof overhang and glazing on certain windows as more particularly described in the attached Exhibit B.
- 2.2. **Driveway.** The approved design for the driveway, which has been further engineered and developed based on the Planning Commission Approvals, is set forth on Exhibit C. No part of the foregoing approval allows activities outside of the driveway easement held by Pesky Porcupine for the benefit of and constituting a right benefiting the Property.
- 2.3. **Additional Mitigation.** To further mitigate impacts associated with the Planning Commission Approval, and the impacts associated with the Proposed Home, Pesky Porcupine agrees to perform the following additional mitigation beyond what was required by the Planning Commission and HDDR Approvals:
 - 2.3.1. **Additional Landscaping.** Pesky Porcupine has agreed to install additional landscaping to further mitigate any visual impact as depicted on the attached Exhibit E. The landscaping shall be installed in phases, and as early as is reasonably possible given the timing associated with installing water service and the areas on the Property being available for landscaping after such areas are no longer needed for lay down, material storage, and other construction activities. The supplemental landscaping required by this Agreement shall be installed within setbacks and outside of depicted limits of disturbance, as further detailed and depicted on Exhibit E. The additional and supplemental landscaping will provide visual mitigation and cause benefits that will inure to the benefit of the community.
 - 2.3.2. **Road Safety Improvements.** To mitigate impacts associated with construction to certain public and private road segments, Pesky Porcupine shall install, at times requested by and coordinated with the City's engineer, improvements on right-of-way or property owned by the City in the areas shown on the attached Exhibit F, but no later than prior to the issuance of a certificate of occupancy for the residence on the Property.

3. **Issuance of Permits.** The City will issue building permits as necessary for the construction of the Proposed Home, including the driveway, so long as the plans for the permits comply with the designs approved by Section 2 and other generally applicable standards, including, but not limited to, the currently adopted and any updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or other similar construction or safety related codes adopted pursuant to Title 15A, Chapters 1 through 6 of the Utah Code. Any time limitations associated with the Proposed Home and associated approvals are tolled to restart

with execution of this Consent Agreement, provided Pesky Porcupine continues to pursue development and construction activity with reasonable diligence.

4. **Extensions/Validity of Prior Approvals.** The Planning Commission Approvals and HDDR Approval, as modified and replaced as described herein, are recognized as being presently valid and any claims that those approvals have lapsed or expired are hereby denied and moot.

5. **Consent Agreement.** The Parties shall submit the Consent Agreement to the Third Judicial District Court in the CUP Suit and the HDDR Suits memorializing this Agreement in the form attached hereto as Exhibit D.

6. **Indemnification and Defense.** Pesky Porcupine shall indemnify, defend, and hold the City harmless from any and all legal challenges in state or federal court arising from or relating to this Agreement, the CUP Suit, the HDDR Suits, and/or any related appeals by third parties. In any such challenge, the City shall be entitled to retain its own counsel to assist in the defense of this Agreement and/or the Consent Agreements and the reasonable cost of that defense shall be paid for by Pesky Porcupine. Pesky Porcupine further covenants to indemnify, defend, and hold the City harmless from any and all legal challenges related to any approval of access or development activity on parcels owned by affiliates of Pesky Porcupine, namely the property known as 233 Norfolk Avenue and the property currently known as 209 Norfolk Avenue and which will in the future be known as 215 Norfolk Avenue and 209 Norfolk Avenue. In any such challenge as to the aforementioned Norfolk Avenue properties the City shall be entitled to retain its own counsel and the reasonable cost of that defense shall be paid for by Pesky Porcupine.

7. **Notices.** Any notice required or permitted to be given hereunder shall be deemed sufficient only if given in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States mail, postage prepaid, and certified and addressed as follows:

To Pesky Porcupine:

Pesky Porcupine, LLC
c/o Snell & Wilmer
Attn: Wade Budge
15 West South Temple, Suite 1200
Salt Lake City, UT 84101

And

Bruce R. Baird
Bruce R. Baird, PLLC
2150 South 1300 East, Suite 500
Salt Lake City, UT 84106

To Park City:

Park City
Attn: Mayor
445 Marsac Ave.
PO Box 1480
Park City, UT 84060

With a Copy to:

Park City
Attn: City Attorney

445 Marsac Ave.
PO Box 1480
Park City, UT 84060

And

James Dodge Russell & Stephens P.C.
Attn: Mitch Stephens
545 E. 300 S.
Salt Lake City, UT 84102

8. **Miscellaneous.**

- 8.1. **No Third-Party Beneficiary.** This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors, heirs, and assigns. No other party shall have any right of action based upon any provision of this Agreement, whether as third-party beneficiary or otherwise. There are no third-party beneficiaries to this Agreement.
- 8.2. **Counterparts.** This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.
- 8.3. **Binding Effect.** The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties hereto and their successors, heirs, and assigns.
- 8.4. **Headings.** The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control the meaning or construction of any of the provisions hereof.
- 8.5. **Entire Agreement and Integration.** This Agreement constitutes the entire agreement between the Parties regarding the settlement of the dispute regarding the CUP and HDDR Application addressed herein, and any previous agreements, understandings, and negotiations on that subject shall cease to have any effect.
- 8.6. **Cooperation.** The Parties agree to cooperate in drafting, signing, executing, filing, recording, and otherwise carrying out any further documents that may be necessary to effectuate the terms of this Agreement.
- 8.7. **Interpretation.** This Agreement has been reviewed and revised by legal counsel for both Pesky Porcupine and the City, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement. The Parties agree that principles of *contra proferentem* and similar legal doctrines shall not apply to this Agreement. The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive.
- 8.8. **Further Assurances, Documents and Acts.** Each Party agrees to cooperate in good faith with the others and to execute and deliver such further documents and to take

all further acts reasonably necessary in order to carry out the intent and purposes of this Agreement and the actions contemplated hereby. All provisions and requirements of this Agreement shall be carried out by each Party as allowed by laws and regulations.

- 8.9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, regardless of any choice of law provisions.
- 8.10. **Limited Termination Option.** Parties acknowledge that Pesky Porcupine has the option, in the event of any challenge of any sort to this Agreement or its approval, to terminate this Agreement by delivering written notice to the City, no later than six (6) months after the execution of this Agreement. Such termination shall not eliminate Pesky Porcupine's indemnity obligations pursuant to Section 6 of this Agreement or require reimbursement of any amounts paid pursuant thereto.
- 8.11. **Severability.** In the event any provision of this Agreement is held or determined to be invalid, void, unenforceable, or in violation of law or public policy, that provision shall be severed from this Agreement, and the remainder shall be given force and effect to the fullest extent permissible and consistent with the terms and provisions of this Agreement and shall bind the Parties and their successors, heirs, and assigns.
- 8.12. **Modification.** This Agreement may not be amended, modified, or repealed in whole or in part except in a writing signed by all the Parties. Any amendment to this Agreement must be approved pursuant to a vote of the City's City Council, taken with the same formality as the vote approving the Resolution subject to this Agreement.
- 8.13. **Resolution.** The City is authorized to execute this Agreement on behalf of the City pursuant to Title 10, Chapter 20, Section 1110, Utah Code Ann., Resolution # 03-2026 shall be adopted by the City Council at a public meeting on January 15, 2026 to bring full legal force and effect to this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS HEREOF, the Parties have subscribed their names hereon and caused this Agreement to be duly executed on the _____ day of January, 2026.

PESKY PORCUPINE, LLC

By: _____
Name: _____
Its: _____

PARK CITY MUNICIPAL CORPORATION

By: _____
Name: _____
Its: _____

Attest

Park City City Recorder

EXHIBIT A
(Planning Commission Approvals)

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February 21, 2024

Pesky Porcupine, LLC

CC: Wade Budge with the Law Offices of Snell & Wilmer

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	220 King Road Lot 2, Phase I of the Treasure Hill Subdivision Sweeney Master Planned Development
Zoning District:	Historic Residential – 1 Sensitive Land Overlay
Applications:	PL-22-05318 – Conditional Use Permit, Single-Family Dwelling PL-22-05319 – Plat Amendment PL-23-05523 – Outdoor Pool PL-23-05571 – Steep Slope Conditional Use Permit
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	February 21, 2024
Project Summary:	The Applicant proposes to demolish a 4,235-square-foot Single-Family Dwelling and 4,189-square-foot Guest House, to construct a: <ul style="list-style-type: none">○ A Single-Family Dwelling with:<ul style="list-style-type: none">▪ Approximately 7,461 square feet of finished space.▪ Approximately 5,898 square feet of unfinished space.▪ Approximately 1,690 square feet of terrace/patio area.○ A 1,103-square-foot Accessory Building.○ A 243-square-foot Swim Spa.○ A 4,794-square-foot Underground Parking Area.

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The Applicant proposes to amend Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase 1 Treasure Hill Subdivision, and shift Plat Note 9 (Precedence) to Plat Note 1 and add Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and to shift the Building Area Limits to accommodate the proposed project.

Action Taken

On February 14, 2024, the Planning Commission conducted a public hearing and approved the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision, amending Plat Notes 1 (Footprint), 4 (Height), 5 (Façade Height, Easterly Facing), and 9 (Precedence) of the Lot 2, Phase 1 Treasure Hill Subdivision, shifting Plat Note 9 (Precedence) to Plat Note 1 and adding Plat Notes 10, 11, 12, and 13 to the Second Amendment for Lot 2, Phase 1 Treasure Hill Subdivision, and shifting the Building Area Limits to accommodate the proposed project. The Planning Commission conducted a public hearing and approved the Conditional Use Permit for a Single-Family Dwelling and Outdoor Pool and the Steep Slope Conditional Use Permit for the project according to the following findings of fact, conclusions of law, and conditions of approval:

The January 24, 2024 and February 14, 2024 staff reports and meeting minutes are incorporated herein.

Plat Amendment File No. PL-22-05318

Findings of Fact

1. The Applicant has proposed a new plat entitled the Second Amendment for Lot 2, Phase 1, Treasure Hill Subdivision ("Amended Plat"), a copy of which is attached hereto as Exhibit A, which will amend the existing Lot 2, Phase 1 Treasure Hill Subdivision Plat, including the Amended Plat's notes which are attached hereto as Exhibit B.

2. On July 18, 2022, the applicant Pesky Porcupine LLC ("Applicant") submitted an application for a proposed subdivision plat amendment in connection with a proposed single-family residence to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

3. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat").

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4. The Property is currently being used for one single-family residence and one guest house that the Applicant intends to demolish to construct a new single residence.

5. The Amended Plat differs from the Treasure Hill Subdivision Plat in two ways. First, the Amended Plat modifies plat note 1 on the Treasure Hill Subdivision Plat to align with the Amended Sweeney Properties MPD approval conditions and other phases within the Amended Sweeney Properties MPD. Second, the Amended Plat modifies the buildable area by reducing the overall buildable area and relocating a portion thereof to the west side of the Property, as depicted on the attached Amended Plat.

6. The Applicant submitted all materials required by the Park City Land Management Code ("LMC") for the proposed plat amendment.

7. The Planning Commission has authority to act as the land use authority to approve the Amended Plat pursuant to LMC § 15-7-7.

8. After carefully reviewing the Amended Plat, the Amended Sweeney Properties MPD approval documents, other materials presented by the Applicant, and input received by the Applicant, City staff, and the public in a public hearing, the Planning Commission has determined that good cause exists for amending the Treasure Hill Subdivision Plat via the Amended Plat as more fully specified below. See Utah Code § 10-9a-609(1)(a).

9. The Planning Commission further concludes that no public street or municipal utility easement is being vacated or amended by the Amended Plat. See Utah Code § 10-9a-609(1)(b).

10. The Planning Commission expressly finds this approval is limited to the Amended Plat of the Amended Sweeney Properties Master Planned Development, and as such shall not create any precedent nor interpretation of general applicability in the Historic Residential-1 Zoning District, for current Land Management Code regulations, or other plat amendments.

Additional Findings

11. The Planning Commission, as the land use authority, finds that there is good cause to approve the Amended Plat based on the following:

a. Note 1 of the Treasure Hill Subdivision Plat contains a development limitation that buildings must have a building footprint of 3,500 square feet or less. That allowable building footprint includes garages but does not include:

i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;

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- ii. Exterior walkways;
- iii. Exterior stairs; and
- iv. Driveways.

Note 1 was included on the Treasure Hill Subdivision Plat but was not imposed upon the Property via the Amended Sweeney Properties MPD. Other subdivisions within the Amended Sweeney Properties MPD define "building footprint" more broadly and nothing within the Amended Sweeney Properties MPD requires the Treasure Hill Subdivision Plat's more restrictive definition.

b. The Amended Plat also contains a building footprint limitation of 3,500 square feet or less. The allowable building footprint includes garages but does not include:

- i. Decks which are open on at least two sides (but which may have railings as required), covered or uncovered, and which do not have above grade living space below or above them;
- ii. Exterior walkways;
- iii. Exterior stairs;
- iv. Driveways; and
- v. That portion of any carport, mechanical space, or living space that is located below existing grade and which has landscaping or deck (as provided in (1(A)) located above it.

c. The Amended Plat's development limitation is more consistent with the Amended Sweeney Properties MPD approval as the building footprint limitation was intended to limit the visual impact of development and subgrade improvements, excluded under the Amended Plat, have a de minimis visual impact on adjacent uses.

d. The overall buildable area of the Treasure Hill Subdivision Plat is 490 square feet larger than the buildable area of Amended Plat. The Amended Plat removes buildable area from portions of the Property that are visible to downtown Park City and relocates such buildable area to the west side of the Property to reduce the visual impact of the buildable area.

e. The Planning Commission finds that good cause exists, see LMC §§ 15-15-1 & 15-7.1-3.B, for amending the Treasure Hill Subdivision Plat based on the following:

- i. The Amended Plat resolves an existing non-conformity as the two residential units constructed on a single lot will be demolished in favor of a single residential unit on a single lot.

- ii. The Amended Plat preserves the character of the neighborhood and Park City as the Amended Plat is more consistent with the Amended Sweeney Properties MPD approval.
- iii. Reducing the buildable area and relocating a portion of the buildable area will reduce the visual impact of the Property's development. This is consistent with best planning and design practices.
- iv. The Amended Plat facilitates the construction of a single residence in place of one residence and one guest house that are presently used as short-term rentals. Demolishing the two existing short-term rentals reduces the overall density of the area, alleviates traffic, decreases utility usage, minimizes noise and light pollution, and is more consistent with neighboring uses.
- v. The Amended Plat facilitates the termination of the existing short-term rentals. This furthers the health, safety, and welfare of the Park City community as it will decrease the number of unknown persons in the community and increase the overall sense of community by housing long-term residents.

f. The Amended Plat includes all existing public streets and municipal utility easements and does not propose to vacate or amend the same.

Conclusion

Based on the foregoing, good cause exists to approve the Amended Plat as it satisfies the requirements of Utah Code § 10-9a-609(1) and LMC § 15-7-7. The Planning Commission concludes it is appropriate to approve the Amended Plat.

Conditions of Approval

The Conditional Use Permit and Steep Slope Conditional Use Permit Conditions of Approval below are incorporated herein.

Exhibit A
Amended Plat to be Updated to Reflect Exhibit B

 <p>UTAH LAND SURVEYS LLC PROFESSIONAL SURVEYORS INCORPORATED 1990 1390 100TH AVENUE, UNIT 100 HANOVERON, UTAH 84036 PHONE: 801.752.5855 FAX: 801.752.5856 E-MAIL: utahsurveys@msn.com WEBSITE: www.utahsurveys.com</p>		<p style="text-align: center;">REVISED</p> <p style="text-align: center;">LOT 2, PHASE 1, TREASURE HILL SUBDIVISION A Subdivision of the Townships 2 and 3, Range 10, in the State of Utah, in the County of Sanpete, in the State of Utah, USA Date: June 20, 2000 Surveyor: John D. Johnson, C.S.</p> <p style="text-align: center;">VICINITY MAP SITE (NOT TO SCALE)</p> <p style="text-align: center;">SURVEYOR'S CERTIFICATE</p> <p style="text-align: center;">SIR/MS. JAMES M. MCKEE, JR. 1390 100TH AVENUE, UNIT 100 HANOVERON, UTAH 84036 PHONE: 801.752.5855 FAX: 801.752.5856 E-MAIL: utahsurveys@msn.com WEBSITE: www.utahsurveys.com</p> <p style="text-align: center;">LEGEND</p> <p style="text-align: center;">GENERAL NOTES</p> <p style="text-align: center;">TIME OF SURVEY (1) JUNE 20, 2000</p> <p style="text-align: center;">OWNER'S DECLARATION</p> <p style="text-align: center;">LEGAL DESCRIPTION</p> <p style="text-align: center;">BASIS OF SURVEYING</p> <p style="text-align: center;">RECORD</p> <p style="text-align: center;">LOT 2, PHASE 1, TREASURE HILL SUBDIVISION</p>	
 <p>UTAH LAND SURVEYS LLC PROFESSIONAL SURVEYORS INCORPORATED 1990 1390 100TH AVENUE, UNIT 100 HANOVERON, UTAH 84036 PHONE: 801.752.5855 FAX: 801.752.5856 E-MAIL: utahsurveys@msn.com WEBSITE: www.utahsurveys.com</p>			

Exhibit B
Amended Plat Notes

SPECIAL RESTRICTIONS FOR SINGLE FAMILY HOMES TO BE CONSTRUCTED AS SHOWN HEREON:

1. PRECEDENCE. THE BELOW SPECIAL RESTRICTIONS ARE CONSISTENT WITH THE SWEENEY MASTER PLAN APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986 AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992. FINAL HOUSE DESIGN SHALL BE REVIEWED UNDER THE CONDITIONAL USE PERMIT PROCESS IN ACCORDANCE WITH THE SWEENEY MASTER PLAN.

2. FOOTPRINT. THE RESIDENTIAL FOOTPRINT OF THE DWELLING ("MAIN HOUSE"), TO BE LOCATED ON THE SECOND AMENDMENT FOR LOT 2, PHASE I, TREASURE HILL SUBDIVISION (THE "LOT"), SHALL BE CALCULATED FROM THE OUTSIDE FACE OF WALLS ON ANY SINGLE LEVEL, AND A MAXIMUM OF THREE THOUSAND FIVE HUNDRED (3,500) SQUARE FEET FOOTPRINT INCLUDING GARAGES. THE FOLLOWING SHALL NOT COUNT TOWARD THE FOOTPRINT CALCULATIONS:

- a) DECK WHICH IS OPEN ON AT LEAST TWO SIDES, BUT WHICH MAY HAVE RAILINGS AS REQUIRED, COVERED OR UNCOVERED, AND THAT DOES NOT HAVE ABOVE-EXISTING NATURAL GRADE OR LIVING SPACE LOCATED BELOW OR ABOVE IT;
- b) EXTERIOR WALKWAYS;
- c) EXTERIOR STAIRS;
- d) DRIVEWAY; AND
- e) THAT PORTION OF ANY CARPORT, MECHANICAL SPACE, PARKING AREA, OR LIVING SPACE THAT IS LOCATED BELOW EXISTING GRADE AND WHICH HAS LANDSCAPING OR DECK (AS PROVIDED IN 1(A)) LOCATED ABOVE IT.

3. BUILDING AREA LIMITS. IMPROVEMENTS, INCLUDING FENCES AND FORMAL LANDSCAPING (UNLESS OTHERWISE PERMITTED UNDER EASEMENTS OR AGREEMENTS OF RECORD OR AS SHOWN ON THE PLAT OR AS CONSISTENT WITH THE APPROVED CONSTRUCTION DRAWINGS OF THE DRIVEWAYS, UPPER NORFOLK TURNAROUND, KING ROAD TURNAROUND, SKI BRIDGE AND UTILITY PLANS) SHALL BE LIMITED TO THE BUILDING AREA LIMITS NOTED ON THE PLAT.

4. CONSTRUCTION DISTURBANCE. UNLESS OTHERWISE PROVIDED IN AGREEMENTS WITH PARK CITY MUNICIPAL CORPORATION WHICH ARE OF RECORD, TEMPORARY CONSTRUCTION DISTURBANCE SHALL BE LIMITED TO TWENTY (20) FEET BEYOND THE BUILDING AREA LIMITS OR TO ADJOINING LOT PROPERTY LINES WHICH EVER IS CLOSER.

SUCH DISTURBED AREA SHALL BE REVEGETATED WITH NATIVE LANDSCAPING.

5. HEIGHT. THE BUILDING HEIGHT SHALL BE MEASURED FROM EXISTING GRADE TO THE TOP OF THE FLAT ROOFS AND TO THE RIDGE OF PITCHED ROOFS. THE MAXIMUM HEIGHT, IN GENERAL, SHALL BE TWENTY -FIVE (25) FEET FOR FLAT ROOFS AND THIRTY (30) FEET FOR PITCHED ROOFS. A MAXIMUM HEIGHT OF TWENTY EIGHT (28) FEET FOR FLAT ROOFS AND THIRTY-THREE (33) FEET FOR PITCHED ROOFS SHALL BE PERMITTED FOR THE EXPRESSED PURPOSE OF ACCOMMODATING ACCESS AND LIGHT FEATURES NO GREATER THAN 24 FEET IN LENGTH, I.E. STAIRWELLS AND/OR ELEVATORS, BETWEEN FLOOR LEVELS. IN ACCORDANCE WITH THE SWEENEY MPD, WHICH WAS APPROVED BY THE PARK CITY MUNICIPAL CORPORATION ON OCTOBER 16, 1986, AND AS SUBSEQUENTLY AMENDED ON OCTOBER 14, 1987 AND DECEMBER 30, 1992, BUILDING HEIGHT SHALL ONLY BE MEASURED AS OUTLINED IN THIS PLAT NOTE #4.

6. FAÇADE HEIGHT, EASTERLY FACING. THE MAXIMUM FAÇADE HEIGHT FOR THE EASTERLY FACING FAÇADES WITHOUT A STEP BACK OR STEP OUT OF AT LEAST FIVE (5) FEET SHALL BE TWENTY FIVE (25) FEET FROM EXISTING OR REESTABLISHED GRADE WHICHEVER IS GREATER.

7. MASSING. HOUSE DESIGNS MAY BE COMPRISED OF ONE OR MORE CONNECTED OR UNCONNECTED BUILDING MASSES. NO ONE BUILDING MASS WITHIN THE 3,500 SQUARE FOOT FOOTPRINT REFERENCED IN NOTE 1 ABOVE, SHALL HAVE A FOOTPRINT THAT EXCEEDS 1,500 SQUARE FEET. MASSING ELEMENTS SHALL BE SEPARATED BY HORIZONTAL AND/OR VERTICAL FAÇADE BREAKS.

8. SEWER LATERALS. MAINTENANCE AND REPLACEMENT OF SEWER LATERALS SHALL BE THE RESPONSIBILITY OF THE OWNER(S) AND NOT THAT OF SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT.

9. FIRE SPRINKLING. INTERNAL AND EXTERNAL MODIFIED 13d FIRE SPRINKLERS SHALL BE PROVIDED FOR THE HOME. WOOD ROOFING MATERIAL SHALL BE PROHIBITED.

10. EXTERIOR LIGHTING. ALL EXTERIOR LIGHTING SHALL BE DOWN DIRECTED AND FULLY SHIELDED WITH BULBS 3,000 DEGREES KELVIN OR LESS. FLOOD LIGHTS ARE PROHIBITED. OUTDOOR LIGHTS SHALL NOT BE INSTALLED MORE THAN 12 FEET ABOVE EXISTING GRADE. GROUND-LEVEL FIXTURES SHALL BE FULLY SHIELDED.

11. GLAZING. SIXTY PERCENT (60%) OF THE EASTERN FACING FAÇADE IS PERMITTED TO BE GLAZING AND LIGHTING IMPACTS FROM THE EASTERN

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FACING FAÇADE SHALL BE MITIGATED BY INTERIOR FIXTURES DESIGNED TO MINIMIZE DIRECT VISIBILITY OF THE LIGHTING ELEMENT FROM RESIDENCES WITHIN 1/3 MILE OF THE RESIDENCE.

12. CONTINGENT UPON A STEEP SLOPE CONDITIONAL USE PERMIT APPROVAL BY THE PLANNING COMMISSION, DETACHED BELOW GRADE ACCESSORY BUILDINGS. BELOW GRADE ACCESSORY BUILDINGS ARE PERMITTED WITHIN THE BUILDABLE AREA. THE FOOTPRINT OF A DETACHED BELOW GRADE ACCESSORY BUILDING DOES NOT COUNT TOWARDS THE FOOTPRINT AREA OF THE DWELLING AS ALLOWED IN NOTE #1.

13. USE OF RESIDENTIAL STRUCTURE. ANY RESIDENCE CONSTRUCTED AFTER THE DATE OF THIS AMENDMENT SHALL ONLY BE USED AS A SINGLE-FAMILY RESIDENCE. THE NEW RESIDENCE SHALL NOT BE USED AS A CONDOMINIUM, TIME INTERVAL OWNERSHIP, FRACTIONAL OWNERSHIP, OR NIGHTLY RENTALS. HOME OCCUPATIONS SHALL BE PERMITTED IN ACCORDANCE WITH LMC § 15-4-3.

Conditional Use

File No. PL-22-05319

File No. PL-23-05523

[220 King Residence and Outdoor Pool]

Findings of Fact

1. On July 18, 2022 the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD"). The Property is also platted within the First Amended Lot 2, Phase 1, Treasure Hill Subdivision of record with the Summit County Recorder's Office ("Treasure Hill Subdivision Plat"), as amended.

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence.

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The existing single-family residence and guest home have been used for short-term rentals.

5. The application is for the construction of the Residence ("Residence CUP") as required by Condition No. 3 of the Amended Sweeney Properties MPD.

6. The Planning Commission has authority to act as the land use authority for the Residence CUP. See Condition No. 3 of the Amended Sweeney Properties MPD; LMC § 15-1-10.D.

7. The Applicant submitted all the materials required by the LMC for the Residence and outdoor pool CUP and presented in a public hearing regarding the proposals set forth in Residence CUP application.

8. The Planning Commission, after carefully considering the site plan attached hereto as Exhibit C and other design materials, the Applicant's submittals, and the Applicant's presentation at the public hearing, has determined that the Residence was designed to minimize visual impact on adjacent property owners.

Additional Findings

9. The Planning Commission, as the land use authority, finds that the proposed Residence CUP is in compliance with the standards in LMC § 15-1-10.E, as applied pursuant to the Amended Sweeney Properties MPD. Specifically, the Residence:

a. As applied pursuant to the Amended Sweeney Properties MPD, is an appropriate size and location for the Property. See LMC § 15-1-10.E.1. This finding is supported further as follows:

i. The Property is notably larger than most of the other buildable lots in the Amended Sweeney Properties MPD. The ratio of lot size to the Residence is significantly smaller than neighboring residences.

ii. The Property's buildable area is being reduced by approximately 490 square feet concurrently with this approval. The Residence will be located within the reduced buildable area.

iii. The Residence will be adequately setback and buffered from the surrounding properties. The nearest adjacent residence is approximately 120 feet away.

b. Addresses traffic considerations including the capacity of the existing streets in the area. See LMC § 15-1-10.E.3. This finding is supported as follows:

i. The new residence will utilize the same access point as the existing homes. No additional traffic or traffic impacts will result from the new residence. In fact, traffic impacts will be decreased as two homes have more traffic than the single Residence.

ii. The capacity of the existing streets is sufficient to accommodate the new residence and no traffic impact study was necessary.

c. Has sufficient utility capacity, including storm water run-off. See LMC § 15-1-10.E.3. This finding is supported as follow:

i. All utilities on the Property were installed with the existing houses and are adequate to service the existing houses.

ii. The Residence will decrease utility usage by utilizing more efficient construction materials and by replacing one existing home and one existing guest house used as short-term rentals.

iii. All storm water run-off from new impervious surfaces will be retained onsite.

d. Provides adequate emergency vehicle access. See LMC § 15-1-10.E.4. Specifically, the Residence has been designed to meet all emergency vehicle access and driveway slope requirements as set forth in the LMC, including by providing a fire turnaround in the underground parking area.

e. Provides adequate off-street parking. See LMC § 15-1-10.E.5. Specifically, the Residence provides at least two off-street parking stalls as required by LMC § 15-3-6(A).

f. Provides sufficient internal vehicular and pedestrian circulation system. See LMC § 15-1-10.E.6. This finding is supported as follow:

i. Vehicles accessing the Property will continue to use existing access points from King Road. The Residence is designed such that vehicles can turnaround and park via the private driveway and the underground parking area.

ii. There is minimum pedestrian traffic in the area as the public roadways do not have sidewalks. There is a 10' public non-motorized bike, pedestrian trail, and ski easement on the Property for the benefit of a neighboring property. No change is being proposed to those easements.

g. Provides fencing, screening, and landscaping to separate the use from adjoining uses. See LMC § 15-1-10.E.7. This finding is supported as follow:

i. The existing fencing, screening, and landscaping for the existing houses is adequate to separate the use from adjoining uses. No additional fencing is being proposed by the Applicant.

ii. New landscaping will consist of native grasses and trees and existing vegetation will be maintained and managed.

iii. Perimeter vegetation will continue to provide a visual barrier to the Property and mitigate visual impact.

h. As applied pursuant to the Amended Sweeney Properties MPD, is appropriately massed, bulked, and oriented, on the site. See LMC § 15-1-10.E.8. This finding is supported as follow:

i. The Residence has been intentionally designed to break up the perceived mass and follows the plat notes relative to massing. Specifically, the plans show the Residence: (i) broken up into at least four (4) massing elements that are each less than 1,500 square feet; (ii) have an overall footprint of less than 3,500 square feet, as measured by the definition on the second amended subdivision plat; and (iii) complies with the seconded amended subdivision plat.

ii. The site is designed to respect the existing topography and site features such as existing trees and vegetation. Cut, fill, and retaining wall areas will be located behind the Residence to minimize any visible impact on neighboring uses.

iii. The Residence meets the height limitation stated on the second amended subdivision plat.

i. Contains usable open space. See LMC § 15-1-10.E.9. Specifically, the new residence does not substantially change the existing site's open space. All existing landscape easements will be maintained.

j. Contains no signs but will provide appropriate lighting. See LMC § 15-1-10.E.10. The Property will comply with the city's outdoor lighting requirements found at LMC § 15-5-5(J).

k. As applied pursuant to the Amended Sweeney Properties MPD, is physically designed to be compatible with surrounding structures. See LMC § 15-1-10.E.11. Specifically, the Residence is consistent with other single-family residences within the Amended Sweeney Properties MPD.

i. Does not produce noise, vibration, odors, steam, or other mechanical factors that would affect people or off-site property. See LMC § 15-1-10.E.12.

m. Properly controls delivery and service vehicles, loading and unloading zones, and screens trash and recycling pickup areas. See LMC § 15-1-10.E.13. Specifically, a vehicle control gate will control access to delivery and service vehicles, and the Property is adequately sized to park delivery and service vehicles without impacting adjoining uses.

n. Will not be used as a condominium, time interval ownership, fractional ownership, nightly rental, or for a commercial use. See LMC § 15-1-10.E.14. Indeed, the Property will be used only as a single-family residence and the short-term rental uses on the existing home and guest house will be terminated.

o. Is appropriately situated on the existing topography of the Property. See LMC § 15-1-10.E.15. This finding is supported as follow:

- i. The site is already adequately graded to support the existing houses and minimal additional grading will be required for the Residence.
- ii. For the reasons discussed below, a steep slope conditional use permit will be issued for the very steep slope disturbance.

p. Is consistent with the goals and objectives of the Park City General Plan. See LMC § 15-1-10.E.16. This finding is supported as follow:

- i. The existing houses to be demolished are not historically significant.
- ii. The proposed design of the Residence is consistent with the design criteria contemplated by the Amended Sweeney Properties MPD approval.

10. The Planning Commission finds that for the reasons above, the Residence will not have a detrimental impact on surrounding uses. The Planning Commission further finds that by terminating the existing short-term rental uses of the home and guest house currently existing on the Property, the Residence will have a reduced overall impact on surrounding uses.

11. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result

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from the proposed use. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Residence and Outdoor Pool CUP applications meet the standards and requirements of the LMC as applied pursuant to the Amended Sweeney Properties MPD, including the criterial for approving a conditional use per LMC § 15-1-10.E and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Residence CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the Residence.

Conditions

The use approved by the Residence and outdoor pool CUP is conditioned upon the following:

- A. Final building plans shall reflect substantial compliance with the plans approved February 14, 2024, by the Planning Commission, and attached as Exhibit D. Any changes modifications, or deviations from the approved design that have not been approved in advance by Park City's Planning and Building Departments may result in a stop work order.
- B. The Applicant is responsible for notifying the Planning and Building Departments prior to proposing any changes to this approval. The Applicant shall submit in writing any changes, modifications, or deviations from the approved scope of work for planning review and approval/denial in accordance with the applicable standards prior to construction. Unfinished space indicated on plan sheets A2.10 and A2.20 of the approved plan set is limited to concrete floors, utilities, mechanical equipment, and storage. Future modifications to this unfinished space shall be reviewed by the Planning Commission in accordance with the Conditional Use Permit process.
- C. The current access point of King Road must be maintained, and no new access points are allowed. The driveway width within the platted easement on 200 King Road and within the setbacks required for 220 King Road shall not exceed 12 feet in width, unless required by the Park City Fire District to accommodate turning radius and emergency vehicles.
- D. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning

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Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

E. All storm water run-off from new impervious surfaces must be contained on the Property.

F. Applicant shall submit a storm drainage analysis to the Park City Engineering Department. The analysis must show that the required storm drainage storage volume matches the pre-development and post-development conditions for a 100-year 24-hour event.

G. Applicant shall submit a soil investigation report, geotechnical report, and slope stability report to the city concurrent with or prior to submitting a building permit application.

H. Prior to obtaining a building permit, the Applicant shall provide soil stabilization details documenting how the disturbed area will be restored and stabilized.

I. The proposed development must include a vehicular turnaround that meets applicable fire code standards.

J. The Residence's occupants must use as on-site parking the sub-grade parking area shown on the proposed plans.

K. The proposed development must include a vehicle control gate that allows Park City emergency vehicle access and for vehicles to queue in the Property's driveway and not on King Road.

L. No additional fencing is permitted without further approval by the Park City Planning and Building Departments.

M. After construction of the Residence is completed, Applicant shall revegetate the site consistent with the submitted landscape plan, seen on sheet A1.03 of the approved plans.

N. The Residence must be constructed according to the approved plans.

O. The Applicant shall receive approval through the Historic District Design Review process prior to submitting a building permit.

P. The proposed residence's roof shall be consistent with the plans approved by the Planning Commission on February 14, 2024, and attached as Exhibit D.

Q. The existing access and landscaping easement shall remain in place.

R. Except for a typical "for sale" sign no signs will be permitted on the Property.

S. The primary use of the Property shall be limited to a single-family residential use. The proposed residence shall not be used for a short-term rental or have fractional ownership.

T. Any areas disturbed during construction shall be restored to the original state after the proposed residence, accessory building and structures, and retaining walls are completed.

U. The railing of the roof terrace shall minimize the visibility when viewed cross-canyon.

V. All exterior lighting shall be down directed, fully shielded, with bulbs 3,000 degrees Kelvin or less to prevent glare onto adjacent property and shall comply with the City's outdoor lighting code per LMC § 15-5-5(J). Flood lights are prohibited. Fully Shielded outdoor lights shall not exceed 12 feet above Existing Grade. Ground-level fixtures shall be Fully Shielded. Final lighting details must be reviewed by Planning Staff prior to installation.

W. All proposed mechanical equipment, the pool, and/or a hot tub shall be screened. Any hot tub installation is prohibited on east façade decks or terraces.

X. No more than eight inches of the new foundation shall be visible above Final grade on the primary façade and no more than two feet of the foundation shall be visible above Final Grade on secondary and tertiary facades.

Y. Lower-level glazing on the north, east, and south facades shall be screened with berms and/or vegetation as approved by the Planning Department.

Z. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.

AA. The Applicant shall demonstrate the proposed metal siding and roofing materials have a Solar Reflectivity Index (SRI) of 35 or less prior to the submittal of a building permit.

BB. Prior to submittal of a Building Permit, the Applicant shall submit for

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review the excavation and grading plans for Engineering Department review and approval to ensure no additional erosion, land subsidence, or avalanche hazard is created.

CC. Cuts, fills, and retaining walls shall be minimized.

DD. The Applicant shall demonstrate compliance with Municipal Code of Park City Chapter 11-21 Utah Wildland-Urban Interface Code at the time of Building Permit submittal.

EE. The Applicant shall demonstrate adequate turnaround to allow a fire apparatus to maneuver to and from the site as approved by the Park City Fire District prior to submitting a Building Permit. The Applicant shall provide a fire hydrant within 600 feet of the proposed development.

FF. The Applicant should upsize the existing service line to provide adequate pressure to the additional living area and fire sprinkler system. Please note the City operates substantial water lines to the west of the proposed dwelling.

GG. To conduct construction across the neighboring 200 King Road property, including any additional width required to accommodate the installed improvements, all work shall be limited to the limits of the platted easement. The applicant shall submit required approvals for any work or structures proposed outside of the easement at 200 King Road.

HH. Glazing on the east façade shall comply with the Second Amendment for the Lot 2 Phase 1 Treasure Hill Subdivision plat notes. Vinyl and aluminum doors and windows are prohibited. Window and door details shall be reviewed and approved through the Historic District Design Review process.

II. The Applicant's stormwater mitigation plan shall be reviewed and approved by the Engineering Department prior to building permit submittal.

Conditional Use
File No. PL-23-05571
[Steep Slope –220 King]

Findings of Fact

1. On February 21, 2023, the applicant Pesky Porcupine LLC ("Applicant") submitted an application and paid the required fee for a conditional use permit in connection with a proposed single-family residence (the "Residence") to be constructed on the Summit County, Utah Tax Parcel No. THILL-2-AM (the "Property").

2. The Property is located within the Sweeney Properties Master Plan Development that was approved December 18, 1985, as amended on October 20, 1987 (as amended, the "Amended Sweeney Properties MPD").

3. Condition No. 3 of the Amended Sweeney Properties MPD requires that the Planning Commission and Park City's staff review proposed development on King Road as a conditional use and ensure that the design of structures will minimize visual impact on adjacent property.

4. The Property is currently being used for one single-family residence and one guest house, that the Applicant intends to demolish to construct the new Residence. The existing single-family residence and guest house have been used for short-term rentals.

5. The conditional use permit application is for construction on a steep slope ("Steep Slope CUP") as required by Section 15-2.2-6 of Park City's Land Management Code ("LMC").

6. In connection with the Steep Slope CUP application, the Applicant submitted the following documents prepared by Alliance Engineering Inc. for the Planning Commission's consideration:

- a. Existing Conditions Map (Job No. 8-3-23);
- b. Conceptual Grading Plan (Job No. 8-3-23);
- c. Drainage Plan (Job No. 8-3-23);
- d. Steep Slope Map (Job No. 8-3-23);
- e. Stormwater Management Plan (Job No. 8-3-23); and
- f. Excavation Section View (Job No. 8-3-23).

7. The Planning Commission has authority to act as the land use authority for the Steep Slope CUP. See LMC § 15-1-10.D.

8. The Applicant submitted all the materials required by the LMC for the Steep Slope CUP and presented in a public hearing regarding the proposals set forth in Steep Slope CUP application.

9. With respect to the Steep Slope CUP, the Planning Commission, after carefully considering the Applicant's submittals referenced above and the Applicant's presentation at the public hearing, has determined that any detrimental effects caused by proposed development on steep slopes can be reasonably mitigated and comply with the LMC's requirements.

Additional Findings

10. The Planning Commission, as the land use authority, finds that the proposed Steep Slope CUP complies with the standards in LMC § 15-2.2-6.B. Specifically, the proposed steep slope disturbance and Residence:

- a. As applied pursuant to the Amended Sweeney Properties MPD, are located and designed to reduce the visual and environmental impacts. See LMC § 15-2.2-6.B.1. Specifically, the hillside cuts and impact to the very steep slope will be located behind the Residence and will generally not be visible to the town core of Park City.
- b. Will be consistent with the visual analysis and landscaping plan submitted by the Applicant. See LMC § 15-2.2-6.B.2. Specifically, the Applicant submitted to the Planning Commission a visual analysis and landscaping plan that showed the proposed steep slope disturbance. The Planning Commission has determined that the steep slope disturbance will generally not be visible from the town core of Park City as it is screened from view by the proposed residence.
- c. Are consistent with the applicable access and driveway screening requirements. See LMC § 15-2.2-6.B.3. Specifically, access to the Property is not changing as the existing driveway will be used and improved. The driveway improvements will comply with the LMC's requirements.
- d. Will be appropriately terraced to regain natural grade. See LMC § 15-2.2-6.B.4. Terraced structures will be screened from view of the town core of Park City by the proposed residence.
- e. Are designed to preserve the perceived natural topography of the Property. See LMC § 15-2.2-6.B.5. Specifically, all cuts to the hillside will be screened from view of the town core of Park City by the Residence.
- f. As applied pursuant to the Amended Sweeney Properties MPD, are consistent with the building form and scale requirements of LMC § 15-2.2-6.B.6. Specifically, the Residence is divided into several massing elements to reduce massing and to orient against the Property's existing contours. Portions of the Residence have been located below grade to reduce visibility and perceived bulk.
- g. Are consistent with the applicable setback requirements. See LMC § 15-2.2-6.B.7.

- h. Are consistent with the applicable volume limitations. See LMC § 15-2.2-6.B.8.
- i. Are consistent with the applicable building height requirements. See LMC § 15-2.2-6.B.8. Specifically, the Residence meets the height requirements identified in the Amended Sweeney Properties MPD.

11. The Planning Commission finds that for the reasons above, the steep slope disturbance will not have a detrimental impact on surrounding uses.

12. As discussed below, the Applicant has agreed to self-impose certain conditions on the Property to minimize any potential detrimental effects that may result from the proposed steep slope disturbance. The Planning Commission finds that these conditions adequately mitigate any potential detrimental effects that may result from the steep slope disturbance or the Residence.

Conclusion

Based on the foregoing, and subject to the conditions listed below, the Steep Slope CUP meet the standards and requirements of the LMC, including the criteria for approving a conditional use per LMC § 15-2.2-6.B as applied pursuant to the Amended Sweeney Properties MPD, and 10-9A-507, Utah Code Ann. The Planning Commission concludes it is appropriate to issue the Steep Slope CUP subject to the below conditions, each of which will mitigate any reasonably anticipated detrimental effects associated with the uses described in the Steep Slope CUP application.

Conditions

The use approved by the Steep Slope CUP is conditioned upon the following:

JJ. All retaining walls shall be generally placed behind the proposed residence to reduce visibility from the town core of Park City.

KK. The driveway to the proposed residence shall not exceed 12 feet in width unless required by Park City Fire District for emergency vehicle turning radius and access, shall not exceed a 14% grade, and must comply with LMC § 15-3-3(A)(4).

LL. Access to the parking area located on the Property shall not face King Road.

MM. If the proposed development contains any retaining walls that are taller than four feet in height, then the Applicant shall provide engineered plans for the retaining walls at the time the Applicant makes application for a building permit.

NN. Applicant shall maintain vegetative screening in accordance with

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the submitted vegetation plan to reduce the visibility of retaining walls and landscaping and berming shall reduce the visibility of the east façade glazing.

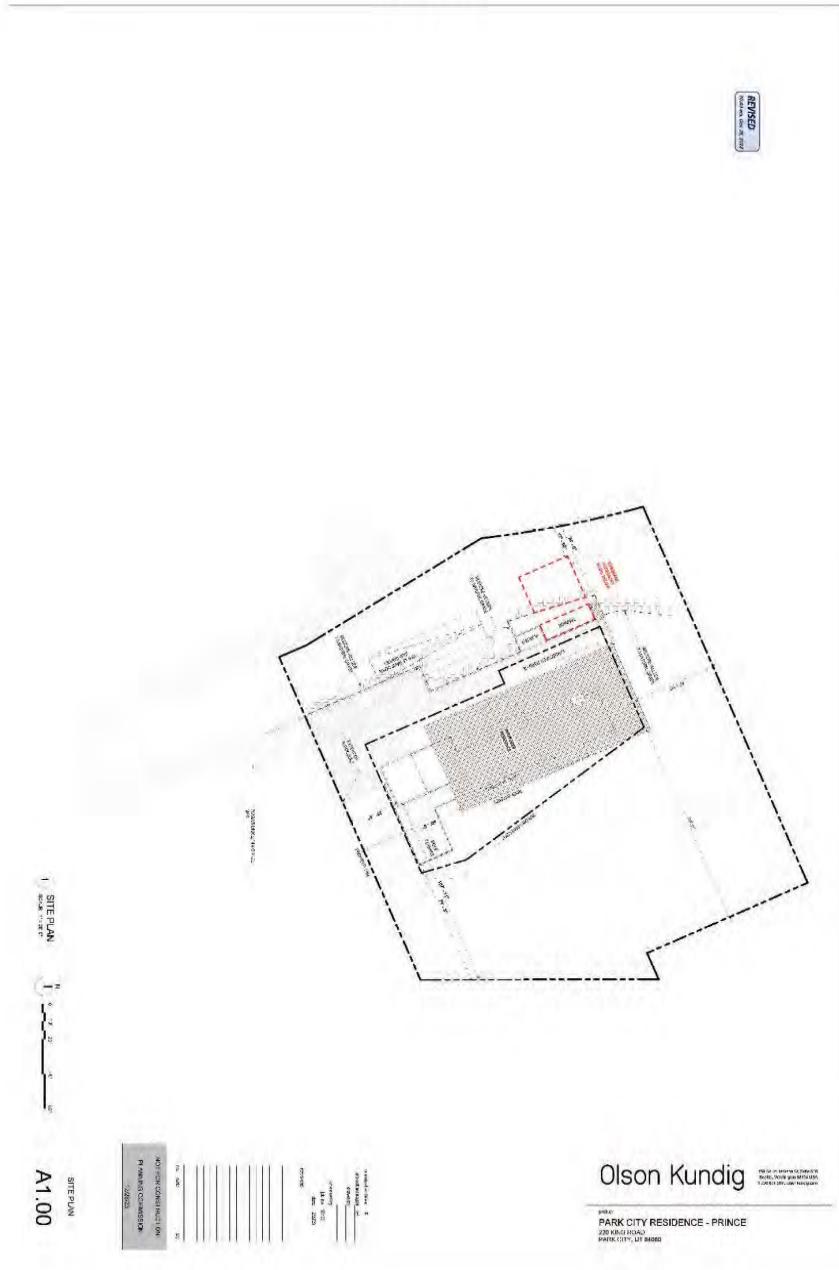
OO. The limits of disturbance around the proposed residence shall be limited to the minimal area necessary to excavate and backfill the foundation.

PP. Structures on the Property shall conform to the HR-1 setbacks set forth in LMC § 15-2.2-3. The property is located outside of the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine-related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance with State and Federal law.

QQ. The Applicant shall include in their Construction Mitigation Plan (CMP), in addition to Municipal Code of Park City Section 11-14-4(H), a specific plan for all soil exporting. Soil shall be transported uphill on King Road to an approved site for deposit. Time of operations, location of deposit site, total cubic yards to be exported, and number of trips hauling shall be outlined and regulated through the CMP. If the property owner of an approved site for deposit will not accept the excavated soils, the applicant will submit an alternative soil exporting plan for review by the Planning Director and Chief Building Official. No alternative soil exporting will be permitted until plans are approved.

RR. The Applicant shall provide elevation drawings of all segments of the Accessory Buildings that have an exposed face to Planning staff for review as part of the Historic District Design Review process.

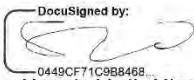
Exhibit C Site Plan



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If you have questions or concerns regarding this Final Action Letter, please call (435) 615-5060 or email planning@parkcity.org.

Sincerely,

DocuSigned by:


0449CF71C9B8468

Sarah Hall, Planning Commission Chair

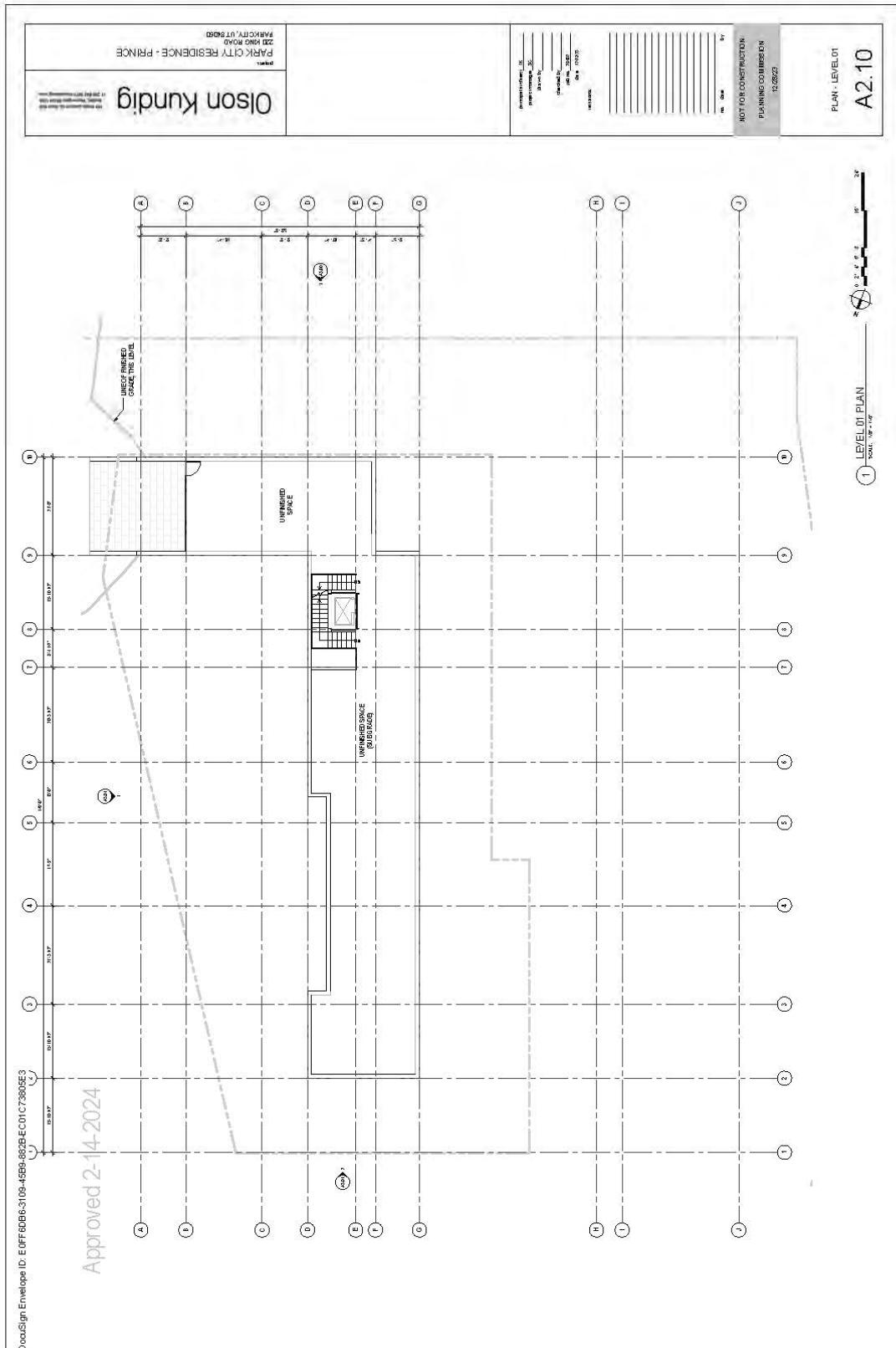
2/24/2024

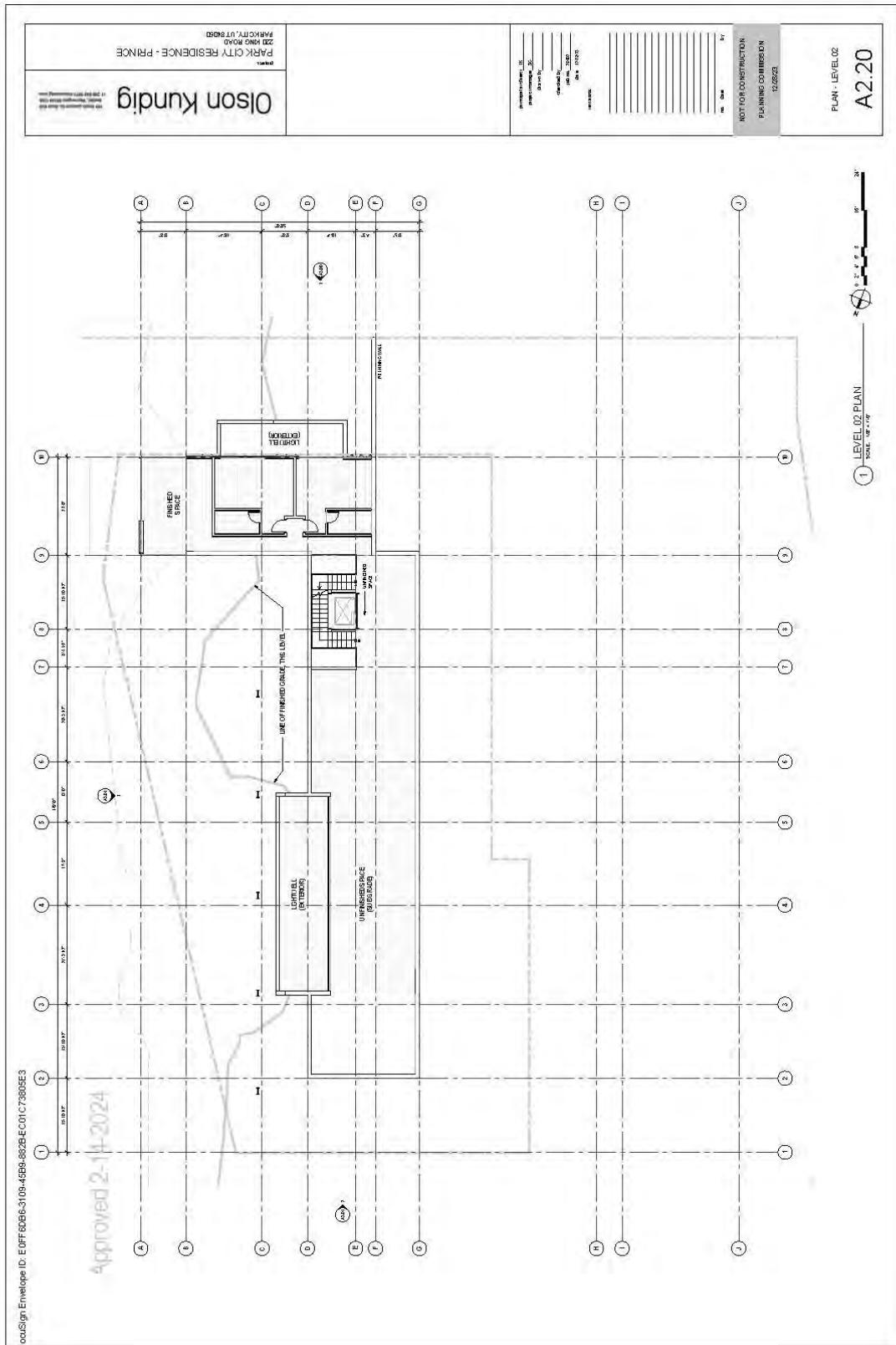
CC: Rebecca Ward, Planning Director
Caitlyn Tubbs, Senior Historic Preservation Planner

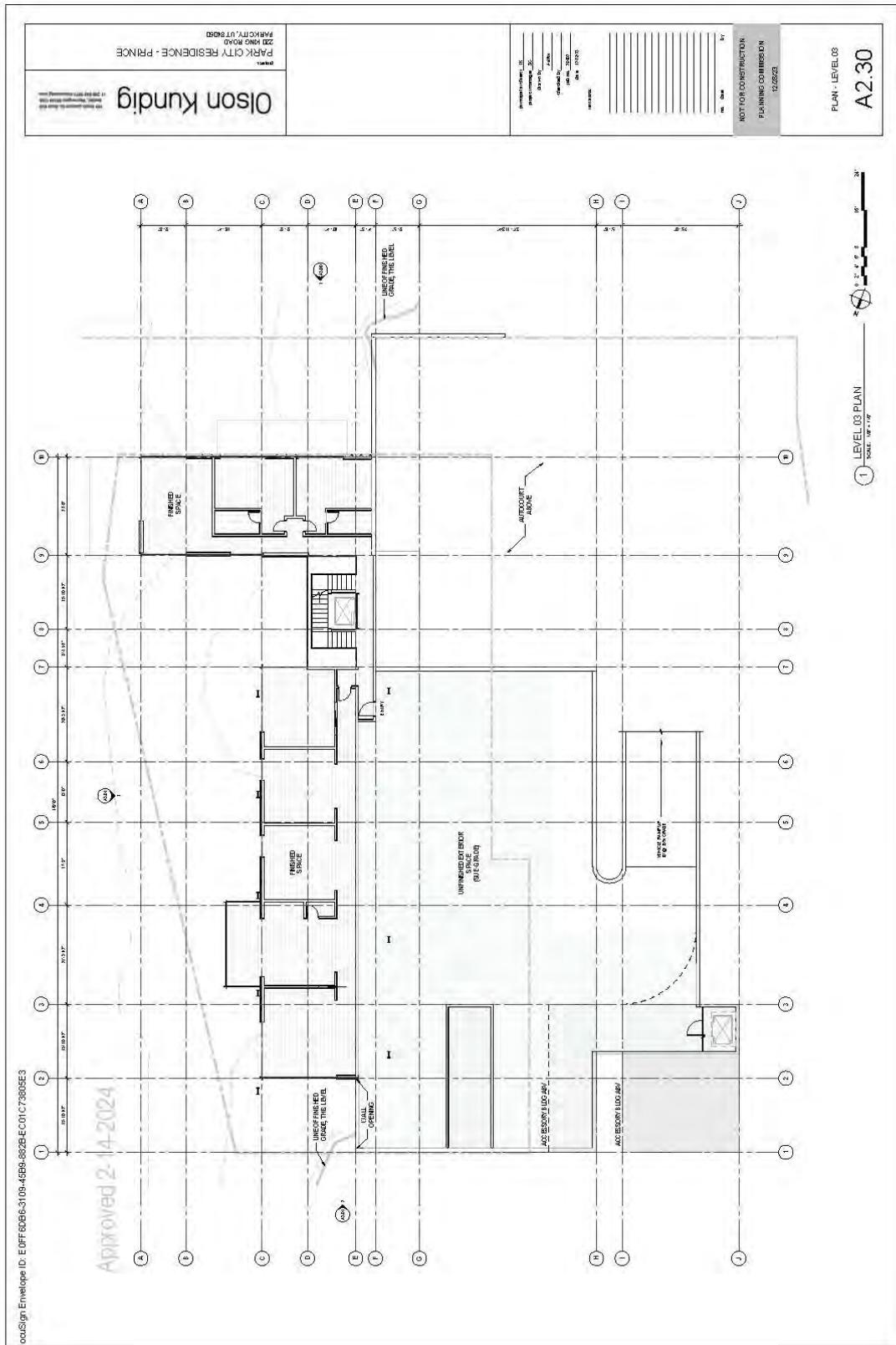
Exhibit D – Approved Plans

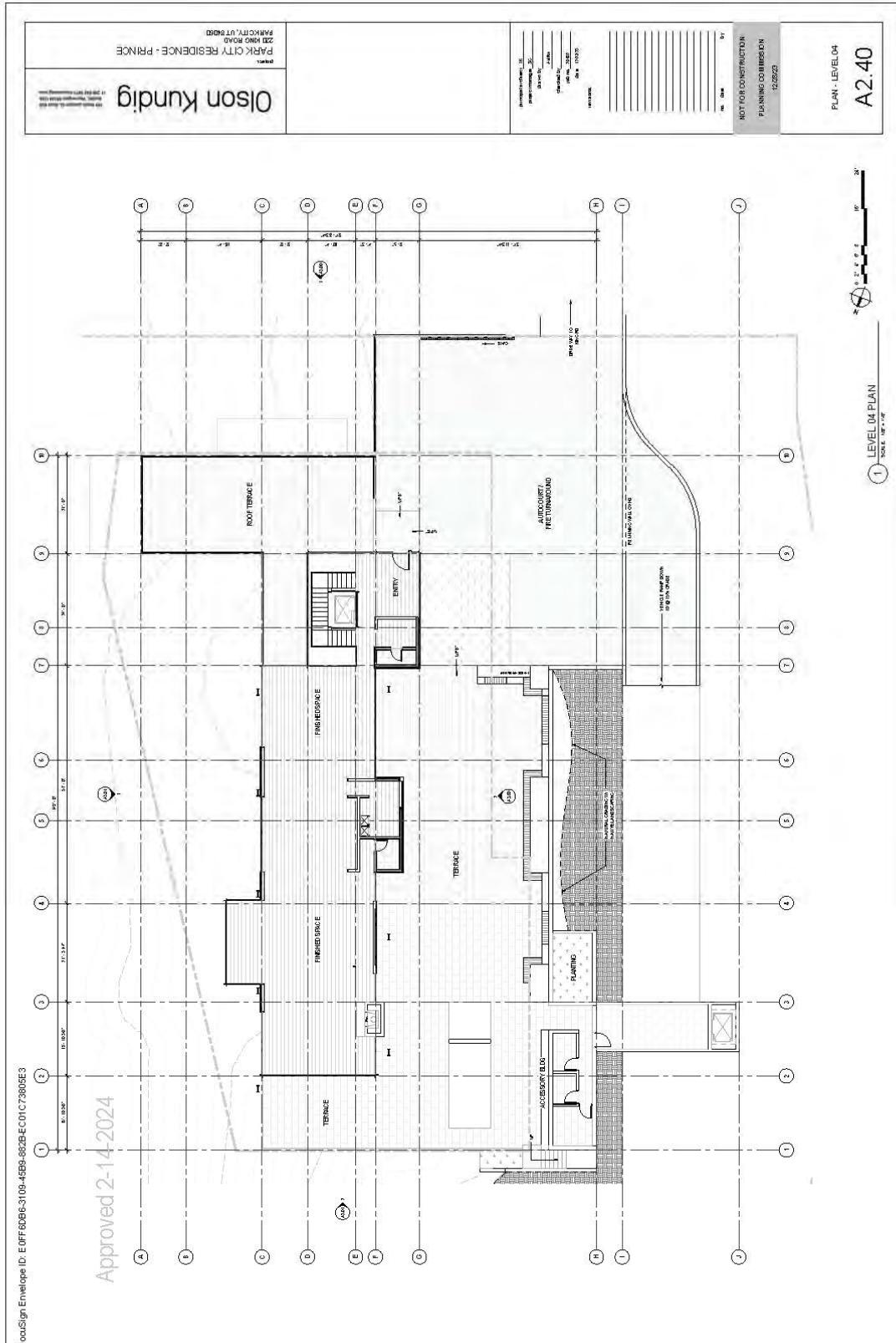
Building Diagrams

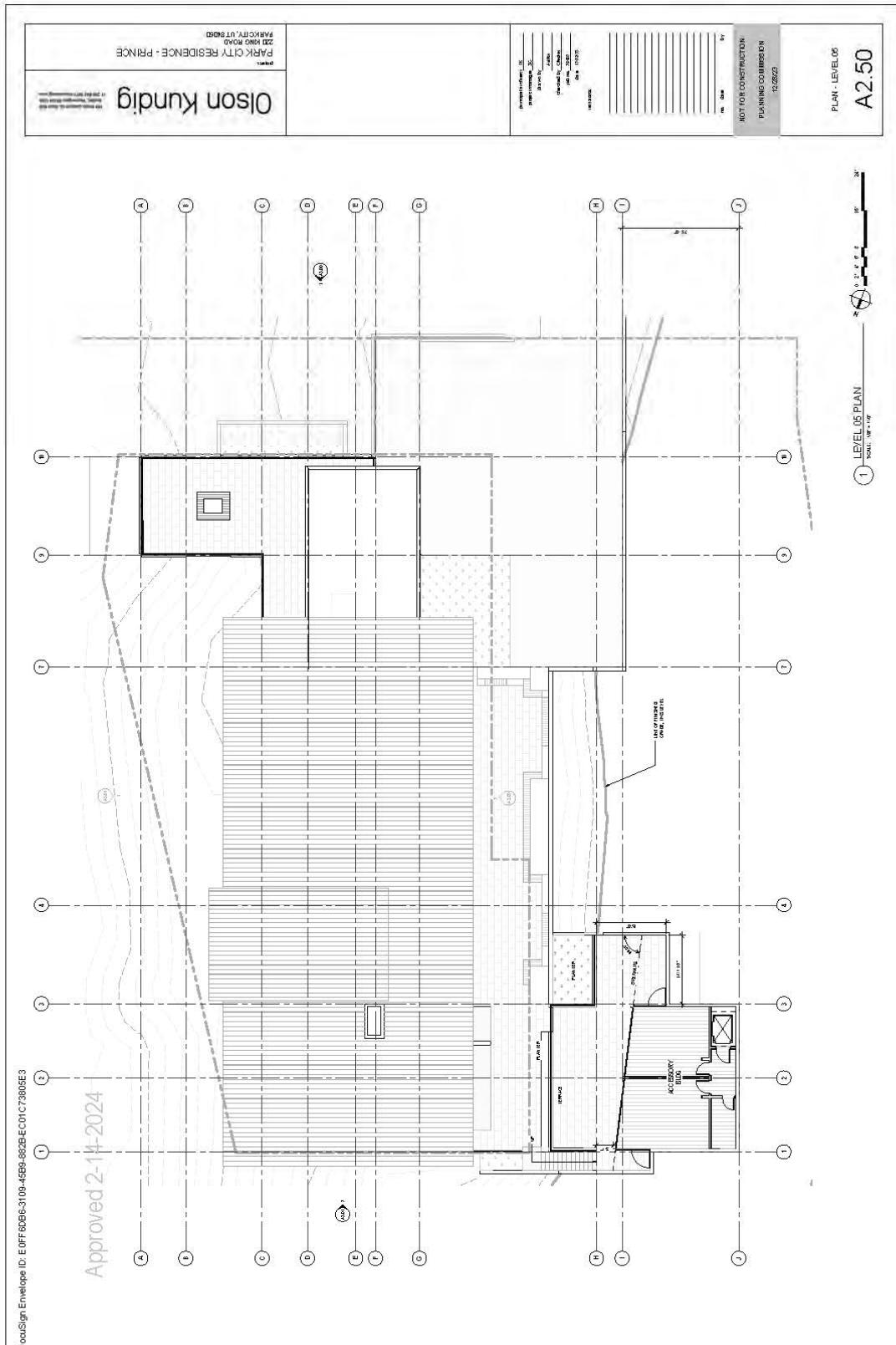


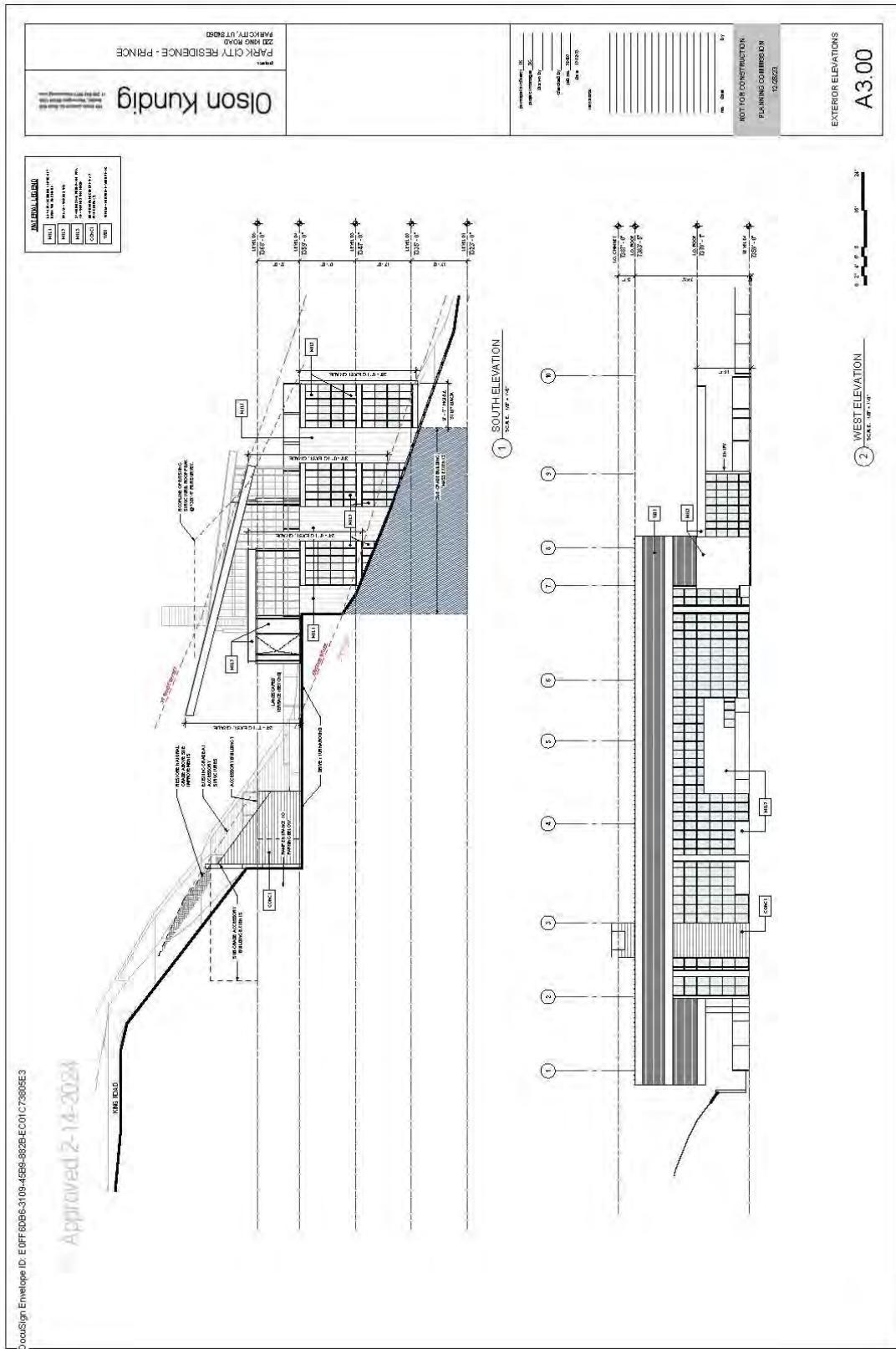












Approved 2-14-2024

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3D Views - from north



Olson Kundig

220 King Road 3D Views 01

Approved 2-14-2024

Docusign Envelope ID: E1FF16C6B4-3108-4E8A-8C2B-EC01C7965E3
3D Views - from east



Olson Kundig

220 King Road 3D Views 02

Approved 2-14-2024

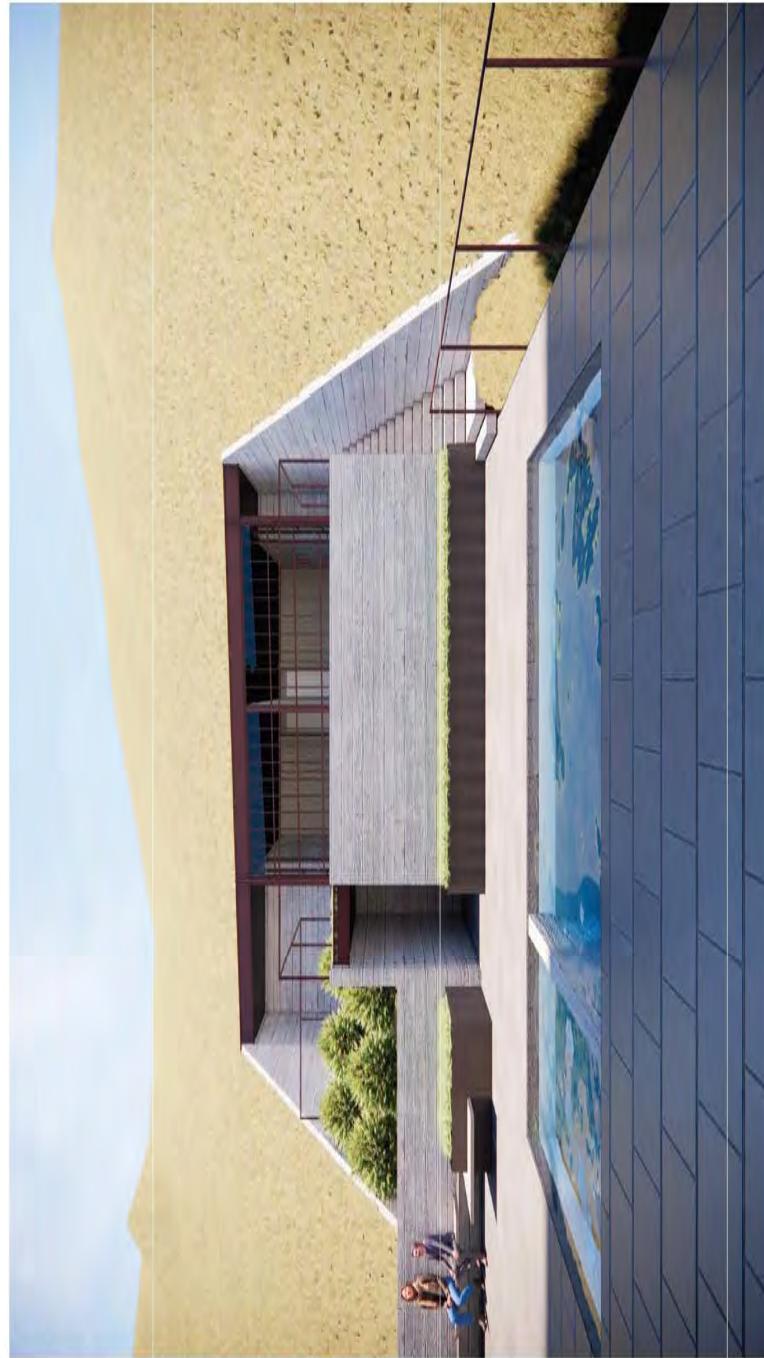
Docusign Envelope ID: E1FF16CB6-3108-4E80-8C2B-EC01C7965E3
3D Views - from south



Olson Kundig

220 King Road 3D Views 03

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Approved 2-14-2024



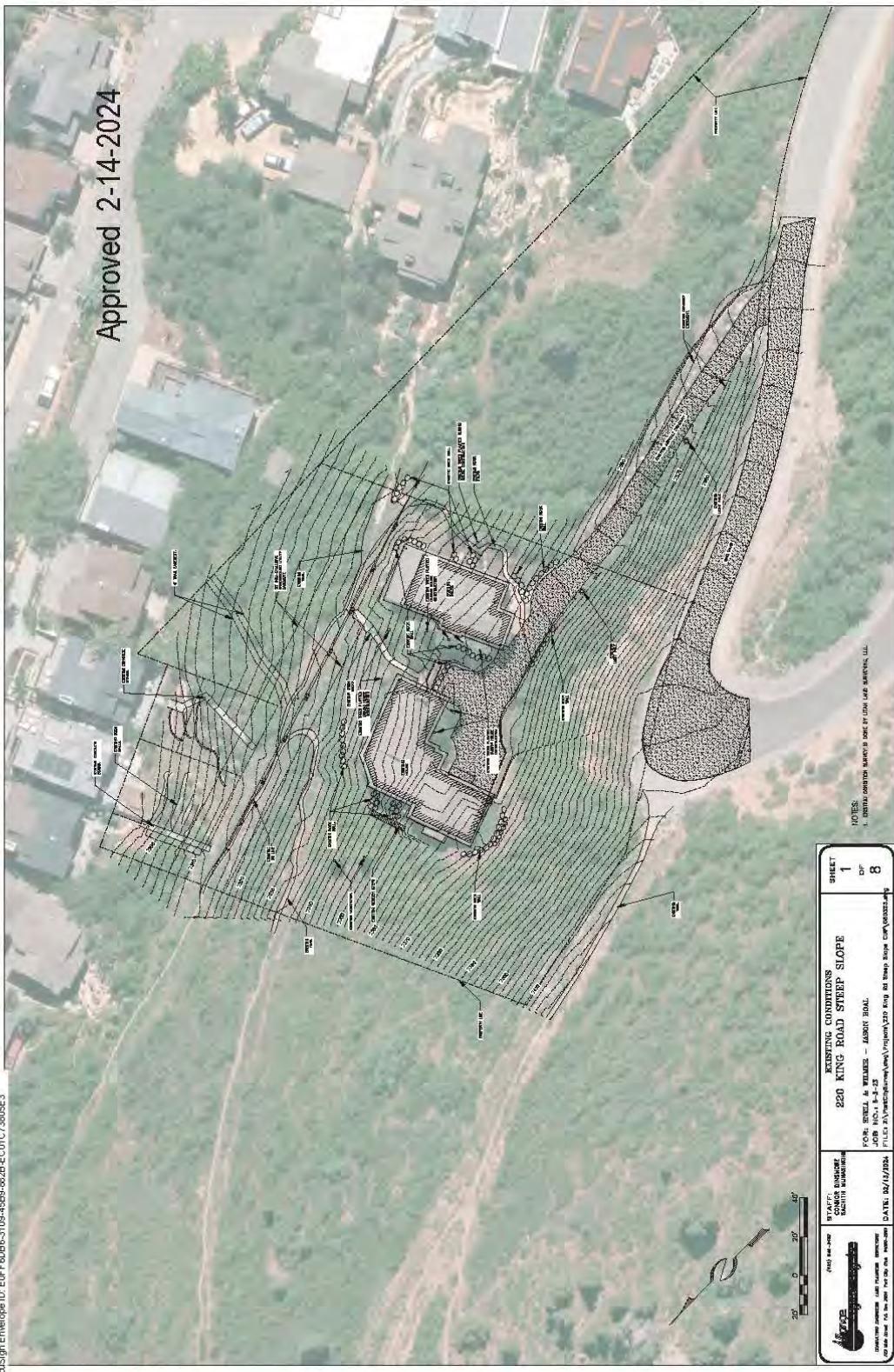


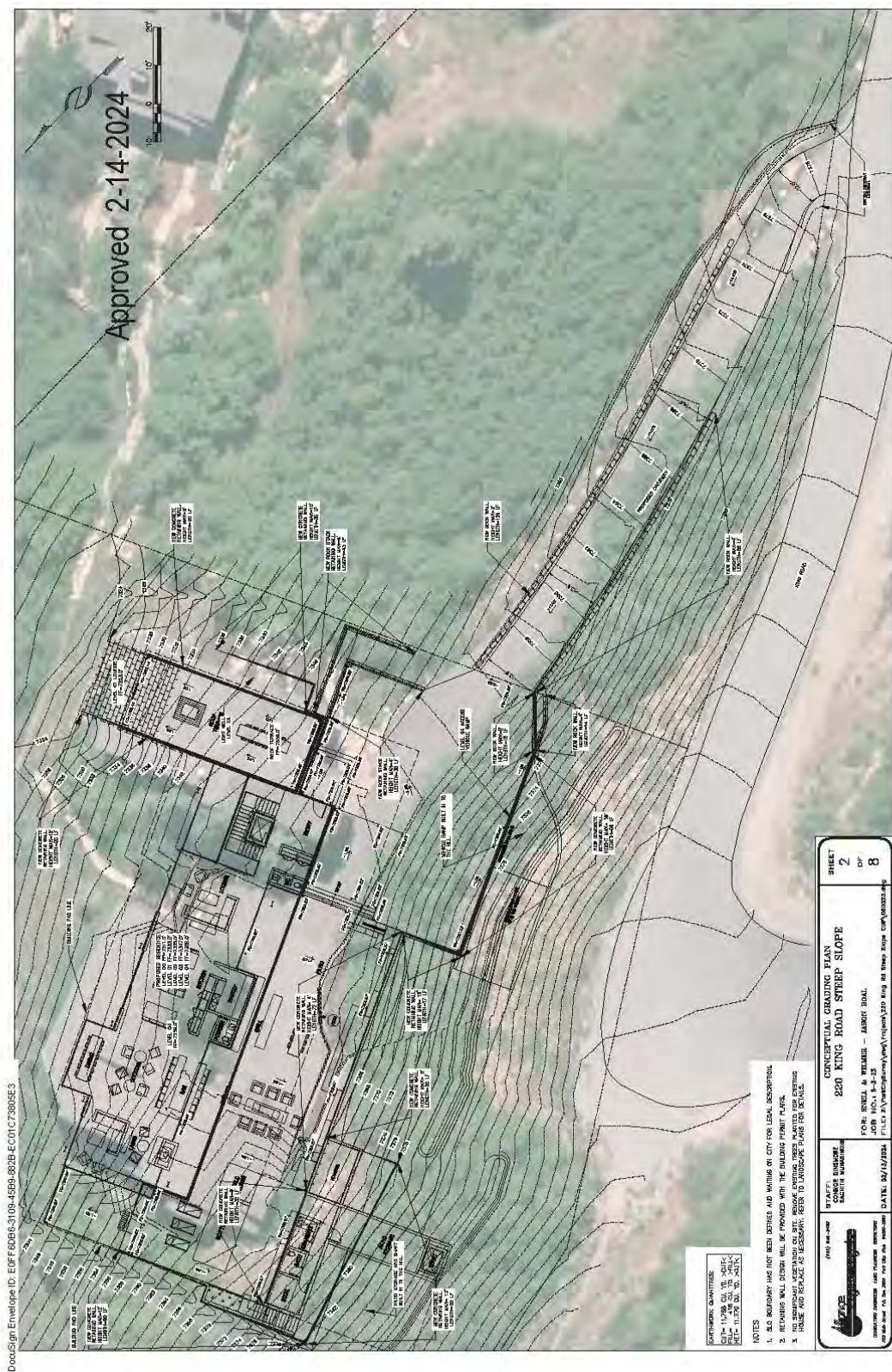
Approved 2-14-2024
DocuSign Envelope ID: BFF60B66-3109-4589-882D-EC01C73095E3

Grading Plan

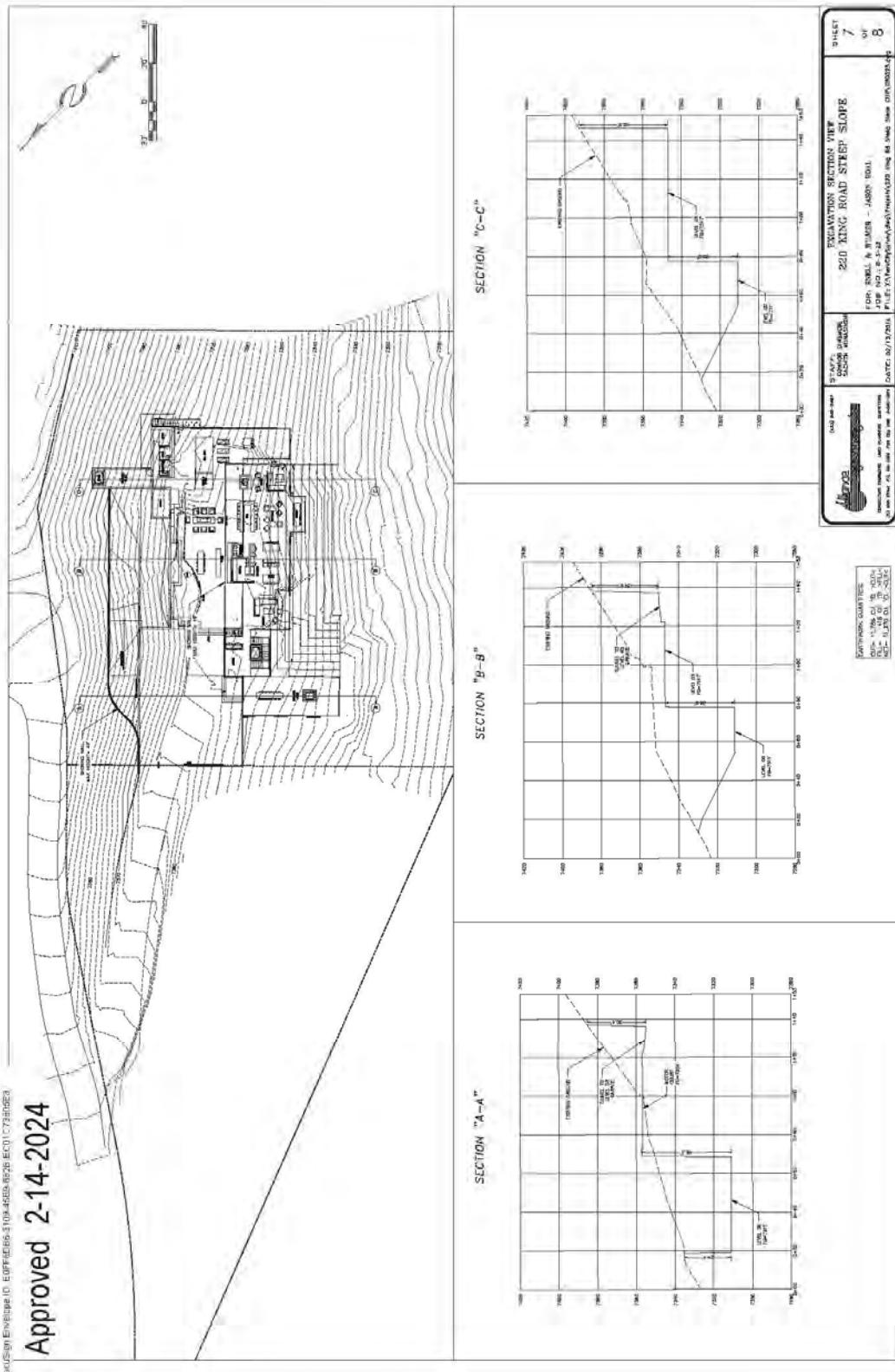
Approved 2-14-2024

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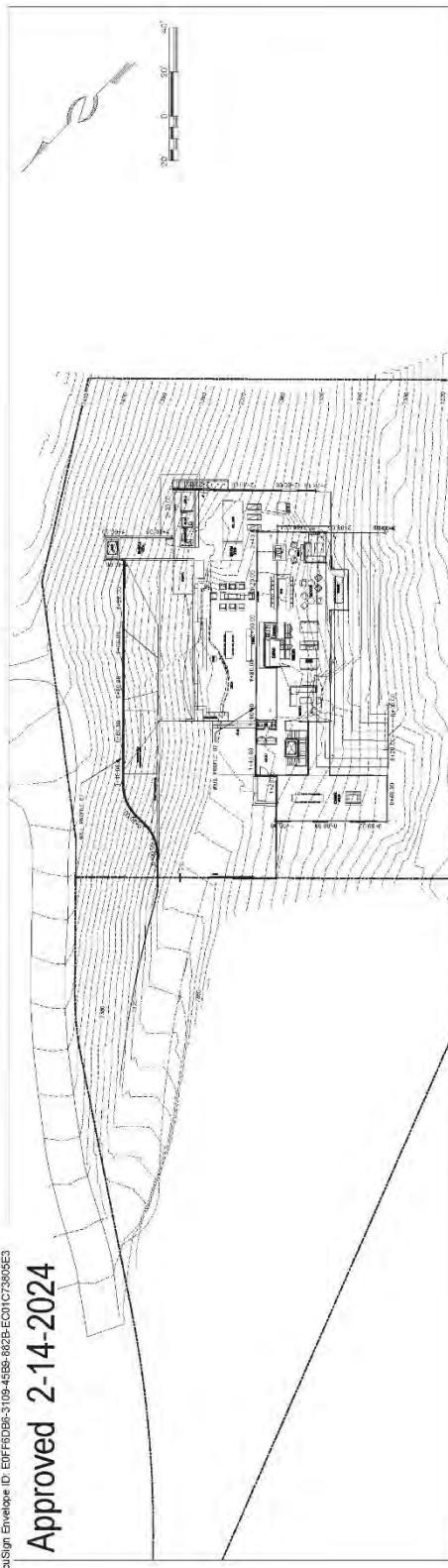




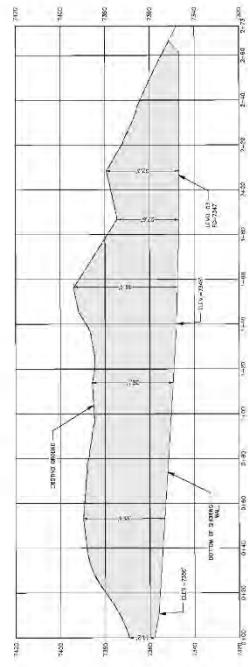
Approved 2-14-2024



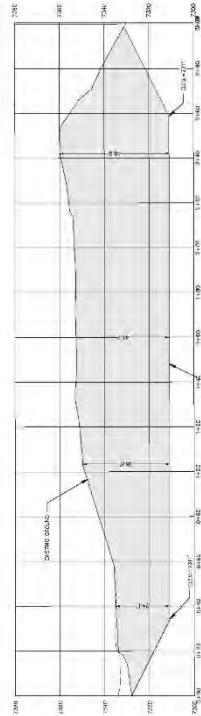
Approved 2-14-2024



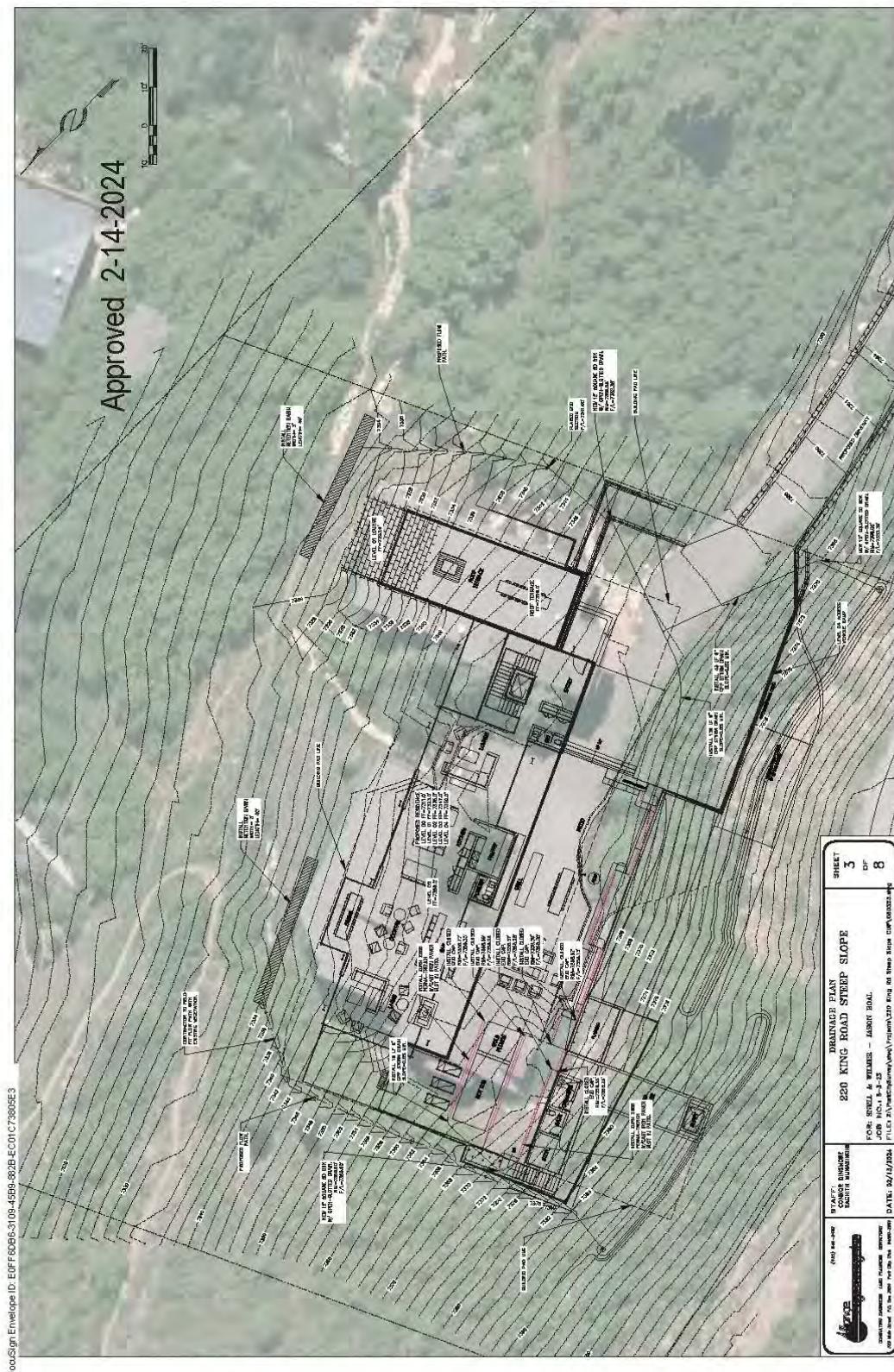
WALL PROFILE 02

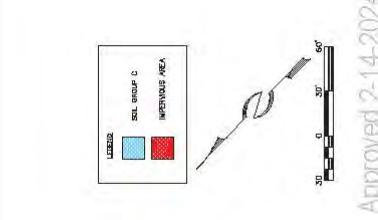
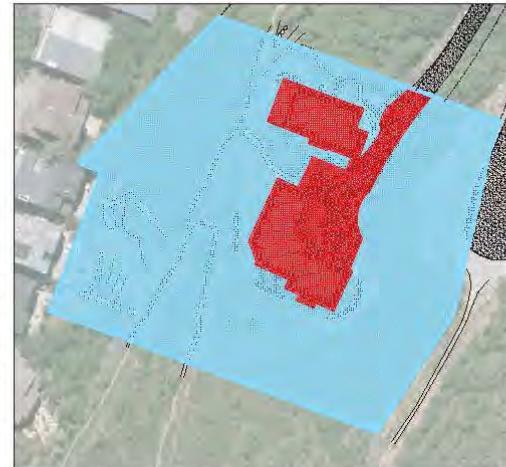


WALL PROFILE 02

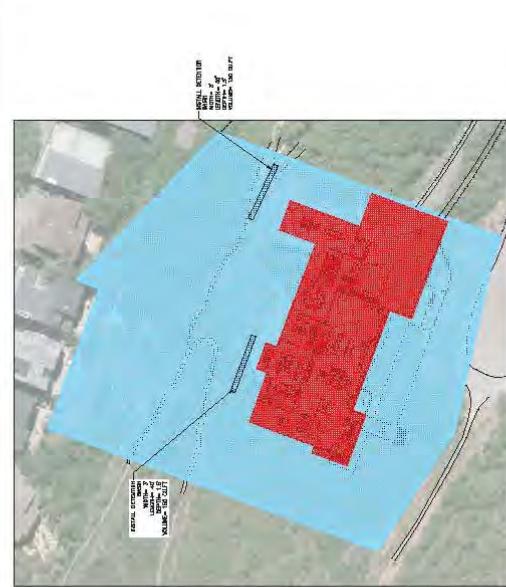


Drainage Plan





Approved 2-14-2024



WATER QUALITY VOLUME CALCULATIONS

PEAK RUNOFF CALCULATIONS

STAFF:	CONIOR, GENEVIE SACHTI, WASHINGTON
DATE:	06/15/2004
(423) 844-4877	CONFIDENTIAL
RECORDED BY: CONIOR, GENEVIE DATE: 06/15/2004 TIME: 09:41 AM PHONE NUMBER: 423-844-4877	

Landscape/Vegetation
Plan

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Approved 2-14-2024

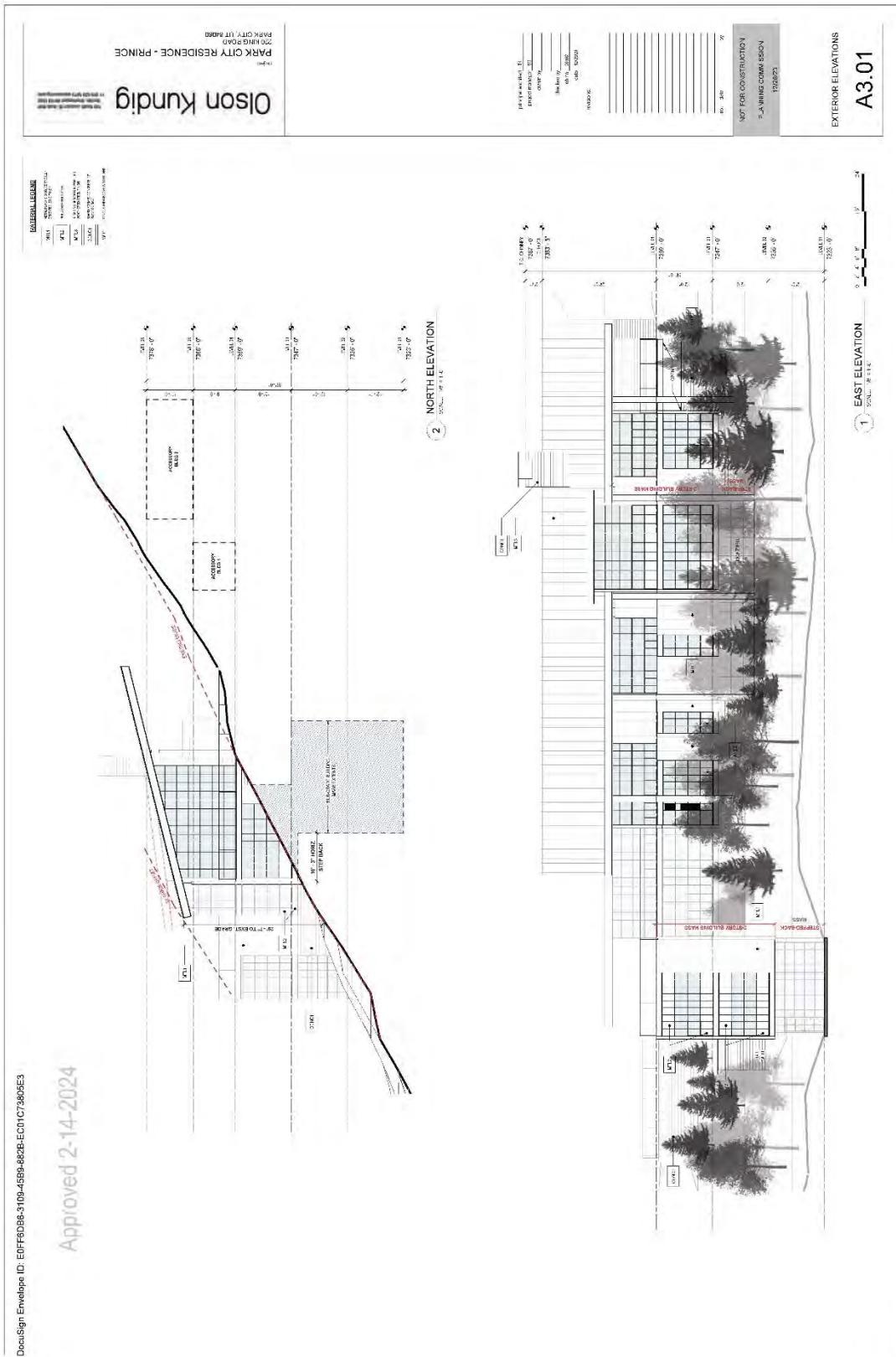


EXHIBIT B
(HDDR Approval)



August 15, 2024

Pesky Porcupine, LLC

CC: Wade Budge with the Law Offices of Snell & Wilmer

NOTICE OF PLANNING DIRECTOR ACTION

Description

Address: 220 King Road
Lot 2, Phase I of the Treasure Hill Subdivision
Sweeney Master Planned Development

Zoning District: Historic Residential – 1 – Master Planned Development
(HR-1-MPD)

Application: Historic District Design Review

Project Number: PL-23-05522

Action: APPROVED WITH CONDITIONS (See Below)

Date of Final Action: August 15, 2024

Project Summary: The Applicant proposes a new Single-Family Dwelling, underground parking area, and Accessory Building.

Action Taken

On August 15, 2024, the Planning Director conducted a public hearing and approved the Historic District Design Review according to the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. 220 King Road is a 1.23-acre lot in the Historic Residential-1-Master Planned Development (HR-1-MPD) Zoning District that up until recently contained a 4,235-square-foot Single-Family Dwelling (SFD) built in 1998 and a 4,189-square-foot Guest House built in 2000.
2. The SFD and Guest House were demolished this summer, and the Applicant proposes a new SFD and Accessory Building, the subject of this Historic District Design Review (HDDR) application.



3. On December 18, 1985, the Planning Commission approved the Sweeney MPD, which included seven SFD Treasure Hill Subdivision Lots.¹ The zoning in effect at the time allowed for 450 units within the MPD. However, the Sweeney MPD approval reduced the density to 277 units and "... the proposed clustering approach was deemed the most compatible. Rather than spread the density out and thereby impact the entire old town area, the cluster concept afforded the ability to limit the impacts to smaller areas. Efforts to minimize scale have been directed toward this issue as have the solutions to other problems related to traffic, site disturbance, and the preservation of open space . . . [a] number of the staff's recommended conditions are directed toward minimizing the potential conflicts related to neighborhood compatibility considerations."
4. "A key element of the proposed cluster approach is to preserve usable open space in perpetuity. A total of 97% (120 acres) of the hillside will be maintained as open space as part of the proposed Master Plan . . . [t]he potential for the subdivision and scattered development of the hillside would have drastically affected the goal of preserving the mountain substantially intact and pristine" (*Exhibit B - 1985 Sweeney MPD Approval*, p. 11). Within the Treasure Hill Subdivision of the Sweeney MPD, SFDs were clustered near Old Town and over 40 acres were dedicated to Park City Municipal as open space, shown on an excerpt from the plat below. This resulted in larger SFD Lots than traditional Old Town Lots platted 25 feet by 75 feet (1,875 square feet).
5. 220 King Road, Lot 2 of the Treasure Hill Subdivision, is a 53,694-square-foot Lot, nearly 29 times the size of a traditional Old Town Lot. As a result of these larger SFD Lots, additional review is required. For example, unlike other SFDs within Old Town, the 1985 Sweeney MPD Condition of Approval 1 requires properties within the MPD to obtain Planning Commission approval of a CUP prior to development. The CUP review is to evaluate the project for compliance with adopted codes and ordinances in effect at the time and to ensure conformance with the Sweeney MPD. Additionally, the 1985 Sweeney MPD Condition of Approval 6 requires review for conformance with the Historic District Guidelines and related architectural requirements.
6. In 1987, the Planning Commission approved an amendment to the Sweeney MPD to reallocate 12 units, including the relocation of two SFDs to what are now

¹ Lot 1 – 200 King Road (vacant); Lot 2 – 220 King Road; Lot 3 – 425 Norfolk Avenue; Lot 4 – 375 Norfolk Avenue; Lot 5 – Open Space; Lot 6 – 503 ½ Woodside Avenue; Lot 7 – 503 Woodside Avenue; Lot 8 – 445 King Road.



known as 200 and 220 King Road. Condition of Approval 3 of the 1987 amendment requires Planning Commission approval of a CUP and staff review consistent with the Historic District Guidelines. Both reviews must "include review of the design of the structures to insure [sic] that they are designed to minimize visual impact."

7. On August 23, 1990, the City Council zoned 200 and 220 King Road Historic Residential-1-Master Planned Development (HR-1-MPD) (Exhibit D – *Ordinance No. 90-24*). As a result, the project is reviewed for conformance with HR-1 Zoning District standards through the lens of the Sweeney MPD.
8. On September 7, 1995, the City Council adopted *Ordinance No. 95-50*, approving the Treasure Hill Subdivision Phase 1 plat, creating four SFD Lots and a 42.7-acre Open Space parcel within the Sweeney MPD.
9. This Subdivision included Lot 2, 220 King Road, and established Building Area Limits and plat notes, outlining precedence with the Sweeney MPD and requiring final house design to be reviewed under the Small Master Plan Process (today's CUP) in accordance with the Sweeney MPD. Additionally, plat notes regulate Footprint, Building Area Limits, Construction Disturbance, Height, Façade Height, Massing, Sewer Laterals, and Fire Sprinkling.
10. Each SFD within the Treasure Hill Subdivision first obtained Planning Commission CUP approval prior to HDDR approval. Regarding 220 King Road:
 - a. On March 12, 1997, the Planning Commission approved a Small Scale MPD (CUP) for a Single-Family Dwelling and Guest House (Exhibit G).
 - b. On March 17, 1997, the Historic District Commission approved the HDDR (Exhibit H).²
 - c. On May 27, 1998, the City issued Building Permit B97-02937 for the construction of a SFD.
 - d. On September 18, 2000, the City issued Building Permit B00-05967 for construction of a Guest House.
11. The Applicant demolished the SFD and Guest House and proposes construction of:
 - a. A new Single-Family Dwelling with:
 - i. Approximately 7,461 square feet of finished space.
 - ii. Approximately 5,898 square feet of unfinished space.
 - iii. Approximately 1,690 square feet of terrace/patio area.
 - b. A 1,103-square-foot Accessory Building.

² The Historic District Commission was replaced with the Historic Preservation Board in 2007. The Historic Preservation Board purview includes changes to Historic Structures, the Board does not review new infill or design. Under today's LMC, staff takes Final Action on HDDRs.



- c. A 243-square-foot outdoor pool.
- d. A 4,794-square-foot underground parking area.

12. The Applicant submitted a Plat Amendment and CUP application in 2022. Staff requested the Applicant also submit an HDDR application to initiate the Historic District review process. On January 18, 2023, the Applicant submitted an HDDR application to the Planning Department. As part of the HDDR review, staff requested SWCA, a consultant who assists the City with Historic District reviews, evaluate the proposal pursuant to the applicable HDDR regulations.

13. On April 26, 2023, SWCA submitted a Technical Memorandum (2023 SWCA Memorandum) regarding 220 King Road. The 2023 SWCA Memorandum outlines many relevant considerations and notes 220 King Road is "in a setting where industrial buildings were once common. An industrial design aesthetic is appropriate in this area; however, this and many other Design Guidelines explicitly require that new infill residential buildings be compatible in mass and scale with historic residential buildings to reinforce visual unity in the historic district and/or residential zone. The prominent and highly visible location of 220 King Road only increases the importance of complying with this and other guidelines to reinforce visual unity and maintain existing rhythms and patterns of the nearby streetscapes." The Applicant modified and updated their plans to incorporate some of SWCA's recommendations. Staff requires additional Conditions of Approval below to further incorporate SWCA's recommendations.

14. On February 14, 2024, the Planning Commission reviewed a Plat Amendment to shift and increase the Building Area Limits, a CUP for the SFD, a CUP for the outdoor pool, and a Steep Slope CUP for the proposed project. The Planning Commission voted four to two to approve the Plat Amendment and three to three with the Chair breaking the tie to approve the CUPs. The 2023 SWCA Memorandum was provided to the Planning Commission as part of their review, and the Planning Commission required the Applicant to modify their plans as recommended by SWCA prior to approving the project. These requirements are outlined in the Analysis Section of the Staff Report below. On February 21, 2024, the Planning Commission ratified the Final Action Letter approving the project.

15. On March 1, 2024, the Planning Commission's approval was appealed. On April 30, 2024, the Appeal Panel denied the appeal and remanded the following questions to the Planning Commission regarding the Plat Amendment:

- a. Whether the Sensitive Land Overlay applies due to Sweeney MPD vesting.
- b. If the Sensitive Land Overlay Applies, whether it can bisect a Lot.
- c. If the Sensitive Land Overlay applies, what is staff's Sensitive Land



determination, recommendation, and mitigations.

16. On June 26, 2024, the Planning Commission considered the above questions remanded to them by the Appeal Panel, conducted a public hearing, and determined the following:

- The Sweeney MPD is vested prior to the adoption of the Sensitive Land Overlay.
- Although the Sensitive Land Overlay would apply to a substantive change, the Sensitive Land Overlay does not apply to the 220 King Property because a land use ordinance has not amended the original Sensitive Land Overlay Boundary, which does not include 220 King Road.
- No determination regarding the Staff Sensitive Land Overlay is necessary because the regulations are not applicable per sections (a) and (b) above.

17. The Appeal Panel Final Action Letter contains Condition of Approval 1, which states "[a]ll Conditions of Approval from the Planning Commission Action Letters dated February 21, 2024 apply" and the Conditions of Approval below incorporate the Planning Commission's requirements.

18. New residential infill in the Historic Districts is reviewed for compliance with LMC § 15-13-8 *Regulations for New Residential Infill Construction (and Non-Historic Residential Sites) in Historic Districts*.

19. The August 15, 2024 Staff Report analysis is incorporated herein.

20. On July 31, 2024, staff published notice on the City's website and posted notice on July 31, 2024. Staff mailed courtesy notice to property owners within 100 feet on July 31, 2024.

Conclusions of Law

- The proposed project complies with the Planning Commission's February 21, 2024 CUP, SSCUP, and Plat Amendment approvals, Findings of Fact, Conclusions of Law, and Conditions of Approval.
- The proposed project complies with the Sweeney MPD.
- The proposed project, as conditioned, complies with LMC § 15-13-8 *Regulations for New Residential Infill Construction (and Non-Historic Residential Sites) in Historic Districts*.

Conditions of Approval

- All Conditions of Approval required by the Planning Commission's February 21, 2024 CUP, SSCUP, and Plat Amendment approvals remain in full effect.
- The Applicant shall protect Significant Vegetation located on the eastern portion of the site during and after construction.



Planning Department

3. Final Grade shall be restored to within four feet of Existing Grade upon project completion prior to issuance of a Certificate of Occupancy.
4. The Applicant shall submit a storm drainage analysis to the Engineering Department for review and approval. The analysis must show that the required storm drainage storage volume matches the pre-development and post-development conditions for a 100-year 24-hour event.
5. The use of Water Wise Landscaping or permaculture strategies for landscape design shall maximize water conservation. Where watering systems are necessary, systems that minimize water loss, such as drip irrigation, shall be used. These systems shall be designed to minimize their appearance from areas viewable from the primary public right-of-way and when viewed from Old Town.
6. Retaining walls visible to the north, east, and south of the SFD must be terraced so that no more than four feet of Existing Grade is manipulated. Visible retaining walls shall not exceed more than four feet in height.
7. Painting, staining, or stucco over stone or concrete retaining walls is prohibited.
8. Residents and guests shall park in the underground parking area. Parking within the fire truck turnaround or driveway area is prohibited.
9. The driveway width shall not exceed 12 feet, unless otherwise required by the Chief Building Official or Park City Fire District for fire truck access and turnaround.
10. Textured and poured paving materials other than smooth concrete are recommended.
11. Snow storage from driveways shall be provided on site and/or within an easement area approved by the City Engineer.
12. The Applicant shall reduce the length of the roof overhang on the north end of the SFD to reduce the roof in scale, as recommended by the 2023 SWCA Memorandum. The roof overhang shall not exceed five feet measured from the northernmost façade wall.
13. The Applicant shall maintain vegetative screening in accordance with the submitted and approved landscape plan to reduce the visibility of retaining walls and landscaping and berming shall reduce the visibility of the lower-level east façade glazing.
14. No more than eight inches of the new concrete foundation shall be visible above Final Grade on the primary façade and no more than two feet of the concrete foundation shall be visible above Final Grade on secondary and tertiary facades.



15. The site shall be re-graded so as to blend with the grade of the adjacent areas outside of the Building Area Limits and shall not create the need for incompatible retaining walls.
16. The site shall be re-graded so all water drains away from the structure and does not enter the foundation. See Condition of Approval 4 regarding storm drain storage.
17. Vinyl and aluminum windows and doors are prohibited.
18. The Applicant shall update the glazing of the eastern façade—that façade most visible from Old Town—to replace floor-to-ceiling windows with industrial patterns that create a compatible solid-to-void ratio comparable to the Historic Mine Sites and approved by Planning Staff.
19. Rooftop mechanical and communication equipment is prohibited. Mechanical and communication equipment shall be visually minimized from King Road and from Old Town vantage points. Ground-level equipment shall be screened from view using landscape elements such as low stone walls or perennial plant materials.
20. The roof shall have a matte finish to minimize glare. Roof colors shall be neutral and muted and materials shall not be reflective. The Applicant shall demonstrate the proposed metal siding and roofing materials have a Solar Reflectivity Index (SRI) of 35 or less prior to the submittal of a building permit.
21. Service equipment and trash containers shall be screened. Solid wood or masonry partitions or hedges shall be used to enclose trash areas.
22. Wood materials shall be painted opaque.
23. The railing of the rooftop deck shall be visually minimized when viewed cross-canyon. The Applicant shall plant landscaped screening as indicated on the landscape plan to buffer visibility of the secondary façade rooftop deck along the southern property boundary.
24. This Historic District Design Review is limited to the Treasure Hill Subdivision Single-Family Dwellings in the Sweeney MPD and shall not create precedent nor interpretation of general applicability in the HR-1 Zoning District or LMC regulations.

If you have questions or concerns regarding this Final Action Letter, please call 435-615-5060 or email planning@parkcity.org.

Sincerely,



EXHIBIT C

(Driveway Drawings)

200 KING ROAD

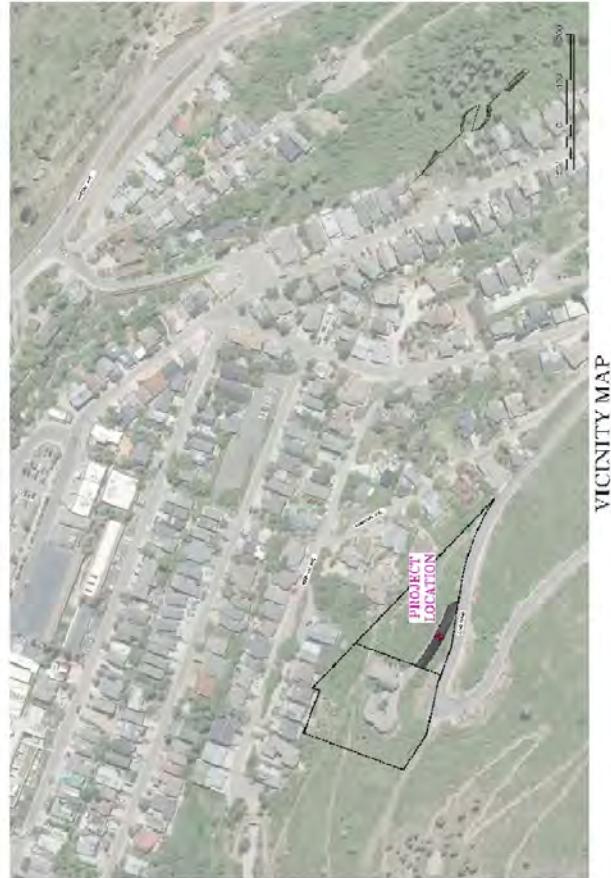
UPGRADES TO DRIVEWAY WITHIN NON EXCLUSIVE DRIVEWAY EASEMENT

PARK CITY, UT 84060

SHEET INDEX

CLC SITE PLANS
CLC DRIVEWAY PLANS & 1043-14C
CLC CONSULTANT ON BUDGET PLANS AND WORK
MAPS, CO. L.L.C. 100% OWNERSHIP

CIVIL ENGINEER

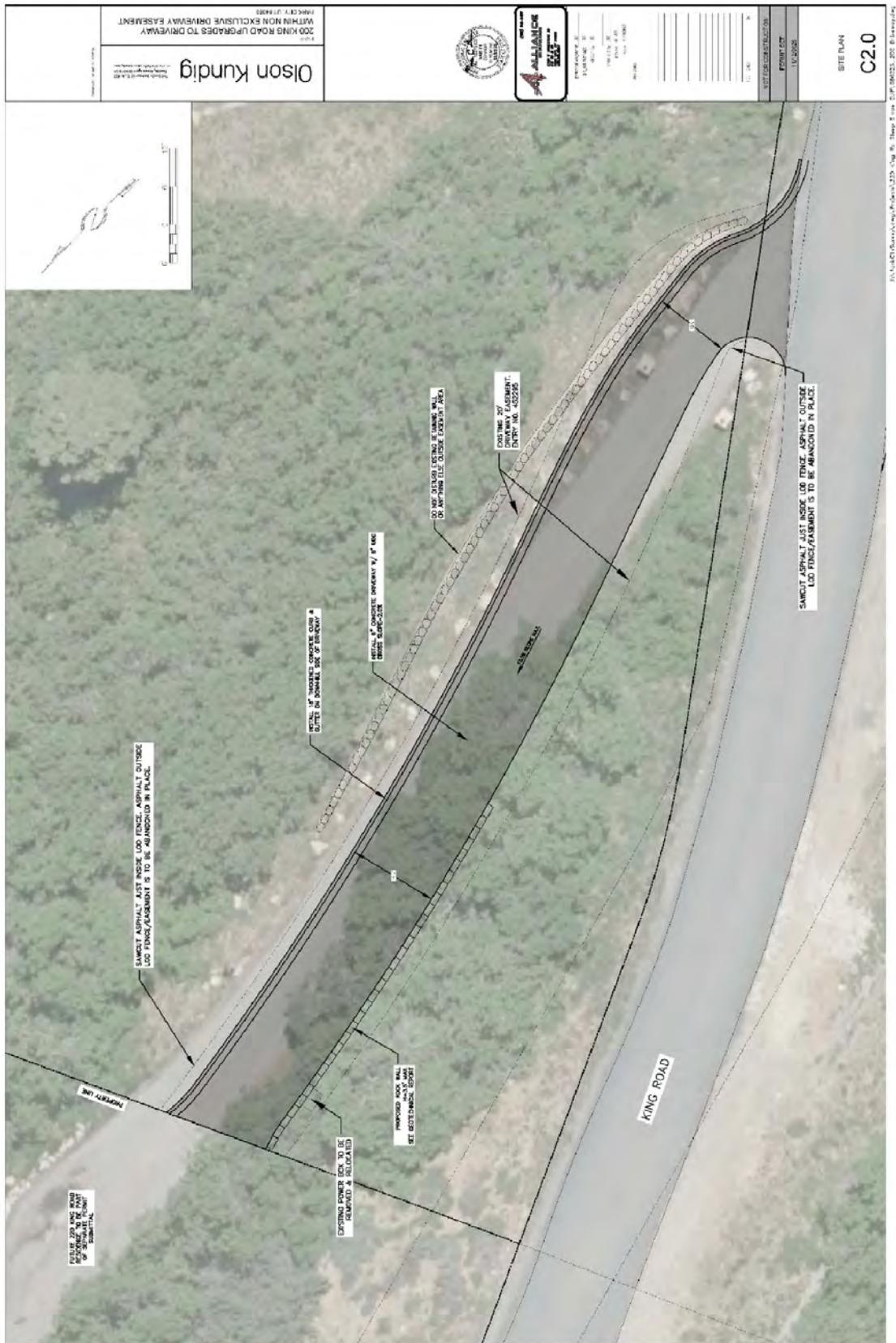


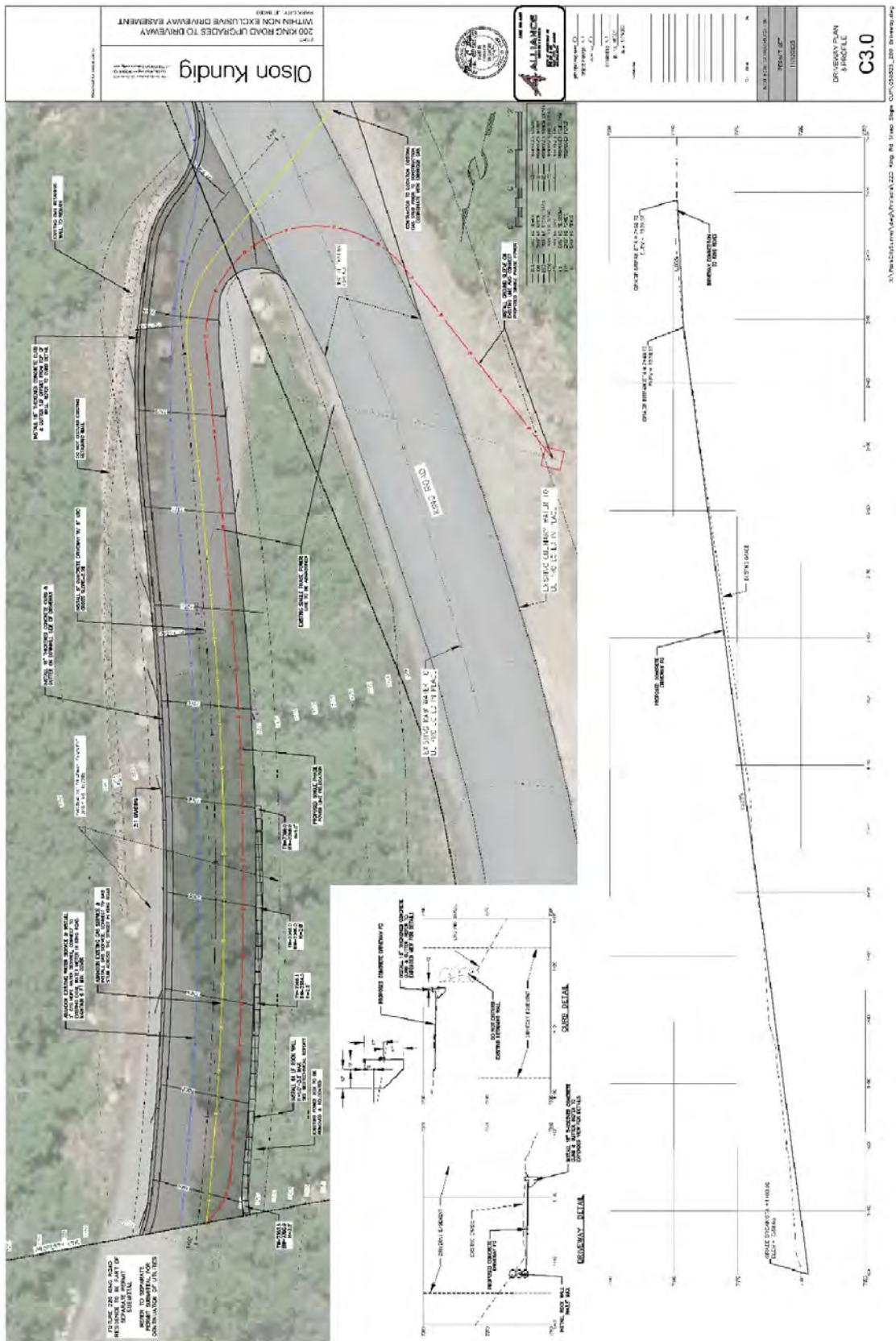
VICINITY MAP

GENERAL NOTES

1. All notes, dimensions, and all other data in this drawing are in accordance with the Uniform States Standard Drawing Practice, ASCE/ASCE-1, 1971 Edition.
2. All dimensions shown are vertical dimensions at the level of the grade line of the property or the property line in question, unless otherwise specified.
3. The property right of way for the easement is to be held as a public right of way for the duration of the easement.
4. The easement is to be held as a public right of way for the duration of the easement.
5. The easement is to be held as a public right of way for the duration of the easement.
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9. The easement is to be held as a public right of way for the duration of the easement.
10. The easement is to be held as a public right of way for the duration of the easement.
11. The easement is to be held as a public right of way for the duration of the easement.
12. It is the intent of the property owner to provide a right of way for the driveway to the property owner's property. The property owner's property is to be held as a public right of way for the duration of the easement.







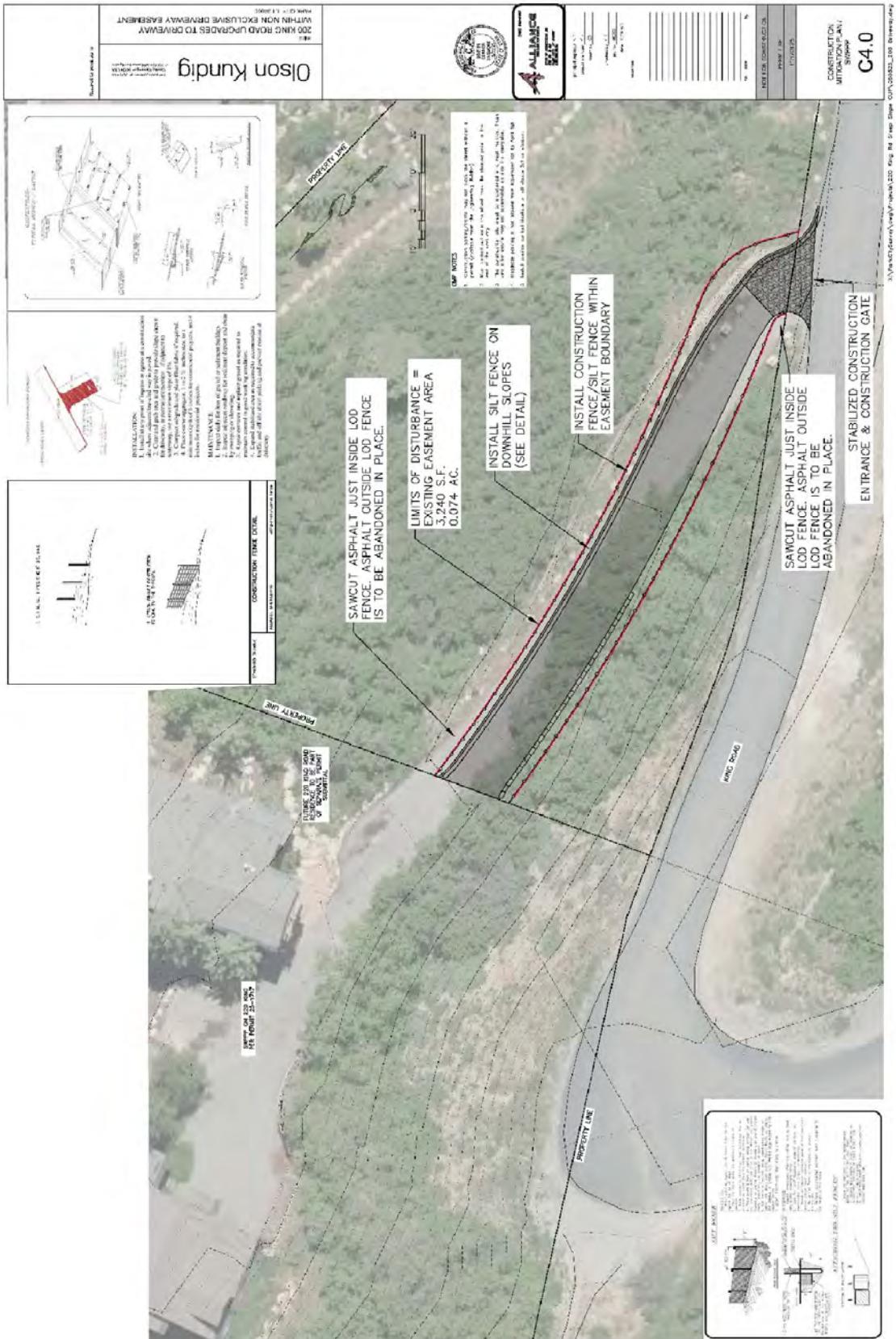


EXHIBIT D

[Joint and Stipulated Motion to Dismiss - Case No. 240500559 attached below]

Bruce Baird (176)
BRUCE R. BAIRD, PLLC
2150 S 1300 E, 5th Floor
Salt Lake City, Utah 84106
Telephone: (801) 328-1400
Email: bbaird@difficultdirt.com

Benjamin J. Mills (17275)
SNELL & WILMER L.L.P.
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Gateway Tower West
Salt Lake City, Utah 84101
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Facsimile: 801.257.1800
Email: bemills@swlaw.com

Attorneys for Pesky Porcupine, LLC

**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SUMMIT COUNTY, STATE OF UTAH**

PESKY PORCUPINE, LLC, a Utah limited liability company,

Petitioner,

v.

PARK CITY, a municipal corporation of the State of Utah.

ERIC R. HERMANN and SUSAN T. FREDSTON-HERMANN, individually and in their capacity as Trustees of the FREDSTON-HERMANN FAMILY TRUST, Dated the 10th Day of October, 2016,

Intervening Respondents.

JOINT AND STIPULATED MOTION TO DISMISS

Case No. 240500559

Judge Richard Mrazik

Pursuant to Utah R. Civ. P. 7 and Utah Code §§ 10-20-101 *et seq.* (“**LUDMA**”),¹ Pesky

¹ Although it used to commence with Utah Code § 10-9a-101, LUDMA was recently recodified with the numbering set forth in this Stipulated Motion to Dismiss. Utah S.B. 1008 (2025), <https://le.utah.gov/%7E2025S1/bills/static/SB1008.html>.

Porcupine, LLC (“**Pesky Porcupine**”) and Park City Municipal Corporation (“**Park City**”) hereby jointly move to dismiss both the above-captioned case and the consolidated case styled *Hermann v. Park City*, No. 240500569 (3d Dist. Ct. Utah) (the “**HDDR Cases**”). “A legislative body may, by resolution or ordinance, settle litigation initiated under Section 10-20-1109 regarding a land use decision with a property owner through a consent agreement.” Utah Code § 10-20-1110(1). The HDDR Cases perfectly fit that bill. Dismissal is an appropriate outcome that the Legislature has authorized.

First, the consent agreement and public meeting conditions have been met. Park City’s legislative body, through a consent agreement and resolution, has settled the litigation in the HDDR Cases, both of which were approved “in a public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.” *See id.* § 10-20-1110(2). A true and correct copy of the Consent Agreement is attached as Exhibit A, and a true and correct copy of the minutes of the public meeting is attached as Exhibit B. In addition to a lack of reasonable dispute over the authenticity of those documents, the Court can take judicial notice of them as public documents that are publicly accessible. *See, e.g.*, Utah R. Evid. 201; *BMBT, LLC v. Miller*, 2014 UT App 64, ¶ 7, 322 P.3d 1172 (“[W]e agree . . . that the trial court could take judicial notice of the Note as a public record.”); *Brigham City v. Valencia*, 779 P.2d 1149, 1149 (Utah Ct. App. 1989) (per curiam) (taking judicial notice of Brigham City Ordinance 5-1). The process condition has been met.

Second, the correct nature of the litigation condition is met. The HDDR Cases were initiated under Section 10-20-1109 regarding a land use decision—the correct topic for the settlement—as opposed to a land use regulation or other issue. *Compare id.* § 10-20-102(41) (defining the term “land use decision” as “an administrative decision of a land use authority or appeal authority regarding: (a) a land use permit; or (b) a land use application”); *with id.* § 10-20-102(43) (defining the term “land use regulation” separately). Indeed, both of the HDDR Cases’ Petitions arise under that relevant statute, and all their contentions readily acknowledge that the HDDR Cases deal with land use decisions, not a land use regulation or other issues, because all

the contentions are that Park City’s decisions related to the applications was arbitrary and capricious or illegal, not that such decisions were preempted by or contrary to state or federal law or did not meet the reasonably debatable standard. *Compare id.* §10-20-1109(3)(b)–(c); *with id.* §10-20-1109(3)(a). There can be no debate that the HDDR Cases involve the type of litigation contemplated by the statute.

Although Petitioners may argue that the Petitions were technically initiated under Utah Code § 10-9a-801, the mere renumbering of that very same statute has zero substantive effect. After all, the recent bill enacting the reorganization and renumbering shows that no relevant substantive changes were made to Utah Code § 10-9a-801, meaning that the numbering has no legislative significance as to substantive rights. *See* Utah S.B. 1008 (2025), <https://le.utah.gov/%7E2025S1/bills/static/SB1008.html>. Aside from unduly raising form over substance, such an argument would also deviate from the Court’s “primary goal when trying to wring the meaning out of statutory language,” which “is to evince the true intent and purpose of the Legislature.” *See, e.g., Armenta v. Unified Fire Auth.*, 2025 UT 26, ¶ 18, 573 P.3d 1283 (cleaned up). That intent was to allow Park City (and other similarly situated municipalities) to resolve this type of litigation through the process that has taken place. There is nothing to indicate that the Legislature intended such a hyper technical reading, and in fact the Legislature’s enactment of the applicable statutory provision as Utah Code § 10-9a-804 when Utah Code § 10-9a-801 existed and merely renumbering both later proves as much. *See* Utah S.B. 1008 (2025) (renumbering the statutory provision). The correct type of litigation has been settled.

Lastly, Park City has settled the qualifying litigation, through the correct process, and “with a property owner”—the applicant and relevant property owner: Pesky Porcupine. *See* Utah Code §10-20-1110(1). Therefore, all the conditions under LUDMA for settling the HDDR Cases have been met.

Under LUDMA, the Legislature authorized Park City to resolve the HDDR Cases through a consent agreement, resolution, and public meeting, all of which Park City has properly

undertaken. It is therefore statutorily appropriate and warranted for the HDDR Cases to be dismissed.

Because the consent agreement between Park City and Pesky Porcupine, by its own terms, amends and replaces the land use decisions at issue in this litigation, this litigation is not only resolved by settlement, but moot.

CONCLUSION

For the foregoing reasons, the Court should dismiss both the HDDR Cases based on the statutorily authorized process that has taken place, which moots this litigation.

DATED: January ___, 2026.

BRUCE R. BAIRD PLLC

/s/
Bruce R. Baird

SNELL & WILMER L.L.P.
Benjamin J. Mills

*Attorneys for Intervening Respondent Pesky
Porcupine, LLC*

**JAMES DODGE RUSSELL & STEPHENS,
P.C.**

/s/
*Signed with permission received via email on
_____, 2026.
Mitchell A. Stephens

PARK CITY
Margaret D. Plane
Mark Harrington

*Attorney for Respondent Park City Municipal
Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on _____, 2026, I caused a true and correct copy of the foregoing **JOINT AND STIPULATED MOTION TO DISMISS** to be served via the Court's electronic filing system to the following parties:

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Attorneys for Park City

/s/

[Joint and Stipulated Motion to Dismiss - Case No. 240500344 attached below]

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Attorneys for Intervening Respondent Pesky Porcupine, LLC

**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR SUMMIT COUNTY,
STATE OF UTAH**

ERIC R. HERMANN and SUSAN T.
FREDSTON-HERMANN, individually and
in their capacity as Trustees of the
FREDSTONHERMANN FAMILY TRUST,
Dated the 10th Day of October, 2016,

Petitioners,

v.

PARK CITY MUNICIPAL
CORPORATION, a political subdivision of
the state of Utah,

Respondent.

PESKY PORCUPINE, LLC, a Utah limited
liability corporation,

Intervening-Respondent.

**JOINT AND STIPULATED MOTION TO
DISMISS**

Case No.: 240500344

Judge Richard Mrazik

Pursuant to Utah R. Civ. P. 7 and Utah Code §§ 10-20-101 *et seq.* (“**LUDMA**”),² Intervening-Respondent Pesky Porcupine, LLC (“**Pesky Porcupine**”) and Respondent Park City Municipal Corporation (“**Park City**”) hereby jointly move to dismiss this case with prejudice. “A legislative body may, by resolution or ordinance, settle litigation initiated under Section 10-20-1109 regarding a land use decision with a property owner through a consent agreement.” Utah Code § 10-20-1110(1). This case perfectly fits that bill. Dismissal is an appropriate outcome that the Legislature has authorized.

First, the consent agreement and public meeting conditions have been met. Park City’s legislative body, through a consent agreement and resolution, has settled the litigation in this case, both of which were approved “in a public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.” *See id.* § 10-20-1110(2). A true and correct copy of the Consent Agreement is attached as Exhibit A, and a true and correct copy of the minutes of the public meeting is attached as Exhibit B. In addition to a lack of reasonable dispute over the authenticity of those documents, the Court can take judicial notice of them as public documents that are publicly accessible. *See, e.g.*, Utah R. Evid. 201; *BMBT, LLC v. Miller*, 2014 UT App 64, ¶ 7, 322 P.3d 1172 (“[W]e agree . . . that the trial court could take judicial notice of the Note as a public record.”); *Brigham City v. Valencia*, 779 P.2d 1149, 1149 (Utah Ct. App. 1989) (per curiam) (taking judicial notice of Brigham City Ordinance 5-1). The process condition has been met.

Second, the correct nature of the litigation condition is met. The litigation was initiated under Section 10-20-1109 regarding a land use decision—the correct topic for the settlement—as opposed to a land use regulation or other issue. *Compare id.* § 10-20-102(41) (defining the term “land use decision” as “an administrative decision of a land use authority or appeal authority regarding: (a) a land use permit; or (b) a land use application”); *with id.* § 10-20-102(43) (defining the term “land use regulation” separately). Indeed, Petitioners and all their contentions readily

² Although it used to commence with Utah Code § 10-9a-101, LUDMA was recently recodified with the numbering set forth in this Stipulated Motion to Dismiss. Utah S.B. 1008 (2025), <https://le.utah.gov/%7E2025S1/bills/static/SB1008.html>.

acknowledge that this case deals with a land use decision, not a land use regulation or other issue, because all their contentions are that Park City’s approval of the applications was arbitrary and capricious or illegal, not that such approval was preempted by or contrary to state or federal law or did not meet the reasonably debatable standard. *Compare id.* §10-20-1109(3)(b)–(c); *with id.* §10-20-1109(3)(a). There can be no debate that this case involves the type of litigation contemplated by the statute.

Although Petitioners may argue that they technically initiated this case under Utah Code § 10-9a-801, the mere renumbering of that very same statute has zero substantive effect. After all, the recent bill enacting the reorganization and renumbering shows that no relevant substantive changes were made to Utah Code § 10-9a-801, meaning that the numbering has no legislative significance as to substantive rights. *See* Utah S.B. 1008 (2025), <https://le.utah.gov/%7E2025S1/bills/static/SB1008.html>. Aside from unduly raising form over substance, such an argument would also deviate from the Court’s “primary goal when trying to wring the meaning out of statutory language,” which “is to evince the true intent and purpose of the Legislature.” *See, e.g., Armenta v. Unified Fire Auth.*, 2025 UT 26, ¶ 18, 573 P.3d 1283 (cleaned up). That intent was to allow Park City (and other similarly situated municipalities) to resolve this type of litigation through the process that has taken place. There is nothing to indicate that the Legislature intended such a hyper technical reading, and in fact the Legislature’s enactment of the applicable statutory provision as Utah Code § 10-9a-804 when Utah Code § 10-9a-801 existed and merely renumbering both later proves as much. *See* Utah S.B. 1008 (2025) (renumbering the statutory provision). The correct type of litigation has been settled.

Lastly, Park City has settled the qualifying litigation, through the correct process, and “with a property owner”—the applicant and relevant property owner: Pesky Porcupine. *See* Utah Code §10-20-1110(1). Therefore, all the conditions under LUDMA for settling this case have been met.

Under LUDMA, the Legislature authorized Park City to resolve this case through a consent agreement, resolution, and public meeting, all of which Park City has properly undertaken. It is

therefore statutorily appropriate and warranted for this case to be dismissed.

Because the consent agreement between Park City and Pesky Porcupine, by its own terms, amends and replaces the land use decisions at issue in this litigation, this litigation is not only resolved by settlement, but moot.

CONCLUSION

For the foregoing reasons, the Court should dismiss this case based on the statutorily authorized process that has taken place, which moots the litigation.

DATED: January ___, 2026.

BRUCE R. BAIRD PLLC

/s/
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Benjamin J. Mills

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Porcupine, LLC*

**JAMES DOGE RUSSELL &
STEPHENS, P.C.**

/s/ *
Mitchell A. Stephens
Lara A. Swensen

**Signed with permission received via email
on _____, 2026.*

PARK CITY
Margaret D. Plane

*Attorneys for Respondent
Park City Municipal Corp.*

CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of the foregoing **JOINT AND STIPULATED MOTION TO DISMISS** was filed with the Clerk of the Court via the GreenFiling electronic filing system, which automatically serves copies to all counsel of record, including the following:

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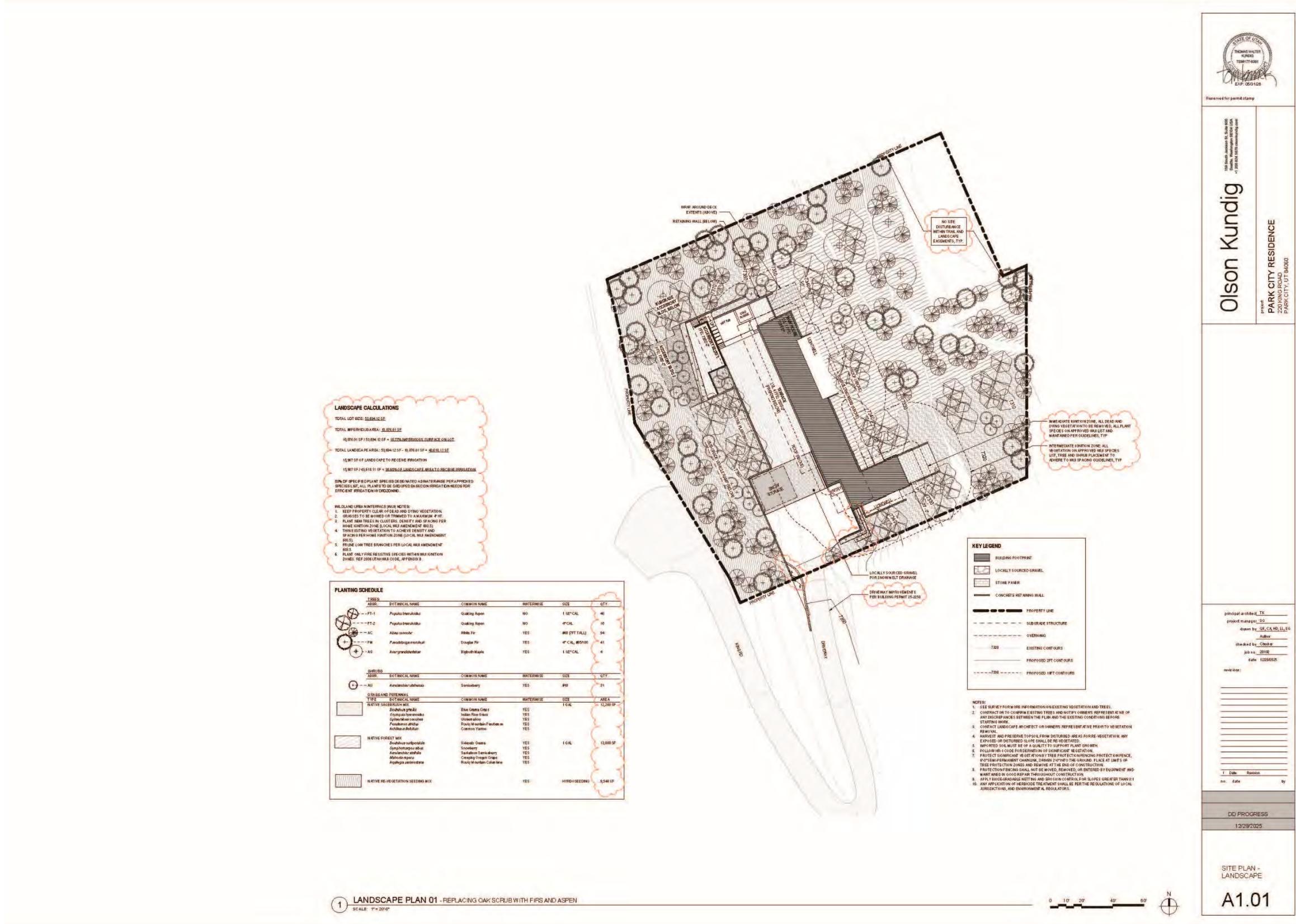
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*Attorneys for Respondent Park City
Municipal Corp.*

DATED: _____, 2026.

/s/ _____

EXHIBIT E
(Depiction of Additional Landscaping Requirements)



LANDSCAPE CALCULATIONSTOTAL LOT SIZE: 53,694.12 SFTOTAL IMPERVIOUS AREA: 10,076.01 SF10,076.01 SF / 53,694.12 SF = 18.77% IMPERVIOUS SURFACE ON LOTTOTAL LANDSCAPE AREA: 53,694.12 SF - 10,076.01 SF = 43,618.11 SF

15,987 SF OF LANDSCAPE TO RECEIVE IRRIGATION

15,987 SF / 43,618.11 SF = 36.85% OF LANDSCAPE AREA TO RECEIVE IRRIGATION

63% OF SPECIFIED PLANT SPECIES DESIGNATED AS WATER-WISE PER APPROVED SPECIES LIST, ALL PLANTS TO BE GROUPED BASED ON IRRIGATION NEEDS FOR EFFICIENT IRRIGATION HYDROZONING.

WILDLAND URBAN INTERFACE (WUI) NOTES:

1. KEEP PROPERTY CLEAR OF DEAD AND DYING VEGETATION.
2. GRASSES TO BE MOWED OR TRIMMED TO A MAXIMUM 4" HT.
3. PLANT NEW TREES IN CLUSTERS. DENSITY AND SPACING PER HOME IGNITION ZONE (LOCAL WUI AMENDMENT 603.5).
4. THIN EXSITING VEGETATION TO ACHIEVE DENSITY AND SPACING PER HOME IGNITION ZONE (LOCAL WUI AMENDMENT 603.5).
5. PRUNE LOW TREE BRANCHES PER LOCAL WUI AMENDMENT 603.5.
6. PLANT ONLY FIRE RESISTIVE SPECIES WITHIN WUI IGNITION ZONES. REF 2006 UTAH WUI CODE, APPENDIX B.

PLANTING SCHEDULE

TREES		BOTANICAL NAME	COMMON NAME	WATERWISE	SIZE	QTY.
PT-1	PT-2	<i>Populus tremuloides</i>	Quaking Aspen	NO	1 1/2" CAL	40
AC	PM	<i>Populus tremuloides</i>	Quaking Aspen	NO	4" CAL	10
+	AG	<i>Abies concolor</i>	White Fir	YES	#65 (7FT TALL)	94
		<i>Pseudotsuga menziesii</i>	Douglas Fir	YES	4" CAL, #95/100	41
		<i>Acer grandidentatum</i>	Bigtooth Maple	YES	1 1/2" CAL	4

SHRUBS		BOTANICAL NAME	COMMON NAME	WATERWISE	SIZE	QTY.
+	AU	<i>Amelanchier utahensis</i>	Serviceberry	YES	#10	31

GRASS AND PERENNIAL		BOTANICAL NAME	COMMON NAME	WATERWISE	SIZE	AREA
NATIVE SAGEBRUSH MIX					1 GAL	12,260 SF
		<i>Bouteloua gracilis</i>	Blue Grama Grass	YES		
		<i>Oryzopsis hymenoides</i>	Indian Rice Grass	YES		
		<i>Sphaeralcea coccinea</i>	Globemallow	YES		
		<i>Penstemon strictus</i>	Rocky Mountain Penstemon	YES		
		<i>Achillea millefolium</i>	Common Yarrow	YES		

NATIVE FOREST MIX	<i>Bouteloua curtipendula</i>	Side oats Grama	YES	1 GAL	13,880 SF
	<i>Symporicarpus albus</i>	Snowberry	YES		
	<i>Amelanchier alnifolia</i>	Saskatoon Serviceberry	YES		
	<i>Mahonia repens</i>	Creeping Oregon Grape	YES		
	<i>Aquilegia saximontana</i>	Rocky Mountain Columbine	YES		

NATIVE RE-VEGETATION SEEDING MIX			YES	HYDROSEEDING	9,540 SF
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KEY LEGEND

	BUILDING FOOTPRINT
	LOCALLY SOURCED GRAVEL
	STONE PAVER
	CONCRETE RETAINING WALL
	PROPERTY LINE
	SUBGRADE STRUCTURE
	OVERHANG
	EXISTING CONTOURS
	PROPOSED 2FT CONTOURS
	PROPOSED 10FT CONTOURS

NOTES:

1. SEE SURVEY FOR MORE INFORMATION ON EXISTING VEGETATION AND TREES.
2. CONTRACTOR TO CONFIRM EXISTING TREES AND NOTIFY OWNER'S REPRESENTATIVE OF ANY DISCREPANCIES BETWEEN THE PLAN AND THE EXISTING CONDITIONS BEFORE STARTING WORK.
3. CONTACT LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE PRIOR TO VEGETATION REMOVAL.
4. HARVEST AND PRESERVE TOPSOIL FROM DISTURBED AREAS FOR RE-VEGETATION. ANY EXPOSED OR DISTURBED SLOPE SHALL BE RE-VEGETATED.
5. IMPORTED SOIL MUST BE OF A QUALITY TO SUPPORT PLANT GROWTH.
6. FOLLOW HR-1 CODE FOR DEFINITION OF SIGNIFICANT VEGETATION.
7. PROTECT SIGNIFICANT VEGETATION BY TREE PROTECTION FENCING PROTECTION FENCE, 6'0" SEMI-PERMANENT CHAINLINK, DRIVEN 2'-0" INTO THE GROUND, PLACE AT LIMITS OF TREE PROTECTION ZONES AND REMOVE AT THE END OF CONSTRUCTION.
8. PROTECTION FENCING SHALL NOT BE MOVED, REMOVED, OR ENTERED BY EQUIPMENT AND MAINTAINED IN GOOD REPAIR THROUGHOUT CONSTRUCTION.
9. APPLY BIODEGRADABLE NETTING AND EROSION CONTROL FOR SLOPES GREATER THAN 3:1
10. ANY APPLICATION OF HERBICIDE TREATMENT SHALL BE PER THE REGULATIONS OF LOCAL JURISDICTIONS, AND ENVIRONMENTAL REGULATORS.



3D Views · Cross Valley from Rossie



Olson Kundig

220 King Road · 3D Views · 01

3D Views · Eye Level from King Rd



Olson Kundig

220 King Road · 3D Views · 02

3D Views · Eye Level from Trail Easement

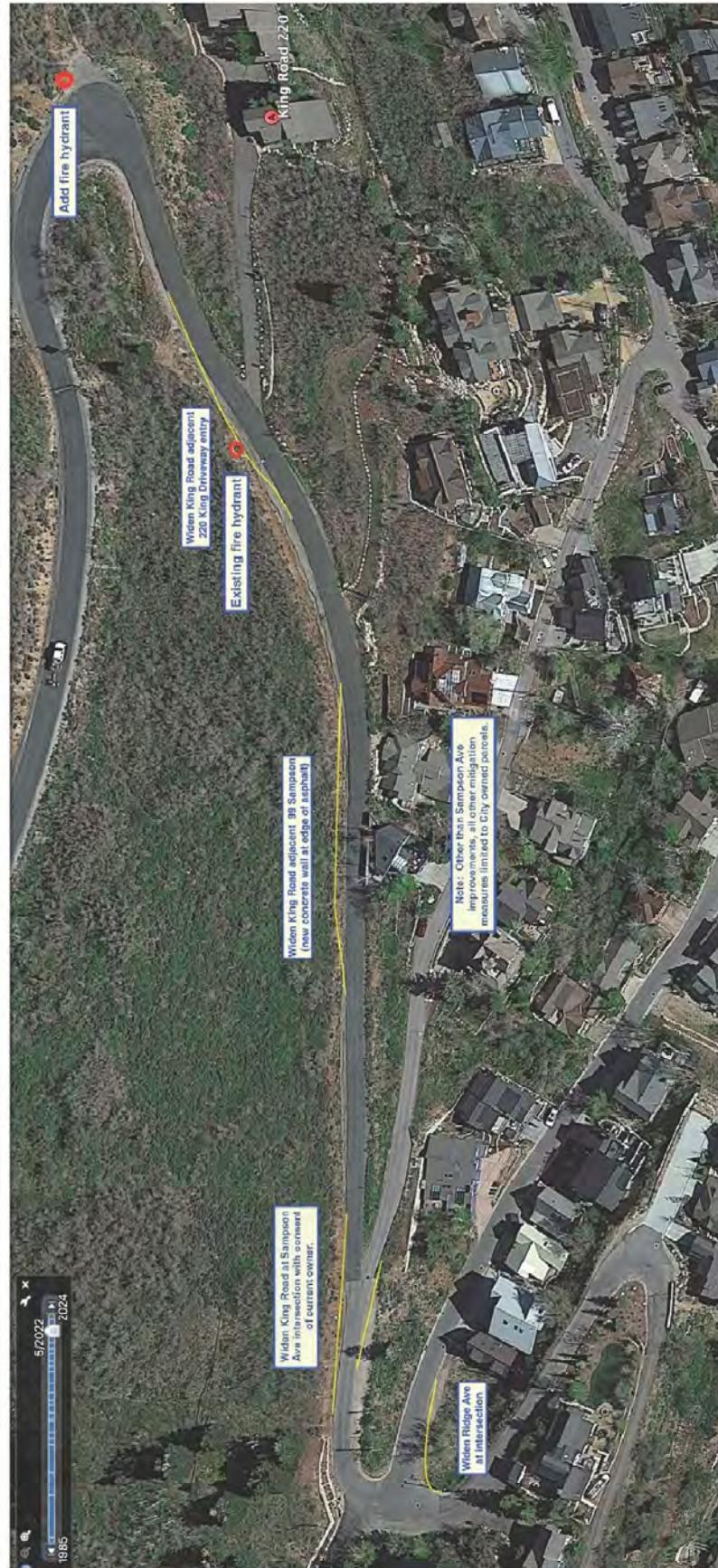


Olson Kundig

220 King Road · 3D Views · 03

EXHIBIT F
(Depiction of Areas for Road Improvement Mitigation)

220 King - Proposed Roadway Mitigation Measures
12-29-2025



Conceptual Roadway Improvements - design to be coordinated with PCMC Engineering Dept.

EXHIBIT G
(Appeal Panel Final Action Letter)



July 15, 2024

Justin Keys
Hogan Lee Hutchinson

CC: Eric Hermann and Susan Fredston-Hermann
David Bennett
David Constable
Ed DeSisto
James Doilney
Martiena Lewis
Nicholas Schapper
Ginger Tolman
John Vrabel

NOTICE OF APPEAL PANEL ACTION

Description

Address: 220 King Road

Zoning District: Historic Residential – 1 – Master Planned Development (HR-1-MPD)

Application: Appeal

Project Number: PL-24-06057

Action: DENIED

Date of Final Action: July 15, 2024

Project Summary: Appeal of the Planning Commission's February 21, 2024 approval of a Conditional Use Permit and Steep Slope Conditional Use Permit to demolish an existing Single-Family Dwelling and Guest House to construct a new Single-Family Dwelling, Accessory Building, outdoor pool, and underground parking area, and to amend the Treasure Hill Subdivision Lot 2 Phase 1 First Amended Plat to remove a portion of the eastern Building Area Limits facing Old Town to shift the Building Area Limits to the west behind the Single-Family Dwelling with a 490-square-foot total increase.

**Action Taken**

On April 30, 2024, the Appeal Panel conducted a public hearing and voted to: a) deny the appeal of the Planning Commission's approval of the Conditional Use Permits and Steep Slope Conditional Use Permit; and b) remanded three questions to the Planning Commission regarding the Sensitive Land Overlay and the Plat Amendment. On June 26, 2024, the Planning Commission conducted a public hearing and issued their determination to the Appeal Panel regarding the Sensitive Land Overlay. The parties stipulated to a single Final Action Letter, from which any additional appeal to District Court would run. On July 15, 2024, the Appeal Panel ratified this Final Action Letter denying the appeal of the Planning Commission's approval of the 220 King Road Conditional Use Permits, Steep Slope Conditional Use Permit, and Plat Amendment according to the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. 220 King Road is a 1.23-acre lot with a Single-Family Dwelling built in 1998 and a Guest House built in 2000.
2. 220 King Road is Lot 2 of the Treasure Hill Subdivision Phase 1 First Amended Plat.
3. The Treasure Hill Subdivision is part of the Sweeney Master Planned Development.
4. On December 18, 1985, the Planning Commission approved the Sweeney Land Company Large Scale Master Planned Development, allocating 277 units of density through several locations in the Historic Districts and the Treasure Mountain area.
5. On October 14, 1987, the Planning Commission approved an amendment to the Sweeney Master Planned Development and reallocated 12 Unit Equivalents to accommodate extended ski trails.
6. The amended Sweeney Master Planned Development relocated two Unit Equivalents along King Road – 200 and 220 King Road. These two properties and five others became part of the eight-Lot Treasure Hill Subdivision, approved in three phases. 220 King Road is included in Phase I.
7. On August 23, 1990, the City Council adopted Ordinance No. 90-24, rezoning six of the Treasure Hill Lots, including 220 King Road, from Historic Residential – 1 to Historic Residential 1 – Master Planned Development (HR1-MPD).
8. The Applicant applied for a Conditional Use Permit to demolish the existing Single-Family Dwelling and Guest House at 220 King Road to construct a new



Single-Family Dwelling (PL-22-05318), a Conditional Use Permit for an Outdoor Pool (PL-23-05523), and a Steep Slope Conditional Use Permit (PL-23-05571).

9. The Applicant applied for a Plat Amendment (PL-22-05318) to remove a portion of the eastern Building Area Limits facing Old Town to shift the Building Area Limits to the west behind the Single-Family Dwelling with a 490-square-foot total increase.
10. On February 14, 2024, the Planning Commission conducted a public hearing and voted 4-2 to approve the Plat Amendment, and 3-3 to approve the Conditional Use Permits, with the Planning Commission Chair voting to approve, breaking the tie.
11. On March 1, 2024, the Appellants appealed the Planning Commission's approval.
12. On April 30, 2024, the Appeal Panel conducted a public hearing and determined:
 - a. the Appellants have standing and both letters were considered.
 - b. The Appellants failed to meet their burden of proving where the Planning Commission erred in applying the Land Management Code to the applications.
 - c. The Planning Commission decision does not alter the existing easement of record regarding the driveway access.
 - d. The Planning Commission properly determined the vesting of the Sweeney Master Plan regarding the calculation of height.
 - e. The Planning Commission properly determined reasonable Conditions of Approval to mitigate adverse impacts of the applications.
13. The Appeal Panel remanded the following questions to the Planning Commission:
 - a. Whether the Sensitive Land Overlay applies due to Sweeney Master Planned Development vesting.
 - b. If the Sensitive Land Overlay Applies, whether it can bisect a Lot.
 - c. If the Sensitive Land Overlay applies, what is staff's Sensitive Land determination, recommendation, and mitigations.
14. On September 24, 1992, the City Council enacted Ordinance No. 92-17 *Adopting the Sensitive Area Overlay Zone Regulations and Amending the Official Zoning Map of Park City, Utah to Include the Sensitive Area Overlay Zone and Amending the Land Management Code of Park City, Utah to Better Regulate Development of Sensitive Lands.*
15. The 1992 Sensitive Land Overlay regulations state:
 - a. *There are a number of existing, valid Master Plans which have been approved. Requests for site specific approval for parcels within Large*



Scale Master Plans which are located within the Sensitive Area Overlay Zone shall be required to go through the Sensitive Lands Analysis and the development will be required to be placed on the least sensitive portion of the parcels. In general, the site design criteria shall apply to these proposals.

If there is a request to change the form of density for a part or all of a Master Plan or a request to substantially modify the plan, the total permitted density will be reevaluated based upon the criteria in these provisions.

16. A determination regarding the applicability of this provision to the Sweeney MPD was issued by the City Attorney in 1992. The February 14, 2024 Planning Commission packet included a September 22, 1992 letter to Michael Sweeney from City Attorney James Carter, providing the following:

1. Will the Sensitive Lands Overlay Zone apply to the Sweeney property's master plan hillside portion (Treasure Hill)? Yes. However, Land Management Code § 3.14(c)(2) Length of Approval, provides, in pertinent part, "Zone changes occurring while the approval is in effect shall not effect the approval. Changes in the master plan requested by the developer will be reviewed and approved as a revision to the master plan by the Planning Commission. A change will be defined as any change in concept, unit type, configuration or number. At that time, the Planning Commission shall review the entire MPD, even if only one parcel or phase is involved in the modification, under the regulations in effect at the time of review. Modifications shall act as an extension of the approval." The Sensitive Lands Ordinance is being adopted in the form of an overlay zone, and so would not, by itself, affect the approved Sweeney Master Plan. If, however, a change in the master plan is requested, as defined in the LMC, the provisions of the Sensitive Lands Ordinance would be applied.

17. The Sweeney MPD was approved, and 220 King Road (and other Treasure Hill Properties) were zoned HR1-MPD by the City Council, prior to enactment of the Sensitive Land Overlay in 1992.

18. The Treasure Hill properties within the Sweeney MPD were platted and the plats amended after enactment of the Sensitive Land Overlay. However, as indicated in City Attorney James Carter's 1992 letter, the Sensitive Land Overlay was not applied to the properties because a comprehensive amendment to the Sweeney MPD was not proposed.

19. On September 7, 1995, the City Council adopted Ordinance No. 95-50 approving the Treasure Hill Phase I Subdivision. This established Lot 1 (200 King Road), Lot 2 (220 King Road), Lot 3 (425 Norfolk Avenue), and Lot 4 (375 Norfolk Avenue) within the HR1-MPD Zoning District and dedicated Lot 5, over 40 acres of Open Space, to Park City Municipal.

20. The City Council has not amended the Sensitive Land Overlay adjacent to the 220 King Road property on the Zoning Map by an approved land use ordinance. The 1992 Sensitive Land Overlay map is the regulatory map, which did not



intentionally bisect 220 King Road. Any inconsistent digitized map is a clerical error.

21. On June 26, 2024, the Planning Commission conducted a public hearing and determined:
 - a. The Sweeney Master Planned Development is vested prior to the adoption of the Sensitive Land Overlay.
 - b. Although the Sensitive Land Overlay would apply to a substantive change, the Sensitive Land Overlay does not apply to the 220 King Property because a land use ordinance has not amended the original Sensitive Land Boundary, which does not include 200 King Road.
 - c. No determination regarding the Staff Sensitive Land Overlay is necessary because the regulations are not applicable per sections (a) and (b) above.

Conclusions of Law

1. The appellants did not meet their burden to demonstrate the Planning Commission erred in applying the Land Management Code to the three applications.
2. The Planning Commission correctly applied Land Management Code Chapter 15-7 and Sections 15-7.1-3(B), 15-1-10, 15-2.2-6, and 15-15-1.
3. The Planning Commission correctly adopted reasonable conditions of approval to mitigate any adverse impacts of the approvals.

Conditions of Approval

1. All Conditions of Approval from the Planning Commission Action Letters dated February 21, 2024 apply (attached as Exhibit A).

If you have questions or concerns regarding this Final Action Letter, please call 435-615-5060 or email planning@parkcity.org.

Sincerely,

DocuSigned by:

Adam Strachan

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7/22/2024

Adam Strachan, Appeal Panel Chair

A handwritten signature of Adam Strachan in blue ink.

Sarah Hall, Planning Commission Chair