

**PARK CITY MUNICIPAL CORPORATION
 PLANNING COMMISSION
 CITY COUNCIL CHAMBERS
 December 14, 2016**



AGENDA

MEETING CALLED TO ORDER AT 5:30PM

ROLL CALL

ADOPTION OF MINUTES OF NOVEMBER 30, 2016

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

STAFF BOARD COMMUNICATIONS AND DISCLOSURES

CONTINUATIONS

1061/1063 Lowell Avenue (Application #PL-16-03328) - The purpose of this plat is to vacate Lot 1 from the Northstar subdivision, which current holds a duplex and has a deed line running through it. This plat amendment is synonymous with application #PL-16-03221; removing Lot 1 from the Northstar subdivision will possibly allow the following application to subdivide the current lot into 4 lots (becoming its own subdivision) for 4 single family homes. PL-16-03328 53
Planner
Hawley
Public hearing and possible continuation to January 11, 2017

1061/1063 Lowell Avenue (Application #PL-16-03221) - The purpose of this plat is to subdivide one lot with a current duplex on it, separating it into 4 lots for 4 single family homes. This plat amendment is contingent on the approval of the 1061/1063 Lowell Avenue PL-16-03328 plat amendment, which proposes to vacate Lot 1 from the Northstar Subdivision. PL-16-03321 54
Planner
Hawley
Public hearing and possible continuation to January 11, 2017

Request for a three lot subdivision plat, known as Village at Empire Pass North Subdivision, located at the intersection of Empire Club Drive and Marsac Avenue, to create platted lots within the approved Village at Empire Pass Master Planned Development for Buildings 3 and 4, and for the Horseshoe Parcel townhouses PL-16-03293 55
Planner
Whetstone
Public hearing and continuation to January 11, 2017

Request for a one Lot and one Parcel subdivision plat, located in the 9000 Block of Marsac Avenue, to create a platted lot for development of Parcel B2 East of the Montage Master Planned Development Phase II, and to create a non-development parcel for ski area uses located on Twisted Branch Road PL-16-03338 58
Planner
Whetstone
Public hearing and continuation to January 11, 2017

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

Treasure Hill Conditional Use Permit, Creole Gulch and Town Lift Mid-station Sites – Sweeney Properties Master Plan - PL-08-00370 PL-08-00370 63
Planner
Astorga
Public hearing and consideration of motion to continue public hearing to a future date

638 Park Avenue- Conditional Use Permit for new construction of a 3,785 sf private PL-16-03313 95

event facility to be located on the second level of the new addition to the historic Kimball Garage.
Public hearing and possible action

*Planner
Grahm*

1376 Mellow Mountain Road – Appeal of a building permit (BD-16-22329) denial based upon the Planning Directors determination of the proposed addition’s square footage that would exceed the maximum house size identified on the recorded plat of First Amendment to Hearthstone Subdivision.
Quasi-Judicial hearing

PL-16-03347 215
*Planner
Hawley*

250 Main Street and the Parking Lot at top of Main St. - Plat amendment to combine lots of the Park City Survey into 2 lots of record and dedicate unused portions to Park City Municipal Corporation as Right of Way.
Public hearing and possible recommendation to City Council on January 5, 2017

PL-16-03217 329
*Planner
Hawley*

152 Sandridge Road Subdivision - Plat amendment to create a legal lot of record from a metes and bounds parcel.
Public hearing and possible recommendation to City Council on January 5, 2017

PL-15-02952 369
*Planner
Grahm*

Request for a one year extension of ratification of the Development Agreement for IHC Master Planned Development (MPD), memorializing approved amendments to the IHC MPD, located at 900 Round Valley Drive.
Public hearing and possible action

PL-15-02999 393
*Planner
Whetstone*

8680 Empire Club Drive - A Conditional Use Permit for a 1,094 sf. addition to the Talisker Tower Club restaurant and expansion of the basement locker room.
Public hearing and possible action

PL-16-03177 407
*Planner
Whetstone*

Request by Deer Crest Associates to amend the Deer Crest Settlement Agreement/Master Planned Development approved on December 29, 1995, to eliminate a required physical disconnect of Deer Hollow Road (aka Keetley Road) at the Slalom Village development parcel location.
Public hearing, discussion, and continuation to February 8, 2017

PL-16-03209 487
*Planner
Whetstone*

WORK SESSION – *Discussion items only, no action taken*
Annual Legal Training on Open Public Meeting Act

*Assistant City
Attorney Samuels
McLean*

ADJOURN

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

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

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
NOVEMBER 30, 2016

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Preston Campbell, Steve Joyce, John Phillips, Laura Suesser, Doug Thimm

EX OFFICIO:

Bruce Erickson, Planning Director, Francisco Astorga, Planner; Kirsten Whetstone, Planner; Ashley Scarff, Planner; Anne Laurent, Community Development Director; Luke Cartin; Environmental Sustainability Manager; Rhoda Stauffer, Housing Program Manager; Alfred Knotts, Transportation Manager; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

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

ADOPTION OF MINUTES

October 26, 2016

MOTION: Commissioner Joyce moved to APPROVE the minutes of October 26, 2016 as written. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

November 9 2016

Commissioner Joyce referred to page 6 of the Staff report, second paragraph from the bottom, second sentence. He thought the sentence was unclear and he did not recall having said those words. Commissioner Joyce had the same issue with the third sentence. He was unsure how to correct the sentences because he could not recall what he had actually said.

Chair Strachan suggested that they table the minutes to the next meeting and have Mary May re-listen to the tape for the exact wording. Chair Joyce stated that if the second and third sentences were stricken the rest of the paragraph reflected his intent and he was comfortable approving the minutes.

MOTION: Commissioner Phillips moved to APPROVE the minutes of November 9, 2016 as amended. Commissioner Joyce seconded the motion.

VOTE: The motion passed. Commissioner Suesser abstained from the vote since she was absent from the November 9th meeting.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Bruce Erickson reported that the next meeting was scheduled for December 14th. It will be a Treasure Hill meeting held at the Marsac Building.

Director Erickson stated that the Planning Commission would only have one meeting in January on January 11th, and it would also be a Treasure Hill meeting. It was still uncertain whether the January meeting will be held at the Santy Auditorium or the Marsac Building. Director Erickson anticipated holding the Treasure Hill meetings at the Santy Auditorium in March, April and May.

Commissioner Phillips disclosed that he has a small office in the Bonanza Park area. However, it would not affect his decision on the agenda item this evening; and if it ever became necessary, his office could be moved.

WORK SESSION

Presentations regarding Environmental Issues, Transportation and Affordable Housing

Community Development Director, Anne Laurent, introduced Rhoda Stauffer, Luke Cartin, and Alfred Knotts. Since this was a work session, they were anxious to hear feedback from the Planning Commission regarding the three items being presented, and whether or not they were heading in the right direction.

Ms. Laurent stated that these items were the three critical goals from the City Council, and they are mentioned frequently in the General Plan. There have been discussions for several years about ways to improve the LMC to better support these critical goals.

Affordable Housing

Ms. Laurent stated that the first objective was to talk about the identified problem statement, which is the increasing rate of affordable housing units compared to what is

available and the market price. She remarked that the gap between the price of what is affordable at a certain AMI versus the market is widening at a very fast rate. She noted that currently there are just under 500 existing deed restricted affordable units in Park City.

The City Council has set a goal of 800 new units in the next ten years. Ms. Laurent stated that availability of land and shovel ready projects are the biggest challenges, as well as the complexity and competing interests of doing development in general.

Ms. Laurent reported that they had worked with EPS and the Blue Ribbon Housing Commission to make recommendations. Progress has been made, but further actions are needed.

Rhoda Stauffer, Housing Program Manager, stated that resolution amendments would be going to the City Council in the next 30 to 60 days. She noted that the City Council recently had a long discussion about fee waivers and agreed that any City sponsored affordable housing project has the ability to get full fee waivers from both impact and permitting fees. In addition, anyone building affordable housing has the ability to come to the City Council for partial or full fee waivers for development of affordable housing. Ms. Stauffer clarified that the waiver did not include housing obligations that come from an MPD or Annexation.

Ms. Stauffer reported on additional changes in the resolution. One is the way to calculate in-lieu fees, which would not quite double the in-lieu fee per unit. Another is that the employee generation multipliers would slightly change. Income targets would also change to better reflect what they have learned about the needs in the community.

Commissioner Joyce understood from a previous presentation that the City had set a price point for the fee in-lieu that was now outdated from a cost-of-living standpoint. He asked if an annual adjustment was being added to the changes to keep the fee in-lieu current.

Ms. Stauffer clarified that it was not actually out of date. The change was proposed after they re-examined how it was calculated. The prior method was a calculation of the difference between the affordable number to build a unit and the actual market price. They are now talking about charging closer to the actual construction cost of a unit.

Ms. Laurent explained that they were tying it to the average cost coming in as a valuation on building permits. As that number changes it would automatically change the in-lieu fee without having to amend the resolution.

Ms. Laurent thought it was important for everyone to understand the meaning of affordability. It is defined for families spending no more than 30% of their income on housing. That is the basis for setting AMI's

Ms. Stauffer stated that AMI stands for Area Median Income, and it is a factor that is calculated every year by HUD, the Department of Housing and Urban Development, to talk about affordability in communities around the United States.

Ms. Stauffer reported that the housing needs assessment was updated, which stipulates who in the community cannot find housing and what the households look like. There was a deficiency of approximately 400 rental units. Ms. Stauffer stated that rental housing has not been developed in the community for nearly 20 years, and it is clear that 400 units are needed to serve 40% to 50% of Area Medium Income. She pointed out that there are no for sale units in the community that are affordable to anyone earning 100% of AMI.

Director Erickson clarified that the affordable housing numbers Ms. Stauffer was citing only pertained to housing inside the City limits. It did not include surrounding areas.

Ms. Stauffer remarked that Park City is the job center for Summit County, and 8,000 people commute into the community from outside Summit County. They are focused on the AMI of those in the community to keep them from having to commute, rather than serve the people who already live in the Summit County and commute into the City. Ms. Stauffer stated that half of the commuters are below 60% of the AMI, which is below \$50,000 per year. The other half are above that percentage. Ms. Laurent stated that this information was important because it give them an idea of where the focus should be in terms of rental versus ownership. People below 60% are more likely to rent and those above 60% eventually want to own.

Ms. Laurent stated that the City was exploring the idea of potentially replacing the affordable Housing Master Plan Development Section of the LMC with something called a Housing Overlay Zone, where there are pre-determined “gives and gets” rather than a negotiated “give and get”. It would only apply to affordable housing. Ms. Laurent explained that when developers present bright ideas to develop affordable housing, they want some predictability on what they can develop with and without affordable housing. Currently, they are told that it depends on a number of things and they must go through a very long process to get answers. Ms. Laurent pointed out that it was a preliminary idea and they needed to look at how it would work. However, they would like to try it because it provides a framework and tailors density and the design criteria based on location and what people are willing to tolerate in their community. For developers, it would provide a known quantity in penciling a development project.

Ms. Laurent stated that the City was looking at purchasing land in the Bonanza Park area and developing affordable housing on that land is a priority. However, in recent conversation with the community about development in the Bonanza Park Area, many

questions were raised about density. There have been very good, productive community conversations. Ms. Laurent noted that there are still very polarized viewpoints on density and whether it is worth it. Another issue raised in those conversations is which is more important; housing or compatibility and not going over three stories or changing the look and feel of walking down the streetscape. She believed that the end result might not pencil for affordable, but since the City has money available to subsidize affordable housing, it allows them to better quantify and work with developers on what that subsidy might be. Additionally, the City Council would like to develop affordable housing on some City-owned properties. However, in order to that they would still need to provide a framework of what they are looking for and this might provide the opportunity to begin that framework.

Director Erickson noted that this suggestion has been benchmarked against other communities, so there are models that can be tested to see what would or would not work. Ms. Laurent emphasized that this was not the City's brain child and that it was already occurring in other communities and municipalities that were struggling with affordable housing.

Commissioner Phillips asked if they had calculated figures on how much additional housing the Housing Overlay Zone would help facilitate. He wanted to know if the Overlay Zone would apply to the same people that would be affected under the current Resolution or whether it was broadened. He recalled discussions about disbursing the costs through residential, and he was curious to know if that was ruled out or whether it was still being explored.

Ms. Laurent replied that the Housing Overlay Zone was different than the current Resolution. It would be creating a new zone that would overlay on to existing zones, and define how affordable housing would be viewed differently for that zone than any other market rate development. It would be an Overlay Zone used as an incentive for private development to do affordable housing. In some communities it does not require City funding, but given the market value of housing in Park City it still might be necessary to subsidize. However, it would help give a better idea of a reasonable subsidy level.

Ms. Laurent stated that the Resolution talks about housing obligations and it is sometimes used in development agreements. It responds to the inclusionary zoning regulations already in the LMC, which is why the two would be separate. Ms. Stauffer clarified that the Housing Overlay Zone would not replace the Housing Resolution.

Director Erickson remarked that the advantage of the Housing Overlay Zone is that it can be tailored to each of the 17 Zoning Districts, rather than a blanket like the

Sensitive Lands Overlay. Each District would receive a different set of tools to do property infill for this type of housing. It would enable the Planning Commission to target infill and neighborhood compatibility.

Commissioner Phillips asked if this would be substantial enough to spur new affordable housing. One of the problems with the MPD is that the housing required to be built is not a significant amount. In their joint meeting with the City Council, one of the issues was whether they needed to look at broadening those who have to pay into affordable housing. He asked if other changes were also being considered.

Ms. Laurent replied that this addressed the same issue, but in a different way. Rather than re-writing the affordable housing portion of the MPD, it would just change the structure. It also provides some flexibility to look at what they want to do in different parts of the City. Director Erickson stated that whatever solution they come up with, it would be benchmarked against the 800-unit goal set by the City Council. If they use this process the strategy would be to look at a plan for each zone, tailor it to the 800 units, and look at the consequences.

Ms. Laurent stated that whether or not it works would depend on the framework they give it. It is intended to make a big difference if they are willing to go big. She did not believe it would cure a market failure without some type of subsidy for a private development to do affordable housing.

Commissioner Joyce recalled saying in a previous discussion that the only people who are forced to contribute to affordable housing are those bringing forward an MPD. He pointed out that there are very few MPDs compared to the enormous number of structures being torn down, built, and rebuilt. He stated that they specifically talked about whether or not they should be looking at things outside of the MPD process as having to contribute to the affordable housing piece. Commissioner Joyce thought that related more to the Resolution rather than the Overlay if someone was building a single house. Ms. Laurent replied that he was correct. It was more of a Resolution and more about expanding the inclusionary zoning obligations.

Ms. Laurent stated that having an Overlay Zone in place and knowing where housing could go would be the first start to expanding the inclusionary obligations. It was also discussed as potentially expanding it to residential. They were not against going down that route, but they still needed to work out the details and bring the pieces together.

Director Erickson stated that the most negotiating power the Planning Commission has is an annexation. The next level is an MPD. The next level being considered would be the Planning Commission review authority of a mitigation strategy inside a Conditional

Use Permit. He believed there was the potential, but it was unclear whether or not the City would move forward on that level. Ms. Laurent pointed out that there were also functional complications in terms of existing development agreements and existing subdivisions. They did not see a lot of opportunity or impact by going that route. It was still being explored.

Commissioner Phillips asked if they anticipated additional joint meetings between the City Council and the Planning Commission. Ms. Laurent believed there would be future opportunities for joint discussions. She noted that a joint meeting was scheduled with Summit County on December 6th and affordable housing was one of the topics. They would focus on any opportunities to partner regionally.

Chair Strachan asked about the timing for bringing forth proposed LMC changes. Director Erickson replied that the Staff was given direction to bring something to the Planning Commission in the first quarter of 2017. Ms. Laurent suggested having a strategy meeting on how to do outreach and how to engage the public in a more informal setting.

Commissioner Thimm asked if they had identified any communities that have successfully implemented similar programs. Ms. Laurent replied that most of the communities are larger, more city-like environments. The challenge is that Park City is not urban but they have urban problems. How to adapt that was treading new road.

Chair Strachan asked if any communities the size of Park City had ruled it out as a bad idea. He was told that there were none that they knew of. Ms. Laurent respected the comment. They would not be offended if the Planning Commission thought it was a bad idea. She clarified that they were just looking for the tools that could be explored to address what they hear from the community.

Chair Strachan stated that when they do the outreach and get to the point of enacting LMC amendment and taking public comment, he was concerned that the first question would be whether or not they looked anywhere else to see if this works. He wanted to be able to answer yes and give specifics. Ms. Stauffer replied that Park City is part of a national network of entities that have been doing inclusionary zoning for years. It is a peer sharing network where they share information with each other about Best Practices and other things. Ms. Stauffer stated that they are constantly checking that network.

Commissioner Thimm noted that the information provided in the packet mentions a couple of thresholds in terms of percentage of AMI. It talks about the 40% to 50% threshold for the deficit in rental housing of 400. It also talks about the 8,000

commuters at 60% AMI. He asked if it would include a benchmark and process for determining what the target needs to be in terms of implementing the affordable housing initiative.

Ms. Laurent stated that they have talked about putting more definition to the critical goals and try to better define what the mix would be between rental and for sale. Ms. Stauffer stated that the assessment shows specifically what AMIs are in the most need. For 80% and above AMI there is a big need for rental housing in that category, as well as the 50% and below. It appears that the in-between is served fairly well. Ms. Laurent clarified that currently there is a very severe waiting list for rental with Mountainlands Community Housing Trust in the 40% to 50% AMI area; and their recommendation is for the City to focus on the rental.

Commissioner Joyce commented on the commitment that was made for the Park City Heights neighborhood. The hospital has come back with a second update and he believed the second phase of the hospital would be completed before the affordable housing is in. Commissioner Joyce stated that it is frustrating for the Planning Commission to put a requirement forward for affordable housing only to see it languish. Ms. Stauffer reported that they were on the cusp of releasing 14 houses for sale, and those were expected to close in the next 30 to 60 days. She believed the first round would lay the groundwork for having it go smoother in the future. I talking with the developer on what prices could be charged, they honed in on trying to keep the houses affordable. Ms. Laurent explained that based on how the development agreement was written, there are certain thresholds of when permits and certificates of occupancy can be issued. The City has the authority to hold back a certain percentage of permits and CO's if the affordable housing is not done. She pointed out that there were criteria for affordable housing but no deadlines for completing a specific number of units. The lesson learned and the recommendation from the Blue Ribbon Housing Commission is that the affordable housing portion must be completed first in a development.

Transportation

Alfred Knotts, Transportation Manager, walked through the transportation strategies that have been presented to the community over the past few months. In addition, two sales tax initiatives were done jointly with the County. In addition to presenting the strategies to the public, they have reinforced that the strategies are consistent with the General Plan. Mr. Knotts stated that he came from the Tahoe Basin, which has the most stringent regulations in the Country. He is a firm believer in the roles that regulation and policy play. Projects and services cannot be accomplished without comprehensive planning at a project by project level.

Mr. Knotts stated that Park City is dealing with different growths, as well as growth outside of the City limits which has indirect and direct effects on Park City. They have been working with the County on how to mitigate those on a project and regional level, and it would be presented to the community itself.

Mr. Knotts presented the comprehensive approach. What they laid out to the community and reiterated with the Councils was a combination of projects, programs and services that improve the mobility and how it all fits together. Mr. Knotts pointed out that the fact that they will not build their way out of congestion was consistent with the General Plan. They would also provide active transportation and transportation demand management strategies. The last piece is to focus on the transit system. It is a very successful system and the intent is to build off of that system and provide the needed priority to the transit system. Mr. Knotts noted that currently the transit system operates in the same capacity as the single occupancy vehicle. He would provide the priority that it needs to outperform the single occupancy vehicle.

Mr. Knotts commented on road improvements and capital improvements. The primary focus will be on the main corridors and remote parking lots. The way to provide that priority to transit on the corridors is to provide dedicated transit lanes on SR224 and 248. The remote parking locations would be outside of the corridors and strategically located within and adjacent to the corridors.

Mr. Knotts had met with UDOT and the City was taking the lead on the SR248 project. It is a model he used in Tahoe both in California and Nevada where they did the projects on the State highway system with the State Highway Department Authority by passing the project management authority on to the local jurisdiction. It allows the project to be developed at a scale and context that fits the community.

Mr. Knotts noted that the County was also working on SR224. The City and the County have been working with the Blue Ribbon Committee on remote parking, and a few remote parking locations have been identified outside of the corridors. They will be looking at how to tie those into the transit system.

Mr. Knotts reported that the scope of the project for SR248 is dedicated transit lanes. Studies have been done over the last several years, and the last one completed in 2009 identified a preferred alternative. They would be moving forward with that preferred alternative, which are dedicated transit lanes. The Transportation Department will be doing public outreach and it will come back to the Planning Commission for feedback and input.

Mr. Knotts stated that as the school goes through its master planning process, they will be looking to address the access points. Currently, there are seven curb cuts and would like to address safety and other conflicts that exist at that corridor. He pointed out that there is one tunnel through that corridor, but an at-grade crossing still exists which does not resolve the entire conflict. Mr. Knotts noted that Richardson Flat is an asset they do not use. It is not very accessible and that would be part of the project. Other projects include the intersection improvements at Bonanza and 248.

Mr. Knotts remarked that the strategy for SR224 is very similar. They were looking to give transit priority through that corridor and be able to expedite service from the new Kimball Junction Transit Center that is being completed.

Regarding remote parking and where the intercept lots could exist, the Blue Ribbon Committee had talked about being able to identify the locations that complement all the markets they were trying to capture at those key points. They identified a place at the Ecker View area, and were in discussions with UDOT to be able to repurpose that. The view area is currently a layover truck stop and sleeping area. It is very accessible due to its proximity adjacent to I-80. It would allow them to capture those cars before they enter the Kimball Junction area.

Mr. Knotts stated Jeremy Ranch was another area being considered as a remote parking location. Another location was the Richardson Flat area.

Mr. Knotts stated that another strategy and something they were looking at incorporating into the LMC is Transportation Demand Management Program. It would be applied at a project by project level, and could be considered as conditions of approval. Certain levels of projects that generate a certain threshold of trips or has a certain threshold of employees would be able to develop a transportation demand management plan specific to that business or use. He anticipated coming back to the Planning Commission with proposed changes to the LMC in the first quarter of 2017.

Mr. Knotts stated that the General Plan is very explicit about what should occur when projects come forward. However, there is a big gap between how the General Plan is implemented and the LMC, and he is very eager to clean that up.

Mr. Knotts commented on minimum versus maximum versus shared parking standards. They have haphazardly applied maximum parking standards or parking reductions. The General Plan says that when those have been applied they should go back and conduct research on how it was applied. Certain projects have been approved but they have not yet done that research to evaluate whether it has been effective; and if not, what strategies or adaptive management strategies could be put in place to make them

effective. Mr. Knotts stated that there were also opportunities for shared parking and they would be looking at certain strategies. They were also working with the County on developing an overall regional transportation plan. Currently, there is a Traffic and Transportation Master Plan that was done in 2011 that needs to be updated.

Mr. Knotts stating that in the next few months he would be bringing forward LMC changes related to parking, specifically Section 9-7; and the parking ratio requirements in Section 15-3, which applies to the minimum versus the maximum versus shared parking. Section 9-7 is paid parking. As part of the parking management strategies for Old Town and the greater Park City areas, paid parking is a concept and strategy that will also be coming forward. Mr. Knotts stated that a Transportation Demand Management Ordinance or program could start off as voluntarily implemented by major existing employers, but as projects come forward, transportation demand management plans would be required at a certain level or threshold. It could be a standard condition of approval and incorporate certain mitigation measures when there are parking requirements. When parking reductions are considered the question is whether it should be applied arbitrarily or whether a straight 10% reduction should be applied. He suggested that they look at the 10% reduction and apply certain mitigation measures. A key theme would be to monitor the conditions of approval to see how they were working so they would not perpetuate past mistakes.

Mr. Knotts stated that he has spoken with Director Erickson and Ms. Laurent about requiring a traffic impact analysis and what would be the threshold to trigger the requirement. Mr. Knotts commented on other standards being applied that were outdated. One is the standard for level of service. When the level of service fails, the engineering solution is to build more capacity for the road. However, that is contrary to the General Plan which says they should not build more roads. Mr. Knotts stated that they should be looking at how to evaluate these projects on a vehicles miles traveled basis. He believed they would be working on that on a policy level.

Mr. Knotts commented on the conditions of approval, and agreed with the comment that the requirements languish. There is no tangible or direct mitigation that has a responsibility associated with it, a schedule, or when it should be completed.

Commissioner Joyce remarked that a major question when they were trying to work on the BoPa Plan was about improving the traffic flow. He did not anticipate a Bonanza Park Plan in the near future, but he suggested that they look at traffic flow through Bonanza Park as part of the traffic analysis. Mr. Knotts stated that they have developed a Bonanza Park Transportation and Parking Plan. It is in a final draft form but it has not been presented to the Planning Commission or adopted by the City Council. It supports the neighborhood plan in the General Plan. Mr. Knotts believed

the neighborhood section of the General Plan provides enough guidance about providing connectivity. The explained that they have been looking at the purchase of the Yard parcel, as well as road layouts and how to extend potentially the Munchkin Road section and Homestake.

Director Erickson noted that Prospector Avenue was also scheduled for reconstruction. He reported that working together, Planning, Transportation and Engineering they have gone to a complete streets analysis. They were enhancing bus turnouts, bike lanes, and landscaping. They were in conformance with the General Plan on that model as well. Director Erickson stated that considerable work was being done on the larger General Plan issues in that area.

Commissioner Joyce believed this was a step different than Prospector. The roads through Bonanza are fundamentally broken. Currently, everything in Bonanza Park dead-ends and they need to look at interconnecting some of the things that would either be part of an MPD, allocating land that is not currently road to become roads, or the City buying roads or building roads.

Director Erickson suggested that they have that discussion when they do their General Plan review of the Bonanza Park item on the agenda this evening. Mr. Knotts clarified that they have been using the General Plan as guidance for the connectivity and providing through arterials for that area. They also looked at the Corridor Preservation and Corridor Management Plan per an agreement with UDOT on access points and ingress/egress on SR248 as part of the Bonanza Park project. They were looking at a similar strategy with the School District.

Chair Strachan stated that as they look at the complete streets approach, sharrow lanes for bikes work well in the summer, but not as much in the winter because the roads are not plowed and the bikes cannot navigate through the slush on the side of the road. He suggested that they look at ways to make it more passable for bikes using sharrow lanes, and ways to make the City more bikable. Chair Strachan pointed out that the dedicated lanes work great because they are plowed early in the morning. He would support incorporating those practices into the budget to make the sharrow lanes as good as the dedicated lanes. Mr. Knotts stated that a cycle track also works well. They are separated by some type of a curb or median, and they would be plowed similar to the dedicated lanes. He thought there might be an opportunity to do that on Prospector; and if not, it would be something to incorporate into the design standards as a complete street. Chair Strachan did not believe Prospector needed it as much because of the Rail Trail. It was more important to keep the sharrow lanes cleared.

Luke Cartin stated that he has been in this position for three months but he is a seasoned veteran. He introduced Celia Peterson as the newest member of the sustainability team. Mr. Cartin noted that he served as a Planning Commissioner for eight years in another city and he respects what the Planning Commission does.

Mr. Cartin stated that the guiding documents for environmental sustainability are broken into three categories. The General Plan - Chapter 5 talks about everything from open space to carbon and sustainability. There were also critical priorities and resolutions that have been passed by the City Council, such as net zero and 100% renewable, as well as building standards and other pieces. Mr. Cartin remarked that his role is to make sure the City hits the goals of net zero carbon and 100% renewable electricity by 2022 for City operations and 2032 community wide. Mr. Cartin stated that net zero carbon takes into account all types of energy. These two goals are the main driver for his team.

Mr. Cartin noted that there are national resources to draw on and Park City is recognized as 100% committed by I Am Pro Snow, which is part of the climate reality project by Al Gore's group. The Sierra Club has lent their support. Unity Concerned Scientists have also provided technical pieces. There are a lot of national resources focused to help Park City achieve these goals.

Mr. Cartin noted that 100% renewable electricity is part of the net zero carbon goal. He presented a slide showing where Park City fits with some of their peer cities listed on page 131 of the Staff report. Those with a yellow dot were 80% to a carbon reduction goal and those identified with a blue mark had a net zero or a 100% goal. Park City is a leader in that nationally. Mr. Cartin stated Park City's goals are achievable and many of the other cities who set goals further out were bumping up their goals to meet Park City's goals. He remarked that the state of utilities is changing rapidly and the Country is in the middle of a transformation. The change is also occurring internationally.

Mr. Cartin reviewed a list of current steps that were being taken. They were currently under electricity negotiations with Rocky Mountain Power to achieve the 100% renewable goal. Currently, with Rocky Mountain Power it is about 60% coal fired, and that is a drastic change from what they currently do for business.

Mr. Cartin stated that they were also looking at quantifying the open space carbon sinks. They have over 8,000 acres preserved and the intent is to help quantify that. It would not change how the open space is managed, but it would add additional value. They were also looking at different ways to leverage the Land Management Code in areas that overlap the critical priorities of affordable housing and transportation. They were looking at increasing energy efficiency and renewable energy, and they were also

going after zero waste. On the zero waste side they were actually focusing on special events first because they have a large impact but they have also shown a great amount of success. The Park City Market has an 86% diversion rate, which is great when you consider the number of people who attend the event.

Mr. Cartin stated that the energy code is set at the State level. They are not able to change the values, insulation factors or any other pieces because it is set by the State Legislature. They can get around it somewhat by being more creative in the LMC. Another plan is to reach out to the community and get input from architects and builders to figure out how they can work it in and make it more authentic.

Mr. Cartin presented a graph showing the electricity use of residential within the City limits shown in red, and businesses within the City shown in blue. He pointed out that in January, February and March the residences used more electricity than all of the businesses combined. It is nearly a 50/50 split when you look at two ski areas, all the hotels, and the restaurants within the City limits. Mr. Cartin believed it was an interesting challenge and one they did not have answers for yet. They would be reaching out to the community to help solve the problem. Mr. Cartin stated that in looking at the 2022 goal and the 2032 goal, City operations are over 50% fed with renewable electricity currently. Electric buses are coming on line, and they were about to undertake an energy efficiency audit on multiple City facilities. They were moving ahead with the Rocky Mountain Power negotiations. Mr. Cartin remarked that with the potential changes in rooftop solar in Utah, he asked the City Council to send a letter to the Public Service Commission about the way the temporary tariff was written. He would also be in front of the City Council on December 8th and December 15th to follow up on the City's stances on what to do on the net metering changes proposal that will be decided sometime this summer. Mr. Cartin stated that they were looking at all options to keep that on the table as well.

Mr. Cartin reiterated that his two main goals are to meet the carbon and energy goals by 2032 for the community. He would be coming back to the Planning Commission with potential LMC changes, and to hear their comments on everything from open space to overall energy uses as they see what tools are available in the toolbox to tackle the issues.

Director Erickson remarked that at a team level they were looking at issues such as heated driveways, outdoor fireplaces, roof heating and other items that are not necessary but consume a lot of energy. Their last meeting produced 30 potential items inside the LMC that are within the purview of the Planning Commission.

Chair Strachan believed they would need good data. In looking at the graph of residential versus business use, it is easy to speculate that the residential use is higher in January and February because people are heating their driveways and turning on Christmas lights. However, it might not be the real source of the energy use. Director Erickson remarked that part of the use is driven by occupancy. It is also driven by business use. If the hotels are empty, the energy consumption drops.

Chair Strachan suggested that they get the data to drill down on where the energy consumption was really coming from and the cause. He asked if there was a way to get data on the behavioral patterns of the residential users. Mr. Cartin replied that they already have good data on a national level, Utah level and a mountain resort level. They are able to look at comparable cities and towns in the ski industry to see what they have gone after and understand where the load is. The occupancy of second homes is a big driver, but this community has shown great ways to rally around it, with the Summit Community Power Works going after the Georgetown energy prize. They took something that did not exist a few years ago, created a non-profit, and now they are one of the national leaders in energy reduction.

On the residential side, Mr. Cartin stated that the amount of LED's installed across both the east side and this side of the County has significantly reduced the overall residential electrical load. There are big wins already. However, because they are not able to set energy code, they can look at LMC changes to address the larger energy uses. Another approach is to incentivize Old Town to seal up the buildings better. Mr. Cartin remarked on the need to be creative to also make sure they take care of the existing buildings and try to incentivize the new buildings coming out. He would be coming forward with proposed changes to how the City builds facilities. The LMC will be a major piece in how to accomplish these goals.

Chair Strachan was interested in seeing the data analysis, and he requested a presentation on what they find and the behavioral patterns.

Commissioner Joyce asked if there was any hope of approaching the State to explain what Park City is trying to do and the standards they would like to include that are not part of the Utah Energy Standards. Mr. Cartin reported that several things are going on at the State Level. The Legislature is the slowest to act because of their scale and scope. He explained that the Utah energy landscape is currently undergoing drastic changes. Approximately 780 megawatts of solar will be coming on line next year in Utah. Pacific Corp., who owns Rocky Mountain Power, is shutting down 3,000 megawatts of coal. Half of their coal fleet will be off line by 2034. Mr. Cartin stated that they were looking at the best way to package their plan and send it to the State because it saves the residents of the State and the businesses money long term. He

noted that they were also working with Rocky Mountain Power to help push out some of their incentive programs. Mr. Cartin stated that because there is so much change going on this the State, both politically and market forces, that something is going to give and he wants to make sure Park City is helping to push it in the right direction.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

Due to a conflict of interest, Chair Strachan disclosed that he would be recusing himself from the Deer Valley MPD application for 7520-7570 Royal Street East.

1. **7520-7570 Royal Street East- Deer Valley MPD 12th Amendment to combine MPD Lots F, G, and H of the Silver Lake Community, into one MPD Lot, Lot I. No changes to the approved density assigned to these MPD Lots are proposed. (Application PL-16-03155)**

Chair Strachan recused himself and left the room. Vice-Chair Joyce assumed the Chair.

Planner Kirsten Whetstone reviewed the request to amend the Deer Valley Master Plan to combine Silver Lake Parcels F, G and H into one Silver Lake Parcel I; as well as to transfer 843 square feet from Lot D, the existing Goldener Hirsch, over to Lot I. The amendment would reduce the unit equivalents for Lot D from 6 to 5.5785. It would increase the UEs that are allowed and allocated by the MPD on Lot I from 34 to 34.4215.

Planner Whetstone reported that the Planning Commission had reviewed this application several times. At the last meeting on November 9th there was an issue regarding the support commercial. At that time the applicant was requesting to calculate all of the support commercial for the project, and then transfer some of it to Lot D to take care of the difference between the 2,062 square feet that the Deer Valley MPD calls out as Deer Valley Master Plan Support Commercial. In addition, there was 3,993 square feet of commercial platted at the Goldener Hirsch.

Planner Whetstone noted that at the last meeting the Planning Commission requested additional information for clarification and Continued the item to this meeting. Planner Whetstone summarized the additional information she had included in the Staff report. She explained that the total building floor area at the time it was built was 24,693 square feet, minus parking and support commercial; and 5% support commercial, 5% meeting space would be 2469.3 square feet. Taking the total platted commercial of 3993 square feet and subtracting the 2,062 square feet allocation, the difference is 1,931 square feet. Planner Whetstone stated that based on the total square footage of the building, they were allowed support commercial of 2,469. The 1,931 square feet is a lesser amount, and

therefore, at some point it was correctly calculated but it was never reflected in the Deer Valley MPD. Planner Whetstone had researched previous Minutes and it was clear that they were counting the gift shop and the front desk, which is considered support commercial or residential accessory.

The Staff determined that the support commercial was correctly calculated. Planner Whetstone clarified that the applicant was no longer asking to transfer any support commercial. The new project was not asking for any support commercial and the existing Goldener Hirsch was not requesting any changes.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the 12th Amendment to the Deer Valley MPD with the findings of fact, conclusions of law and conditions of approval as stated in the Staff report.

Steve Issowits, representing the applicant, thought clarification was accurate. If the CUP and the plat amendments are approved, he would like the MPD to reflect all that.

Vice-Chair Joyce opened the public hearing.

There were no comments.

Vice-Chair Joyce closed the public hearing.

Commissioner Thimm was satisfied with the clarification provided.

Commissioner Suesser did not think Conditions of Approval #1 fully captured the mine hazard language in Item (L) on page 142 of the Staff report. She suggested that the condition should be revised to capture that language. Commissioner Suesser read from Condition of Approval #2 on page 148 of the Staff report, "If a single building is proposed..." She asked if one building was proposed on Lot I or whether it would be two.

Planner Whetstone explained that it was all connected with one parking garage. If they combined all the lots they were concerned about having one large building; and if that occurs, it needs to be fully articulated into sections.

Chris Conabee, representing the applicant, stated that it was a fail-safe mechanism. They were asking the Planning to approve an entire project, and under the auspice of having the MPD changed they came back with a building that looked entirely different. This is a mechanism to make sure that the building is built to represent three separate buildings. Should the project change hands or be sold before the building is built, this was a way to provide the City with a fallback should the building change.

Commissioner Suesser believed that the condition as drafted appeared to allow a single building on that one lot. Planner Whetstone replied that a single building is allowed but the design would have to be articulated to break it up.

Director Erickson addressed Commissioner Suesser's mine waste question. He clarified that the language on page 142 reads that there are no known mine hazards but once they start digging they might find some. Condition #1 is written such that if they do find mine hazards they would be required to submit a plan to remediate it.

MOTION: Commissioner Phillips moved to APPROVE the 12th Amended Deer Valley Master Planned Development based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as stated in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Deer Valley MPD

1. The Deer Valley Master Planned Development was last amended by the Planning Commission on March 23, 2011, as the 11th Amended and Restated Large Scale Master Planned Development for Deer Valley (aka Deer Valley MPD).
2. On April 15, 2016, the City received an application requesting an amendment to the 11th Amended and Restated Large Scale Master Planned Development Permit for Deer Valley (aka Deer Valley MPD). The application was considered complete on July 18, 2016, upon final review of the utility issues associated with the MPD Lots D, F, G, and H addressed as 7570, 7520, 7530, and 7540 Royal Street East respectively.
3. Deer Valley MPD Silver Lake Community parcels known as Silver Lake Village Lots D, F, G and H are also lots of record platted with the Silver Lake Village No. 1 Subdivision recorded June 21, 1989 and the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision recorded November 8, 2011.
4. This request, being the 12th amendment to the Deer Valley MPD, is being reviewed in conjunction with a Conditional Use Permit and an amended Silver Lake Village subdivision plat for the Goldener Hirsh Inn and Residences expansion onto the subject MPD Lots.

5. These MPD Lots are located within the Silver Lake Community of the Deer Valley Neighborhood.
6. The applicant requests a 12th amendment to the Deer Valley MPD to combine the Deer Valley MPD Silver Lake Village vacant Lots F, G, and H into one Lot I and to transfer 843 square feet of residential density (0.4215 unit equivalents (UE)) from Silver Lake Village Lot D (existing Goldener Hirsh Inn) to the new Deer Valley MPD Silver Lake Village Lot I, to accommodate access and circulation between the Goldener Hirsch Inn and the future Goldener Hirsch Residences proposed Parcel I.
7. Exhibits 1, 2 and 3 to the Deer Valley MPD show in table form the residential and commercial density allocated for the various Deer Valley parcels, as well as other MPD project components.
8. The requested amendments pertain only to the Silver Lake Community- Silver Lake Village Lots D, F, G, and H shown in Exhibit 1 to the Deer Valley MPD document. There are also administrative changes to page 1 and to Exhibits 2 and 3 to correct titles and dates to reflect the "Twelfth Amended and Restated Large Scale Master Planned Development Permit". There is a note added to Exhibit 2 to clarify commercial uses for Lot D.
9. The requested amendment pertains only to the Silver Lake Community parcels (Lots D, F, G, and H). There are currently a total of 40 UEs of density allocated to these four parcels and the total density allocated to these parcels will not increase or decrease as a result of these amendments.
10. Goldener Hirsh Inn is in compliance with the allowed 6 UE of permitted density, based on a review of the approved building permit plans.
11. The transfer of 0.412 UE density from Lot D to proposed Lot I is within the Silver Lake Community and does not transfer density from lower Deer Valley to upper Deer Valley.
12. Common underground parking, a single access drive, consolidated utilities and emergency egress and fire protection, as well as interior pedestrian connections to the common plaza areas at Silver Lake Village, are beneficial site plan attributes made possible with this proposed MPD amendment.
13. Exhibit 2 of the MPD document allocates 2,062 sf of commercial space for the

Goldener Hirsch starting with the 2001 Eighth Amended MPD.

14. The Goldener Hirsch condominium plats indicate that there are 3,493 sf of commercial condominium units (restaurant, bar, lobby, and front desk area) platted and existing within the building. This support commercial includes 2,062 sf of DV MPD assigned commercial and 1,431 sf of support commercial approved with the 1988 Golden Deer (MPD) approval. An additional 500 sf of support meeting space was also approved.

15. At the time of the August 10, 1988 MPD approval, support commercial/support meeting space was based on the total floor area of the building minus the parking garage and support commercial (24,693 sf). The minutes of the 1988 Golden Deer MPD approval indicate that 3,500 sf of commercial uses were approved.

16. The total existing support commercial and support meeting space is 3,993 sf (3,493 of platted commercial floor area plus the 500 sf of common area meeting space on the second floor).

17. Deer Valley MPD Support Commercial uses allocated for Lot D (Table 2) will not change from the current 2,062 square feet. Any support commercial square footage that exists on Lot D in excess of 2,062 square feet results from the support commercial approved with the Golden Deer MPD in 1988 and the Golden Deer Condominium plats.

18. No changes are proposed to any of the existing support commercial areas within the existing building. The support commercial areas were approved in 1988 and were correctly calculated at the time of the Golden Deer MPD approval.

19. No transfer of support commercial uses from Lot I to Lot D is required or proposed and no commercial uses are proposed on Lot I.

20. A footnote will be added to Table 2 for Silver Lake Village Lot D stating that: "Commercial uses on Silver Lake Village Lot D includes 2,062 sf as allocated from this Amended and Restated Large Scale MPD, plus support commercial uses."

Conclusions of Law – Deer Valley MPD

1. The 12th Amended Deer Valley MPD document and Exhibits comply

with previous approvals and actions.

2. The 12th Amended Deer Valley MPD complies with all requirements of the Land Management Code regarding Master Planned Developments in Chapter 6.
3. The MPD, as amended, is consistent with the Park City General Plan. Development of resort residential properties with underground parking, located at the base of the Deer Valley Resort is consistent with the purposes, goals and objectives of the Upper Deer Valley Resort Neighborhood.
4. The MPD, as amended, does not impact the provision of the highest value of open space, as determined by the Planning Commission. There are no changes to the amount of open space provided by the Deer Valley MPD.
5. The MPD, as amended, strengthens and enhances the resort character of Park City.
6. The MPD, as amended, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible. There are no changes to existing natural features and no existing significant vegetation on the subject development parcels.
7. The MPD, as amended, is Compatible in use, scale and mass with adjacent Properties, and promotes neighborhood Compatibility. There are no changes to allowed total density, exterior building setbacks, or building height. Surrounding buildings are of similar use, scale and mass.
8. The MPD provides amenities to the community and there is no net loss of community amenities with the proposed amendment.
9. The MPD, as amended, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed and no additional housing is required as the density is not increased.
10. The MPD, as amended, meets the provisions of the Sensitive Lands provisions of the Land Management Code. The Deer Valley MPD has been designed to place Development on the most Developable Land and least visually obtrusive portions of the Site. No Sensitive Lands are located on the subject property.

11.The MPD, as amended, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections. Shuttle service is provided by various hotels and inns within the MPD. Future development of Lot I will provide pedestrian circulation to the Silver Lake plaza and may also provide shuttle service for guests. The City transit system has a stop at the turn out in front of the Goldener Hirsh.

12.The MPD amendment was noticed and public hearings held in accordance with this Code.

13.The MPD amendment provides opportunities for incorporation of best planning practices for sustainable development, water conservation, and energy efficient design by allowing a common parking structure, internal circulation between building masses, consolidated utilities, pedestrian access to common plazas, and utilization of shuttle services and energy efficient building design and construction.

14.The MPD amendment as conditioned addresses Physical Mine Hazards and Historic Mine Waste mitigation in compliance with the Park City Soils Boundary Ordinance.

Conditions of Approval – Deer Valley MPD

1. Prior to issuance of a building permit on Silver Lake Village Lot I, the property owner shall submit to the City a Physical Mine Hazards and Historic Mine Waste report. If historic mine waste is located on the site, a mine waste mitigation plan shall also be submitted in compliance with the Park City Soils Boundary Ordinance requirements and regulations as described in the Park City Municipal Code. This shall be noted on Exhibit 1 of the final executed 12th Amended Deer Valley MPD document as a footnote for Lot I.

2. If a single building is proposed on combined Lot I, the building shall be designed to be broken into more than one volumetric mass above final grade, exhibiting both horizontal and vertical articulation. Common underground parking is permitted and consolidated access is encouraged. This shall be noted on Exhibit 1 of the final executed 12th Amended Deer Valley MPD document as a footnote for Lot I.

3. Commercial uses allocated on Exhibit 2 for Lot D (Goldener Hirsch Inn) will not change from the current 2,062 square feet. Footnote #5 is added and

states, "Commercial uses on Silver Lake Village Lot D include 2,062 sf as allocated from this Amended and Restated Large Scale MPD, plus support commercial".

4. The final executed MPD document shall be recorded at Summit County within six months of the Planning Commission approval of the amendment or the approval shall be void unless a written request for an extension is submitted prior to expiration date and approved by the Planning Director.

2. 7520-7570 Royals Street East- A 2nd Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision combining Lots F, G, and H into one platted lot, Lot I and amended Lot D of the Silver Lake Village No.1 Subdivision to increase the area of skier and pedestrian easement by approximately 749 square feet. (Application PL-15-02966)

Vice-Chair Joyce continued with the Plat Amendment until Commissioner Strachan returned to the meeting and assumed the Chair.

Vice-Chair Joyce recalled that the Planning Commission continued this item at the last meeting to make sure that all three items were in sync with the support commercial transfer, which was no longer an issue.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the Second Amendment to the Re-subdivision of Lots 1 and 2, Silver Lake Village Number 1 Subdivision based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 7520-7570 Royal Street East - Re-Subdivision

1. The property is located at 7520, 7530, 7540, and 7570 Royal Street East.

2. The property is in the Residential Development (RD) Zoning District and is subject to the Deer Valley Master Planned Development, as amended.
3. The subject property consists of platted Lots D, F, G, and H of the Re-Subdivision of Lots No.1 and No. 2 Silver Lake Village No. 1 Subdivision.
4. This plat amendment creates one (1) lot of record, to be known as Lot I, from three platted lots, namely Lots F, G, and H.
5. Lots F, G, and H are currently vacant, undeveloped lots. The applicant desires to construct a multi-family building on Lot I, consistent with the Deer Valley MPD and subject to an approved Conditional Use Permit.
6. These Lots are currently utilized as temporary parking for Silver Lake Village and Deer Valley Resort. The parking is roughly paved and not striped and depending on the level of parking management can accommodate 60 to 100 vehicles.
7. Per the existing plat, Lot D consists of 10,082 sf of fee simple lot area and 5,122 sf of pedestrian and skier circulation and easement area. Lot D is amended to reflect the as-built condition of the building by increasing the skier and pedestrian circulation easement by 749 sf and decreasing the fee simple area by the same amount. An easement for the bridge connection is proposed on a portion of Lots D and I and over Sterling Court. Amending Lot D will result in 9,333 sf of fee simple area and 5,871 sf of skier easement.
8. Per the existing plat, Lot F consists of 8,766 sf of fee simple area and 6,622 sf of pedestrian and skier circulation and easement area.
9. Per the existing plat Lot G consists of 7,772 sf of fee simple area and 8,581 sf of pedestrian and skier circulation and easement area.
10. Per the existing plat Lot H consists of 7,879 sf of fee simple area and 11,166 sf of pedestrian and skier circulation and easement area.
11. Lot I is proposed to consist of 50,786 sf (1.166 acres) with platted utility and access easement areas.
12. The fee simple areas of Lots F, G, and H are to be owned by the applicant. Transfer of ownership of the easement areas around Lots F, G, and H was approved by the Silver Lake Village Owner's Association on June 3, 2016. Easement area around Lot D will continue to be owned by the Silver Lake Village

Owner's Association.

13. A condominium plat, known as Mount Cervin Villas, was recorded on Lot F, as Phase 2 of the existing Mount Cervin Condominiums, which were constructed on Lot E. Lot E, is not part of this plat amendment and the Mount Cervin Condominiums are not owned by this applicant. Mount Cervin Villas were never constructed.

14. The applicant will vacate the Mount Cervin Villas condominium plat on Lot F (which they also have title to) with recordation of this plat amendment or with recordation of a new condominium plat for the Goldener Hirsch Inn CUP.

15. A condominium plat for the multi-unit residential building proposed on Lot I, subject to the Goldener Hirsch Inn CUP, is required prior to individual sale of any units.

16. A condominium plat, known as Golden Deer Condominiums, was recorded on Lot D, as the existing Goldener Hirsch Inn. The condominium plat was amended in 2007 to add 272 sf to the restaurant. A second amended Golden Deer Condominium plat will be submitted for review and approval to memorialize amendments proposed with the Goldener Hirsch Inn Conditional Use Permit, including converting two existing residential units (843 sf) into common area to accommodate the proposed bridge connection to the multi-unit residential building proposed on Lots F, G, and H.

17. The plat amendment combines Lots F, G, and H, and the associated pedestrian and skier circulation easement areas, into one (1) 1.166 acre (50,786sf) lot of record, to be known as Lot I and associated utility, skier and pedestrian circulation easement areas.

18. The plat amendment provides a bridge easement for the proposed bridge connecting Lot D to proposed Lot I across Sterling Court, a private street.

19. There are no minimum or maximum lot sizes in the RD District.

20. Silver Lake Village No. 1 Subdivision was approved by City Council on April 20, 1989 and recorded at Summit County on June 21, 1989.

21. Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision was approved by City Council on October 5, 1989 and recorded at Summit County on November 8, 1989.

22. Multi-family buildings are allowed in the RD District, subject to requirements of the Deer Valley MPD, as amended.

23. Access to the property is from Royal Street East, a public street, and Sterling Court, a private street.

24. Public utility and access easements, as required by the City Engineer and other service providers, consistent with the final utility plan for the Goldener Hirsch Inn Conditional Use Permit shall be shown on the plat prior to recordation.

25. The final mylar plat is required to be signed by the Snyderville Basin Water Reclamation District to ensure that requirements of the District are addressed prior to plat recordation.

26. Snow storage area is required along Royal Street East due to the possibility of large amounts of snowfall in this location.

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

Conclusions of Law – 7520-7570 Royal Street East – Re-Subdivision

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

Conditions of Approval – 7520-7570 Royal Street East – Re-Subdivision

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of

City Council approval. If the plat is not recorded within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to expiration and an extension is granted by the City Council.

3. A ten foot (10') wide public snow storage easement is required along the Royal Street East frontage of the property and shall be shown on the plat prior to recordation.

4. Easements, as required by the City Engineer and other utility service providers, and consistent with the final approved utility plan for the Goldener Hirsch Inn Conditional Use Permit, shall be shown on the plat prior to recordation, including but not limited to; placement of utility structures, boxes and transformers, storm water detention, and an approved fire plan.

5. Modified 13-D sprinklers are required per the Chief Building Official and shall be noted on the plat.

6. All requirements of the Snyderville Basin Water Reclamation District shall be satisfied prior to recordation of the plat and/or noted on the plat.

7. Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the Lot or within easement areas on the property.

8. The final utility plan must address storm water detention on the Lot, or within the easement areas.

3. 7520-7570 Royal Street East- Conditional Use Permit for 34 residential units on Lot I of the Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision. (Application PL-15-02967)

Neither the Staff nor the applicant had comments or a presentation. The Commissioners had no comments or questions.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to APPROVE the Goldener Hirsch Inn Conditional Use Permit based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 7520-7570 Royal Street East – CUP

1. The property is located at 7520-7570 Royal Street East with access proposed off of Sterling Court, a private street.
2. The property is zoned Residential Development subject to the Eleventh Amended and Restated Large Scale Master Planned Development, aka Deer Valley MPD, as amended.
3. On October 16, 2015, the applicant submitted a request for a Conditional Use Permit for an expansion of the existing Goldener Hirsch Inn located at 7520-7570 Royal Street East.
4. This Conditional Use Permit is subject to approval of the proposed 12th Amended and Restated Large Scale Deer Valley Master Planned Development Permit, submitted on April 27, 2016, for concurrent review. The MPD amendment application requests to combine Silver Lake Village Lots F, G and H into one Lot I and to transfer 843 sf of residential uses (0.4215 UE) from Lot D to Lot I. Lot D would be reduced to 5.5785 UE of residential uses.
5. This Conditional Use Permit is subject to approval of the Second Amended Re-Subdivision of Lots No.1 and No. 2 Silver Lake No. 1 Subdivision plat amendment, submitted on October 16, 2016, for concurrent review. The plat amendment application requests combination of Silver Lake Village Lots F, G, and H into one lot, Lot I.
6. The 1.17 acre Lot I is currently vacant undeveloped land that has been used as a temporary parking lot for Silver Lake Village and Deer Valley Resort for thirty years or more. This property provides approximately 60 temporary parking spaces (depending on the level of parking management) on a roughly paved surface.
7. The Deer Valley MPD assigns a total of 34 UE to Silver Lake Village Lots F, G and H and 6 UE to Silver Lake Village Lot D.
8. The Twelfth Amendment to the Deer Valley MPD notes that Lot D is assigned 2,062

square feet of commercial area plus support commercial uses.

9. Lot D is the location of the existing Goldener Hirsch Inn. The Hirsch currently has a total of 11,104 sf of residential floor area (20 separate units). The DV MPD allocated 6 UE of residential density (12,000 sf). The existing building also contains 3,493 sf of platted commercial floor area, based on the Golden Deer Condominium and First Amended Golden Deer Condominium plats. This support commercial (restaurant, bar, lounge, gift shop, front desk, etc.) consists of 2,062 sf of DV MPD assigned commercial and 1,431 sf of support commercial approved with the 1988 Golden Deer (MPD) approval. An additional 500 sf of support meeting space was also approved.

10. At the time of MPD approval support commercial/support meeting space was based on the total floor area of the building minus the parking garage and support commercial (24,693 sf). A total of 4,532 sf of support commercial/support meeting space was permitted (2,062 sf from DV MPD and 2470 sf based on the building floor area).

11. The total existing support commercial and support meeting space in the Goldener Hirsch Inn is 3,993 sf (3,493 of platted commercial floor area plus the 500 sf of common area meeting space on the second floor). No changes are proposed to the commercial areas.

12. The MPD does not assign commercial to Lots F, G, and H (aka Lot I). These Lots are allowed support commercial calculated per the LMC at the time of approval of the CUP. The applicants are not proposing support commercial with this permit.

13. On October 16, 2015, the Planning Department received a complete application for a Conditional Use Permit (CUP) requesting approval for a total of 68,843 sf (34.4215 UE) of residential uses, for 38 residential units ranging in size (area) from 570 to 2,379 square feet. The total residential floor area includes the 843 sf (0.4215 UE) transferred from the existing Inn (on Lot D) and the 68,000 sf (34 UE) entitled with the Deer Valley MPD for Lots F, G, and H, per the proposed 12th Amended Deer Valley MPD.

14. The project has a total of 31 lockouts associated with the 38 units to facilitate the viability of existing hotel operations. The lockout unit floor area is included in the total unit area and the parking calculations.

15. The proposed building is oriented towards Sterling Court and generally has a north/south axis. The site is broken into more than one volumetric mass in order to

match the scale of the surrounding buildings. The north building contains sixteen units ranging from 2,180 to 2,265 sf. and an ADA unit on the ground floor. The center building contains six units of approximately 2,000 to 2,379 sf and includes the lobby and amenities. The south building contains sixteen units comprised of eight 570- 588 sf hotel rooms and eight units of approximately 1,808 sf to 2,205 sf

16.The total proposed building area is 154,578 square feet. Included in the total area, in addition to the 68,843 square feet of residential units, are approximately 8,300 square feet of residential accessory uses (recreation amenities, business center, workout area, etc.); 22,878 square feet of circulation, back of house, restrooms, etc.), 3,398 square feet of support meeting space, a 2,162 square foot required ADA unit as common area, and 49,077 sf of parking garage (in addition to the 68,843 square feet of residential units). This area is exclusive of any unenclosed porches, decks, and patios.

17.No UE are required for residential accessory uses, support meeting space, back of house area, or the parking garage. No support commercial uses are proposed with this Conditional Use Permit.

18.The Deer Valley MPD does not require open space on this parcel as the unit equivalent formula is used for density calculations.

19.Building Height allowed per the Deer Valley MPD is 59' (plus 5' to 64'), provided that the peak of the roof does not exceed USGS elevation 8186'. The base elevation is identified as USGS elevation 8122'. The proposed building does not exceed USGS elevation 8186' to the highest part of the roof.

20.The proposed building is similar in physical design, mass, and scale to surrounding buildings and while different than surrounding structures in terms of architectural style, design, and character, the proposed building has elements that provide a continuity and compatibility of design for the Silver Lake Village. By incorporating similar design elements and materials, as required by the Deer Valley Design Review Board, the applicant has worked to make the building compatible with surrounding structures in terms of style, design, and detailing. By reducing the amount of glazing, reworking the balcony design, and provided additional building articulation, particularly along Royal Street, the revised building is more compatible with the general architectural theme of the Village while providing a more updated and fresh style to the area. The proposed design does not detract from the overall architectural character of the area.

21.Final design approval by the Deer Valley Architectural Review Board is a

requirement of the Deer Valley MPD.

22. Parking requirements are based on the size and number of residential units. A minimum of 76 spaces are required for the number and sizes of proposed units. A total of 110 parking spaces are proposed within an underground parking garage. Thirty-four extra parking spaces will be available for flexible use for public parking and overflow.

23. The Goldener Hirsch will continue to meet the parking requirements for the remaining residential units with existing underground parking under the Goldener Hirsch Inn building. A hotel managed shuttle service is proposed to reduce traffic trips. Guest parking will be managed through valet service within the parking structure.

24. A final utility plan, including location and details for storm water facilities and dry utilities, to be located on the property, in addition to all other utilities, will be provided with the building permit plans for final approval by the City Engineer, SBWRD, and the Fire District.

25. Sterling Court provides access, including emergency access, to the project from Royal Street East. There is a fire code compliant turn around area at the southern end of the Court. Enhanced fire protection and emergency access for the west side of the property were coordinated with the adjacent property owner (Stein's) and will be reflected on the final utility and fire protection plans to be submitted with the building permit plans.

26. Enhanced pedestrian pathways along the eastern property line are proposed, as well as pedestrian pathways and outdoor plazas between the spa pool area and the recreation area and ski locker rooms.

27. Natural vegetation on the southern portion of the site includes native grasses and shrubs.

28. Four existing buildings in the Silver Lake Village area with access off of Sterling Court (Goldener Hirsch, Royal Plaza, The Inn, and Mt Cervin) generally have a north-south orientation and are similar in height and scale to the proposed building as designed with vertical and horizontal articulation and massing broken into three main components.

29. The Land Management Code allows for 20' setbacks along Royal Street (25' for front facing garage), 12' side setbacks, and 15' rear setbacks. The proposed building

has a 20' setback along Royal Street, a 15' setback along Sterling Court (a private street) (per the subdivision plat), a 12' setback along the west side property line and a 15' rear setback adjacent to the Mt. Cervin property line. The Planning Commission may alter interior setbacks within the Deer Valley MPD at the time of review of the associated plat amendment.

30. All exterior lights and signs must comply with the applicable Park City ordinances and code. Exterior lights must be identified on the building permit plans and shall be down-directed and shielded. No additional signs are proposed with this permit. Approval of a sign permit is required prior to installation of any new regulated signs.

31. A condominium plat and condominium declaration to identify private, common, and limited common areas shall be recorded prior to sale of any unit.

32. The Deer Valley MPD is not subject to the requirements of the Sensitive Lands Overlay.

33. The site is within the area subject to the City's Urban Wildland Interface Ordinance for fire prevention.

34. On January 13, 2016 the Planning Commission discussed the proposal, conducted a public hearing, and continued the item to February 24, 2016.

35. On February 24, 2016 the public hearing was continued to a date uncertain. There was no public input provided at the hearings on January 13th or February 24th, 2016.

36. Staff received public input from a neighboring property owner in May expressing safety concerns with the driveway access onto Sterling Court; the height of the proposed sky bridge blocking views; and potential pedestrian conflicts with service vehicles, cars, and emergency vehicles if access is permitted on Sterling Court instead of Royal Street East.

37. The project was on hold until August 2016 for the applicant to resolve ownership and utility issues.

38. Staff maintained contact with the property owner and upon receipt of revised plans and contacted this neighbor to set up a meeting to discuss the above mentioned safety concerns.

39. The applicant provided a traffic and safety analysis of the project on September 20, 2016 for inclusion in the Planning Commission packet.

40. On September 28, 2016, the City Engineer provided a memo addressing the safety and adequacy of Sterling Court and made a finding that Sterling Court should function adequately with the added density and should not be a safety concern.

41. Legal notice was published in the Park Record and on the Utah Public Notice Website on September 9, 2016 and the property was re-posted on September 14, 2016 for the September 28, 2016 hearing. Courtesy mailing was provided to the property owners within 300' of the property.

42. The Conditional Use Permit application was reviewed for consistency with the Park City General Plan.

43. The applicant stipulates to the conditions of approval.

Conclusions of Law – 7520-7570 Royal Street East - CUP

1. The CUP is consistent with the Deer Valley Master Planned Development, as amended and the Park City Land Management Code.
2. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 7520-7570 Royal Street East - CUP

1. The plans and application for a Building Permit must be in substantial compliance with the plans reviewed by the Planning Commission on November 30, 2016.
2. This Conditional Use Permit is subject to approval of the proposed 12th Amended and Restated Large Scale Master Planned Development Permit and the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake No. 1 Subdivision plat.
3. Prior to building permit issuance the amended subdivision plat for Silver Lake Village to combine Lots F, G, and H into one lot of record, shall be recorded at Summit County. The plat shall identify the 15' setbacks along Sterling Court.
4. Prior to building permit issuance a final landscape plan shall be reviewed and approved by the Planning and Building Departments.

5. Prior to building permit issuance the plans shall be approved by the Deer Valley Architectural Review Board.

6. The final landscape plan shall comply with the City's Wildland Urban Interface Ordinance for defensible space and fire prevention. Drought tolerant landscaping and water conservation measures shall be used per requirements in the LMC.

7. All conditions of approval of the Deer Valley Master Planned Development, as amended, apply to this project.

8. A Construction Mitigation Plan shall be submitted at the time of Building Permit application. The Plan shall include a regulation for construction traffic, including how excavated materials will leave the site. Downhill truck traffic is required to use Marsac Avenue, a State Highway, rather Royal Street, a residential city collector street due to the location of an emergency run-away truck ramp off Marsac Avenue, unless otherwise authorized by the City Engineer and Chief Building Official. The CMP shall address closure dates due to Special Events, as well as other items requested by the Chief Building Official.

9. All exterior lights and signs must comply with applicable Park City ordinances and codes.

10. Exterior lighting must be identified on the building permit plans and shall be downdirected and shielded. Any existing, non-conforming exterior lighting shall be brought into compliance with the current LMC requirements.

11. Approval of a sign permit is required prior to installation of any regulated signs.

12. A final utility plan shall be provided with the building permit application for final approval by the City Engineer, SBWRD, and the Fire District prior to building permit issuance.

13. A final fire protection plan must be submitted to and approved by the Chief Building Official and Fire District prior to Certificate of Occupancy.

14. Sterling Court meets the minimum width of 20' for emergency access. No parking is permitted along the Court and curbs shall be painted and/or signed to clearly mark the 20' fire lane.

15. As common area, the required ADA unit may not be sold. A residential unit must be

rented in conjunction with the ADA unit unless the ADA unit is included in the total residential UE.

16.All exterior mechanical vents and extrusions shall be painted to match the exterior siding materials.

17.Exterior mechanical equipment shall be screened to mitigate for any mechanical factors that might affect people and property off-site.

18.Standard Project Conditions of Approval apply to this project.

19.Storm water system must retain the first flush of a storm as defined by the State of Utah. Storm water system shall be shown on the final utility plan.

20.Above ground dry utility facilities shall be located on the property.

21.Pool and plaza hours are limited from 7AM to 10PM and compliance with the Park City noise ordinance is required.

22.Applicant shall submit a report and evidence of noise, disturbance, and activity complaints on and off-site, including the resolution of any complaint matters, to the Planning Commission one year from issuance of Certificate of Occupancy. Staff will provide an update to the Planning Commission. The Commission may add additional Conditions of Approval to meet the Conditional Use Permit requirements for mitigation of noise, based on the report and evidence of complaints.

23.Outdoor activities on the Plaza, including outdoor dining and outdoor events, require compliance with the Land Management Code, including approval of administrative Conditional Use permits, if applicable.

4. 8680 Empire Club Drive - A Conditional Use Permit for a 1,094 sf. addition to the Talisker Tower Club restaurant and expansion of the basement locker room. (Application PL-16-03177)

Planner Whetstone requested that the Planning Commission conduct a public hearing and continue this item to December 14, 2016.

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

MOTION: Commissioner Joyce moved to CONTINUE the Tower Club CUP Phase I Amendment to December 14, 2016. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

5. **8200 Royal Street East – Third Amendment to Stag Lodge, Phase 1 Condominium Plat to convert what is currently designated as Common Area to Limited Common Area to allow construction of a new deck.**
(Application PL-16-03202)

Planner Ashley Scarff reviewed the application for the Third Amendment to the Stag Lodge, Phase 1 Condominium Plat, specifically for Unit 10, at 8200 Royal Street East. The purpose of the condominium plat amendment is to convert an area currently designated as common owner to limited common ownership, which would allow for the extension of an existing deck that lies outside of the main level living room of Unit 10. No other units in the condominium would be affected as part of the proposed amendment.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval as stated in the draft ordinance.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation for the Third Amended Condominium plat for the Stag Lodge, Phase I, Unit 10, located at 8200 Royal Street East, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 8200 Royal Street East

1. The property is located at 8200 Royal Street East, Unit 10.
2. The property is located within the Residential Development (RD) District and is subject to the Eleventh Amended Deer Valley MPD (DVMPD).

3. Within the DVMPD, a project can utilize either the City's Unit Equivalent (UE) formula of 2,000 square feet per UE or develop the allowed number of units without a stipulated unit size, as long as the project maintains 60% or more of open space. In the case of Stag Lodge Phases I-IV, the developer utilized the number of units with no size restriction instead of the unit equivalent formula.

4. Stag Lodge Phase I condominium plat was approved by City Council on January 10, 1985 and recorded at Summit County on March 4, 1985.

5. The First Amended Stag Lodge Phase I plat was approved by City Council on June

6, 2002 and recorded at Summit County on January 17, 2003. The First Amendment replaced sheets 2, 3, 4, 5, and 6 (of 6) of Stag Lodge Phase 1, and converted areas of Limited Common and Common Ownership to Private Ownership.

6. The Second Amended Stag Lodge Phase I plat was approved by City Council on July 1, 2004 and recorded at Summit County on May 25, 2005. The Second Amendment affected sheets 2, 4, and 5 (of 6) of Stag Lodge Phase 1, and converted Common Ownership Area to Private Ownership in order to reflect as-built conditions of units that had been combined by removing interior Common walls that separated them.

7. On June 6, 2016, an application was submitted to the Planning Department for the Third Amended Stag Lodge Phase I condominium plat for Unit 10, to convert what is currently designated as Common Ownership area to Limited Common Ownership area to allow for the extension, and appurtenant use of, an existing deck outside of Unit 10's main-level living room. The application was deemed complete on October 7, 2016.

8. A conversion of Ownership from Common to Limited Common (and vice-versa) does not require that a plat amendment be recorded; however, the applicant requested that the change be recorded to ensure that the deck area is appurtenant to Unit 10 and to the exclusion of other units.

9. The consent of 2/3 or more of the Unit Owners is required and 100% supported the conversion.

10. The amendment will not affect the overall number of residential units and at least 60% of open space is maintained.

11. The proposed amendment and deck extension will not increase the existing building footprint, or amount of Private Ownership area.

12. The proposed plat amendment does not increase the parking requirements for this unit.

13. The findings in the analysis section are incorporated herein.

Conclusions of Law – 8200 Royal Street East

1. There is good cause for this amendment to the condominium plat.
2. The amended condominium plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. The amended condominium plat is consistent with the Deer Valley Master Planned Development, 11th Amended and Restated, which is most current at time of application.
4. Neither the public nor any person will be materially injured by the proposed condominium plat amendment.
5. Approval of the condominium plat amendment, subject to the conditions of approval below, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 8200 Royal Street East

1. The City Attorney and City Engineer will review and approve the final form and content of the amended condominium plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation.
2. The applicant will record the amended condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the record of survey will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. All other conditions of approval of the Stag Lodge Condominium record of survey plats as amended and the Deer Valley MPD shall continue to apply.
6. **1401 & 1415 Kearns Blvd., 1415, 1635, 1665, 1685, & 1705 Bonanza Dr., 1420 & 1490 W Munchkin Rd., – Bonanza Park North East Master Planned**

Development (MPD) Pre-Application determination in the General Commercial (GC) District. Project consists of a mixed-use development containing commercial space on the first floor and office or residential uses on the upper levels. Project includes surface parking and one level of underground parking. (Application PL-15-02997)

Planner Francisco Astorga reported that this item was a pre-application for a master planned development for the Bonanza Park East Master Plan, which is a small section of the entire Bonanza Park neighborhood, consisting of 9 parcels. This pre-application was previously before the Planning Commission on May 11th, July 27th, August 24th and October 11th. Some of those dates were simple Continuations, and the others involved presentations and a review of the application.

Planner Astorga stated that the pre-application was recently modified to reflect some of the comments and concerns that were raised by the Staff and the Planning Commission, and some of the percentages have changed. The Staff and the applicant were prepared to review those specific items if requested by the Planning Commission. Planner Astorga emphasized that this was a pre-application for a master planned development. Issues such as height exceptions, reduced setbacks, findings regarding open space calculations, and all of the development standards of the master planned development will be addressed at the time of the full MPD application. Planner Astorga stated that a pre-application does not vest any densities or heights and it does not reduce setbacks. It simply allows the applicant to present their preliminary conceptual plan to the Planning Commission and the public, and to have a productive discussion in preparation for the MPD application submittal.

Planner Astorga noted that Rory Murphy and Craig Elliott, representatives for the applicant, were present to answer questions. The applicant did not intend to give a full presentation this evening; however, if requested, they were prepared to review some of the exhibits.

Planner Astorga had received a response from the applicant addressing the goals and objectives of the General Plan and regarding the specific Bonanza Park neighborhood section. Planner Astorga stated that the General Plan is not an enforceable document. The role of the General Plan is to guide the LMC regarding the goals, objectives and policies.

Planner Astorga commented on the revisions to the plan. The most significant change was the amount of commercial, including the office/business, and an increase in the residential. He noted that the Planning Commission would have time to discuss that more specifically at the time of the full MPD. He reiterated that the numbers are not vested with the pre-application.

Planner Astorga noted that this item was continued from the October meeting. The Staff requested that the Planning Commission conduct a public hearing. As a courtesy, letters were sent to property owners within 300 feet of the project. In addition, six signs were posted throughout the project.

The Staff was prepared to provide finding for specific items that have been identified, and to finalize the conceptual preliminary pre-application stage so the applicant could move forward and submit the full MPD application.

Rory Murphy, representing the applicant, thanked the Planning Commission and Staff for their efforts and comments to help them design an appropriate re-development for the project location. Mr. Murphy stated that the applicant heard very clearly the concerns raised by the Commissioners, the public and the Staff regarding the heights, the proposed uses, the location and extent of open space, and the need for additional affordable housing within the project. Mr. Murphy understood that those issues would need to continue to be addressed as the project enters the MPD phase.

Mr. Murphy commented on the affordable housing element that the City has labeled as one of its three critical priority items. He noted that the applicant has built two affordable housing projects in advance of the CUP application, and that effort should be recognized and encouraged. The 1440 Empire project is currently providing housing for 48 workers. The Clock Tower project currently houses 32 workers. He was not aware of any other landowner who has done that.

Mr. Murphy stated that in the pre-application process they voluntarily increased their project requirement to 20% of the total units that would be decided to workforce housing. He believed this was a unique position for a landowner to take and reflected the comments and concerns of the Staff and Planning Commission on this very important issue.

Mr. Murphy addressed uses. They have shown what appears to be an inordinate amount of commercial use on the plan; and they heard comments from the Staff and the Planning Commission to that effect. Mr. Murphy explained that the reason they continue to show that in buildings A and B, is a desire to include the Sundance Institute and the Kimball Arts Center as part of this proposal. He clarified that neither organization had committed to the site and both were undertaking feasibility studies to determine the best direction for their organizations. However, they have expressed interest in the site and the applicant is continuing to show the two buildings as commercial as a placeholder for those organizations should they choose to move forward with this applicant. Mr. Murphy stated that if an agreement is not reached with these organizations, they would likely move in the direction of residential in that area.

Mr. Murphy noted that another pertinent comment was the extensive retail shown in the other buildings, and they have reduced that considerably from the earlier proposals to be limited in scope and prevent empty store fronts.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Campbell thought this process was a great example of the coordination they were trying to do for projects like this. The applicant listened and made substantive changes based on what they heard. He thanked them for listening.

Commissioner Thimm echoed Commissioner Campbell. He found it refreshing to see the plan evolve through their review over the past months. Commissioner Thimm referred to the 20% affordable units and asked if there was a targeted AMI for those units. Mr. Murphy stated that the City directs the AMI and they would be meeting with Rhoda Stauffer and Anne Laurent.

Commissioner Thimm commented on the applicant's responses that were included in the Staff report. One talks about limiting nightly rentals and he asked if those numbers were defined. Mr. Murphy replied that it would be addressed at the MPD phase. They heard the comment and wanted to acknowledge that it was part of their thinking moving forward. He stated that the affordable units would be limited in nightly rental, and they were continuing to discuss other buildings or areas that might also fall into that category.

Commissioner Thimm referred to discussion in the Staff report about the design and the idea of eclectic massing. As the design evolves, he would encourage that to continue so they end up with something that can become a fabric of the overall neighborhood rather than having a themed community.

With respect to sustainability, Commissioner Thimm understood from the comments that there is not a plan to go through a recognized level of certification. In previous meetings they talked about LEED ND, and the answer seemed to be that this project would comply with the basic minimum standards of the Energy Code. Commissioner Thimm questioned how that measures up with the idea of the goal of maximum environmental sustainability. He believed that matching up with the minimum Energy Code was a low bar.

Mr. Murphy remarked that the LEED directives are solid and should be followed. However, his personal feelings about the LEED program is that you pay someone to tell them to do what they should already be doing. Mr. Murphy thought the City ordinance was specific and encompassing, and they would take that as far as the City wants to go. If the City Code is not good enough, they would take into consideration any comments from the Commissioners and Staff on that issue. Mr. Murphy clarified that his comments regarding LEEDS was his personal opinion. He admired the system itself, but he was not impressed with how it is administered.

Craig Elliott, representing the applicant, stated that he has LEED certified people in his office and they are capable of doing that if necessary. He explained that in the past they have followed other programs such as the National Green Building Standard, which is an ANSI Code. They have also done Energy Star projects which also have additional components. They are tied into development parcels that include the site and overall development. Mr. Elliott stated that they would come back at the next stage with the approach they plan to take and how it will be applied. He noted that all of the projects they were doing exceed the minimum standards they are required to meet as an office. Mr. Elliott believed the revised site plan would start to show their thinking on some of the environmental issues. It was a beginning point, but he included it in this phase so everyone would understand that they were headed in that direction. They would come back with an answer on those pieces.

Commissioner Thimm thought the National Green Building Standard was an appropriate platform for the residential side of the project. In going through this process, he asked if there was a way to stipulate that the Planning Commission would expect that sustainability and energy conservation would go beyond the minimum code requirements. Assistant City Attorney stated that the Commissioners could express that wish, but it needs to be tied to the MPD criteria. Once they move past the pre-MPD process, the Planning Commission could look at those criteria to determine whether or not that could occur.

Mr. Murphy stated that the applicant would voluntarily agree to that as a condition of approval.

Commissioner Joyce stated that he also enjoyed watching the project change based on their feedback, and how it has improved. However, he struggles with the process of a pre-application for an MPD because they try to find compliance with the General Plan, but the General Plan does not have a lot of detail and they are not allowed to ask the applicant for details. Commissioner Joyce stated that from a General Plan standpoint, the area as it currently exists is the vision of what it is supposed to be, which is light industrial and commercial to serve the people who live there, and residential for people to live there. He pointed out that talking about removing the gas station, a coffee shop, a car wash, a

market, and an urgent care center is opposite from what they were initially trying to protect. Those are the services for the day to day life of the people who live there. Commissioner Joyce understood that the applicant has tried to accommodate as much as possible and they cannot preserve everything. Part of the challenge is that this project is 1/18th of Bonanza Park. It is the first part and he looks at it as precedent setting. Taking it to an extreme, he tries to envision having 18 of this same type of proposal, which could result in eliminating grocery stores, drug stores, etc. His concern for the character of the neighborhood is that theoretically it could become 18 times what this applicant was proposing to build. They could end up with residential and commercial that is different than what was intended to serve the locality.

Commissioner Joyce clarified that he has had issues since they first saw this pre-application, and he continues to have issues. He appreciated that the applicant was making an effort to try to address those issues, but he still had concerns about the purpose statement of that neighborhood. It was easy to imagine that if they trample on it, it would keep occurring lot by lot as Bonanza Park is developed. He anticipated seeing a number of proposals in the near future.

Commissioner Joyce noted that the applicant was asking for additional density, four and five stories, and reduced setbacks for the Frontage Protection Zone. After listening to the work session presentation regarding traffic problems, he was concerned about exacerbating the existing problems at the hub where Bonanza, SR248 and SR224 all come together. Commissioner Joyce liked their proposals for affordable housing, and their plan for non-profits and other things, but as a Planning Commission they have to decide whether those items are worth giving extra density or height and setbacks. As they fight through traffic problems, it is difficult for him to add density beyond the significant amount that is already vested.

Commissioner Joyce stated that given the loose state they were in with the pre-application for an MPD, he did not have a good reason to hold up the process. However, as they get into the full MPD process, he would be looking for anything the applicant could do to address the nature of that neighborhood, the density and the height. He pointed out that whatever answers are given, he would be multiplying it times 18.

Mr. Elliott explained that the applicant worked diligently to keep the gas station in the area, but they wanted five times the amount of site area that they have today. Mr. Elliott stated that the applicant spent a lot of money and time working out a solution for the Urgent Care, but they chose to buy the Pizza Hut. They are working with the owner of Anaya's Market to find a better location. Mr. Elliott remarked that there is an expectation locally and with the ownership group to find ways to solve those problems.

He pointed out that the ownership group has spent a lot of time and money trying to work on solutions, but they do not always get to make the decisions.

Mr. Murphy appreciated Commissioner Joyce's comments, and they would continue to work on those issues. If individual Commissioners have a vision, he encouraged them to express their vision in writing and submit it to Planner Astorga, who would pass it on to them. Mr. Murphy understood what Commissioner Joyce was saying and that it might not work for him right now. However, as time goes on, if it articulates itself and he shares it with them, they will listen.

Commissioner Phillips stated that he agreed with all the comments and he was trying to keep an open mind on both sides. He was looking forward to getting into the details and being able to analyze the project.

Chair Strachan noted that this was a pre-MPD application and they were only looking for General Plan Compliance. The applicant has a long way to go and finding compliance with the General Plan was in no way a thumbs up or thumbs down action. He expected to talk a lot about height and setbacks. He remarked that these were the most detailed plans he had ever seen in a pre-MPD and he appreciated their efforts. However, he found some of the plans to be troubling and he anticipated having significant discussions.

Chair Strachan stated that this biggest issue was whether or not to allow nightly rentals. He was unsure how they could make it the type of live/work neighborhood that the General Plan envisions if they allow nightly rentals, because will be condominiumized and used during the holidays, and sit vacant the remainder of the year. That is not conducive to neighborhoods and they would not want it to happen in that area.

Chair Strachan stated that another issue is affordable housing. He believed the applicant was on the right track and he thanked Mark Fischer for building the Empire and Rail Central first. They would like all developers to build the affordable housing first and then build the market rate units. He would expect that to happen in this proposal. Chair Strachan would be looking for a condition of approval in the end that requires affordable housing to be built first because it does languish as mentioned earlier, and the affordable units never get built.

Chair Strachan was satisfied with the answers to the green standard issues that Commissioner Thimm had raised. He would also be looking closely at bike and pedestrian paths. In their letter, the response from the applicant was that there would be strong pedestrian bike paths, but it was unclear what that meant.

Chair Strachan was bothered by the prospects for Anaya's Market. The two examples given were the clinic and the gas station that moved away. He did not want the same result for Anaya's. Chair Strachan stated that there are ways of building goodwill in the community and ways to make the community like the project. He suggested that doing more than what the market might direct to keep Anaya's in its current location may build a great deal of goodwill and get them farther than they might otherwise get if Anaya's goes away.

Chair Strachan agreed with the comments stated by his fellow Commissioners. He thought the Findings of Fact were appropriate and did not need to be amended. Chair Strachan believed the pre-MPD met the general requirements of the General Plan.

Director Erickson read the drafted motion in the Staff report requesting that the Planning Commission make a finding of preliminary compliance with the purpose of the General Commercial District and General Plan of the Bonanza Park East Master Plan Pre-application, located at 1401 & 1415 Kearns Boulevard, 1415, 1635, 1665, 1685 & 1705 Bonanza Driver, 1420 & 1490 West Munchkin Road, based on the Findings of Fact and Conclusions of Law.

MOTION: Commissioner Phillips made a motion to Find Compliance with the General Plan as stated above by Director Erickson. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Bonanza Park North East MPD Pre-application

1. The subject property is located at 1401 & 1415 Kearns Boulevard, 1415, 1635, 1665, 1685, & 1705 Bonanza Drive, 1420 W. & 1490 W. Munchkin Road.
2. The subject site contains 224,801 square feet (approx. 5.16 acres).
3. The subject site consists of nine (9) separate parcels/lots.
4. The property is located within the GC District.
5. Land Management Code (LMC) § 15-6-4 outlines the following process for a MPD Pre-Application.
6. The MPD Pre-Application is intended to allow the applicant to have an opportunity to present the preliminary concepts; provide an opportunity for the Planning Commission to give preliminary input on the concept; and to allow the

public to be given an opportunity to comment on the preliminary concepts so that the applicant can address neighborhood concerns.

7. The Planning Commission is to review the preliminary information to identify issues on compliance with the General Plan and is to make findings that the project initially complies with the General Plan.

8. The MPD Pre-Application does not vest any densities, layouts, heights, setback exceptions, etc. It focuses on identifying conceptual issues of compliance with the General Plan and Zoning.

9. The proposed MPD Pre-Application consists of seven (7) separate buildings identified as Bldg. A - G.

10. The proposed gross floor area is approximately 276,494 sf.

11. Proposed Bldg. A is approximately 54,357 gross floor area with 4 stories (including lower level due to grade change).

12. Proposed Bldg. B is approximately 49,251 sf. gross floor area with 4 stories.

13. Proposed Bldg. C is approximately 16,640 sf. gross floor area with 3 stories.

14. Proposed Bldg. D is approximately 63,346 sf. gross floor area with 4 & 5 stories.

15. Proposed Bldg. E is approximately 49,184 sf. gross floor area with 4 & 5 stories.

16. Proposed Bldg. F is approximately 24,076 sf. gross floor area with 3 stories.

17. Proposed Bldg. G is approximately 19,637 sf. gross floor area with 4 stories.

18. The proposal consists of the following uses:

- a. Residential: 104,357 sf. (52.18 UEs).
- b. Business (Office): 4,371 sf. (4.37 UEs).
- c. Commercial: 87,986 sf. (87.99 UEs).
- d. Residential affordable housing: 20,390 sf.
- e. Circulation: 47,461 sf. formerly 50,124 sf.
- f. Mechanical: 11,929 sf. formerly 11,333 sf.

19. The proposal consists of an underground parking area with two (2) access points.

20.The proposal consists of 355 parking spaces, 271 underground parking stalls plus 84 surface parking stalls.

21.The proposed MPD pre-application would also require the re-platting of the nine (9) lots/parcels.

22.While the proposal provides mixed-use development opportunities for locals to live and work, the City should be reviewing additional studies at MPD stage regarding the long term effects, including the possible effects of gentrification.

23.At this stage the proposal shows a total of 97 residential units, consisting of 23 on-site affordable housing units ranging from approximately 432 to 1,166 sf. and 74 market rate units ranging from approximately 372 to 3,703 sf.

24.The applicant is to provide projected Nightly Rental numbers, residential unit specifics, etc., at the MPD Stage. The Planning Commission may limit the amount of nightly rentals during the MPD review.

25.The applicant in their future MPD Application is to keep in mind and demonstrates placemaking and authenticity by emphasizing human scale, infusion of design elements representative of residents' diverse roots, contemporary design, etc.

26.The MPD application is to address green design and strive towards a goal of maximum environmental sustainability.

27.The current application complies with requirements by the Transportation Planning Department and the City Engineer regarding reducing friction on Kearns Boulevard and Bonanza Drive.

28.The future MPD/CUP application would have to show a more defined character than the current dominant architectural styles within the District.

29.Several Conditional Use Permits need to be submitted concurrently with the full MPD application.

30. The applicant shall apply for a Plat Amendment/Subdivision application concurrently with the full MPD application.

31. The minimum setback around the exterior boundary of an MPD is twenty five feet (25') for parcels one (1) acre in size.

32. The Planning Commission may decrease the required perimeter Setback to the zone Setback if it is necessary to provide desired architectural interest and variation.

33. The applicant proposes the following setbacks:

- a. 68 ft. from Kearns Blvd. (Bldg. A & C)
- b. 40 ft. from Bonanza Dr. (Bldg. A)
- c. 48 ft. from Bonanza Dr. (Bldg. B)
- d. 40 ft. from Bonanza Dr. (Bldg. G)
- e. 25 ft. from Bonanza Dr. (Bldg. F)
- f. 30 ft. from Munchkin Rd. (Bldg. D, E, & F)
- g. 100 ft. from east neighboring site (Bldg. C)
- h. 15 ft. from east neighboring site (Bldg. D)

34. While the proposal complies with the GC District (zone) setbacks, once the MPD application is submitted and deemed complete, the Planning Commission would have to make the findings for such setback reduction from the required 25 ft. for sites that are one (1) acre or bigger to the applicable zone setbacks.

35. The FPZ indicates that any construction within the FPZ located 30 to 100 ft. from the ROW/property line requires Planning Commission review through a filed CUP application.

36. The applicant has not submitted such FPZ CUP application.

37. Conditional Use Permit for construction within the Frontage Protection Zone application is to be submitted concurrent with the full MPD application.

38. The Building Height requirements of the Zoning Districts in which an MPD is located shall apply except that the Planning Commission may consider an increase in Building Height based upon a Site specific analysis and determination.

39. At full MPD Application the Applicant will be required to request a Site specific determination and shall bear the burden of proof to the Planning Commission that the necessary findings can be made.

40. Once the MPD application is submitted, the Planning Department will be able

to provide a thorough review of the height as specified on the LMC MPD section and will be able to make a recommendation to the Planning Commission.

41. The applicant shall submit their Subdivision/Plat Amendment application concurrently with the MPD application to ensure that these road requirements and design standards are met. If the applicant does not bring the Subdivision/Plat Amendment application concurrently with the full MPD staff would then recommend that these standards plus any other applicable requirements be reviewed during the full MPD process.

42. The applicant is to submit TDM strategies to be proposed during the full-MPD application.

43. The development must address the pre-development versus post-development detention of storm water onsite to be addressed at MPD application.

44. A traffic study will be required to further understand the developments impacts to the surrounding street and intersection network to be addressed at MPD application.

45. A utility plan for the proposal has not yet been submitted by the applicant.

46. Snyderville Water Reclamation District, Park City Municipal Corporation's (PCMC's) Department of Public Utilities and Building Department, and Park City Fire Marshall, are unable to comment but would provide comments after such plan is submitted for review prior to any formal approvals including a full MPD by the Planning Commission.

47. The applicant has been made aware that they need to reach out to the Water Reclamation District, Department of Public Utilities, Building Department, and Park City Fire District, separately to ensure compliance with their approval process.

48. The applicant has also been made aware that they are responsible of coordinating the efforts of the various review entities including the City, Water Reclamation District, etc.

49. The Department of Public Utilities request to identify at this time, that there are concerns with water supply, delivery, fire flow, pressure, demands (as provided by the Fire Marshall), etc., throughout the entire project based on the massing

and number of stories being proposed that may exceed existing zoning requirements.

50. The Department of Public Utilities requests that the utility plan to be submitted to the City for review also include how the utility system affects the neighborhood and the City. The utility plan to be submitted shall provide industry standards and shall be detailed enough for the Department of Public Utilities as well as other review entities to have them provide a full thorough review.

51. Park City's Environmental Regulatory Program Manager indicated that the subject property is located within the Park City Landscaping and Maintenance of Soils Cover Ordinance (Soils Ordinance).

52. All soil generated as part of development must either remain on site or be disposed of at an approved disposal facility.

53. Final landscaping must meet Soils Ordinance Requirements.

Conclusions of Law – Bonanza Park North East MPD Pre-Application

1. The Bonanza Park East Master Planned Development (MPD) Pre-Application plans to be located at 1401 & 1415 Kearns Blvd., 1415, 1635, 1665, 1685, & 1705 Bonanza Dr., 1420 & 1490 W Munchkin Rd. within the General Commercial (GC) Zone, comply with the Park City General Plan and are consistent with the purpose statements of the General Commercial (GC) District.

The Park City Planning Commission Meeting adjourned at 7:45 p.m.

Approved by Planning Commission: _____



PLANNING DEPARTMENT

Planning Commission Staff Report

Subject: Northstar Subdivision First Amended
– Vacating Lot 1
Address: 1061 and 1063 Lowell Avenue
Author: Makena Hawley, Planner
Project Number: PL-16-03328
Date: December 14, 2016
Type of Item: Legislative – A vacation plat from the Northstar
Subdivision and a plat to subdivide 1 lot into 4 lots which is
contingent on this vacation plat.

Summary Recommendations

Staff recommends the Planning Commission conduct a public hearing and continue the hearing of the Northstar Subdivision First Amended – Vacating Lot 1, to January 11, 2016.

Description

Applicant: Illuminus Property Holdings represented by Jon Turkula,
Jaffa Group Architecture
Location: 1061 & 1063 Lowell Avenue
Lot 1, Northstar Subdivision
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and
City Council review and action.

Summary of Proposal

The property owner is requesting to vacate Lot 1 of the Northstar Subdivision in order to create a new subdivision, subdividing the existing lot into four (4) lots of record. The new proposed subdivision is concurrent and dependent with this application under application PL-16-03221.



Planning Commission Staff Report

Subject: 1061 Lowell Avenue Subdivision
Address: 1061 and 1063 Lowell Avenue
Author: Makena Hawley, Planner
Project Number: PL-16-03221
Date: December 14, 2016
Type of Item: Legislative – Plat proposal to subdivide 1 lot into 4 lots which is concurrent and dependent on the plat vacation of Lot 1 from the Northstar Subdivision (PL-16-03328).

Summary Recommendations

Staff recommends the Planning Commission conduct a public hearing and continue the hearing of the 1061 Lowell Avenue Subdivision, to January 11, 2016.

Description

Applicant: Illuminus Property Holdings represented by Jon Turkula,
Jaffa Group Architecture
Location: 1061 & 1063 Lowell Avenue
Lot 1, Northstar Subdivision
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: A subdivision plat requires Planning Commission review and City Council review and action

Summary of Proposal

The property owner is requesting to vacate Lot 1 of the Northstar Subdivision in order to create a new subdivision (1061 Lowell Avenue Subdivision), subdividing the existing lot into four (4) lots of record. The new proposed subdivision is concurrent and dependent on the plat vacation of Northstar under application PL-16-03328.

Planning Commission Staff Report



Application: PL-16-03293
Subject: Village at Empire Pass North Subdivision
Author: Kirsten Whetstone, AICP, Sr. Planner
Date: December 14, 2016
Type of Item: Legislative – subdivision plat

Summary Recommendations

Staff recommends the Planning Commission conducts a public hearing and continues this item to January 11, 2017, to allow additional time for Staff to provide a summary of Flagstaff Development Agreement obligations and development parameters.

Description

Applicant: Alliance Engineering (representing Owner)
Owner: REDUS Park City LLC
Location: Marsac Avenue and Village Way
Zoning: Residential Development (RD) District as part of the Flagstaff Annexation and Master Planned Development (MPD) and Village at Empire Pass MPD
Adjacent Land Uses: Deer Valley Resort, condominiums, townhouses, and vacant parcels of the Village at Empire Pass Pod A

Proposal

This is a request for a subdivision plat of three metes and bounds described parcels (PCA-S-98-BB, PCA-S-98-DD, and PCA-S-09-EE located to the north and east of the Village at Empire Pass Phase I Subdivision. The plat would create three platted lots of record for development parcels of the Village at Empire Pass Pod A Master Planned Development approved on July 28, 2004. The lots have frontage on existing platted Marsac Avenue (State Highway 224) and Village Way (a private street). No new public or private streets are proposed. Existing recorded and proposed utility, snow storage, storm water, ski lift, and access easements are shown on the plat.

The subdivision consists of a 3.0 acre Lot 1, for future townhouse units, a 1.57 acre Lot 2 for Lodge Building 4, and a 0.67 acre Lot 3 for future Lodge Building 3.

Six lodge buildings have been built to date within Pod A, namely Shooting Star, Silver Strike, Flagstaff Lodge (was Snowberry Lodge), Arrowleaf A and Arrowleaf B, and Grand Lodge. A seventh building, One Empire Pass is currently under construction. Additionally, Larkspur East and Larkspur West Townhouses (attached homes), Paintbrush and Belles PUD style homes, and six single family homes in Banner Wood are platted within Pod A. Three of the large lodge buildings (Buildings 1, 3, and 4) as well as townhouse units remain to be constructed within the Village MPD Pod A.

The subsequent Conditional Use Permits (CUPs) required by the VMPD for each multi-family parcel and/or building are intended to provide final architectural review by the Park City Planning Department Staff and Planning Commission and to demonstrate compliance with the Village MPD and Large Scale MPD.



SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4935739, as prepared by the laws of the State of Utah, and that by this certificate I have been authorized to survey and plat the same and that the same has been monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that REDUX Park City LLC, the undersigned EMPIRE PASS NORTH SUBDIVISION, does hereby certify that it has caused this plat to be prepared, and does hereby consent to the recordation of this plat. In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

REDUX Park City LLC, a Delaware limited liability company By: REDUX Properties, Inc., a Delaware corporation its manager.

Name: _____ Title: _____ State of _____ County of _____

ACKNOWLEDGMENT

On this _____ day of _____, 2016, personally appeared before me, the undersigned Notary Public, in and for said state and county, having been duly sworn, David Ash acknowledged to me that he is on behalf of the undersigned and that he has signed the above Owner's Dedication and Consent to Record freely and voluntarily.

A Notary Public commissioned in Utah

Printed Name _____ Residing in: _____ My commission expires: _____

NOTES:

- 1. This plat is subject to the conditions of Approval in Ordinance 2016-... 2. The position of the North 1/4 corner of Section 28 shown on this survey is from the southeast re-survey of the Village At Empire Pass, Phase 1, recorded November 24, 2004, as Entry No. 718034 in the Office of the Summit County Recorder and also being on a curve to the right having a radius of 15.00 feet, of which the radius point bears North 85°07'00" West; 67.5420 feet, thence South 80°23'07" East 106.33 feet, thence South 80°23'07" East 220.71 feet, thence South 27°10'00" East 272.20 feet, thence South 79°23'37" West 169.25 feet to a point on the Northern line of Marzac Avenue Right of Way and on a 725.00 foot arc of said curve to the left having a radius of 175.00 feet, of which the radius point bears South 54°54'30" East, thence South 12°39'42" East, thence South 141.35 feet (along bears North 13°34'42" West 141.35 feet) to a point on a 175.00 foot radius reverse curve to the left of which the radius point bears South 82°21'42" West, thence 2) Northwest along the arc of said curve 290.23 feet through a central angle of 141°48'48" East, thence 3) South 63°39'30" West 116.81 feet to a point on a 168.63 foot radius curve to the left of which the radius point bears South 28°54'30" East, thence 4) Southwesterly along the arc of said curve 73.03 feet through a central angle of 294°34' to the Point of Beginning. LESS AND EXCEPTING any portion lying Westerly of the Northern line of the Marzac Lode Mining Claim, Lot 61.

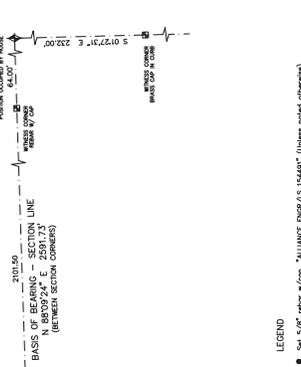
BOUNDARY DESCRIPTION

LOT 1 A parcel of land located in the South half of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian. Beginning at a point that is North 85°09'24" East 255.50 feet along Section Line and North 386.40 feet from the Northwest corner of the Village At Empire Pass, Phase 1, recorded November 24, 2004, as Entry No. 718034 in the Office of the Summit County Recorder and also being on a curve to the right having a radius of 15.00 feet, of which the radius point bears North 85°07'00" West; 67.5420 feet, thence South 80°23'07" East 106.33 feet, thence South 80°23'07" East 220.71 feet, thence South 27°10'00" East 272.20 feet, thence South 79°23'37" West 169.25 feet to a point on the Northern line of Marzac Avenue Right of Way and on a 725.00 foot arc of said curve to the left having a radius of 175.00 feet, of which the radius point bears South 54°54'30" East, thence South 12°39'42" East, thence South 141.35 feet (along bears North 13°34'42" West 141.35 feet) to a point on a 175.00 foot radius reverse curve to the left of which the radius point bears South 82°21'42" West, thence 2) Northwest along the arc of said curve 290.23 feet through a central angle of 141°48'48" East, thence 3) South 63°39'30" West 116.81 feet to a point on a 168.63 foot radius curve to the left of which the radius point bears South 28°54'30" East, thence 4) Southwesterly along the arc of said curve 73.03 feet through a central angle of 294°34' to the Point of Beginning. LESS AND EXCEPTING any portion lying Westerly of the Northern line of the Marzac Lode Mining Claim, Lot 61.

LOT 2 A parcel of land located in the northeast quarter of Section 28 and the southeast quarter of Section 22, Township 2 South, Range 4 East, Salt Lake Base and Meridian. Beginning at a point that is North 85°09'24" East 390.39 feet along section line and South 118.26 feet from the north quarter corner of the Village At Empire Pass, Phase 1, recorded November 24, 2004, as Entry No. 718034 in the Office of the Summit County Recorder and also being on a curve to the right having a radius of 15.00 feet, of which the radius point bears North 85°07'00" West; 67.5420 feet, thence South 80°23'07" East 106.33 feet, thence South 80°23'07" East 220.71 feet, thence South 27°10'00" East 272.20 feet, thence South 79°23'37" West 169.25 feet to a point on the Northern line of Marzac Avenue Right of Way and on a 725.00 foot arc of said curve to the left having a radius of 175.00 feet, of which the radius point bears South 54°54'30" East, thence South 12°39'42" East, thence South 141.35 feet (along bears North 13°34'42" West 141.35 feet) to a point on a 175.00 foot radius reverse curve to the left of which the radius point bears South 82°21'42" West, thence 2) Northwest along the arc of said curve 290.23 feet through a central angle of 141°48'48" East, thence 3) South 63°39'30" West 116.81 feet to a point on a 168.63 foot radius curve to the left of which the radius point bears South 28°54'30" East, thence 4) Southwesterly along the arc of said curve 73.03 feet through a central angle of 294°34' to the Point of Beginning. LESS AND EXCEPTING any portion lying Westerly of the Northern line of the Marzac Lode Mining Claim, Lot 61.

LOT 3 A parcel of land located in the Northeast quarter of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian. Beginning at a point that is North 85°09'24" East 201.22 feet along section line and South 159.30 feet from the north quarter corner of the Village At Empire Pass, Phase 1, recorded November 24, 2004, as Entry No. 718034 in the Office of the Summit County Recorder and also being on a curve to the right having a radius of 15.00 feet, of which the radius point bears North 85°07'00" West; 67.5420 feet, thence South 80°23'07" East 106.33 feet, thence South 80°23'07" East 220.71 feet, thence South 27°10'00" East 272.20 feet, thence South 79°23'37" West 169.25 feet to a point on the Northern line of Marzac Avenue Right of Way and on a 725.00 foot arc of said curve to the left having a radius of 175.00 feet, of which the radius point bears South 54°54'30" East, thence South 12°39'42" East, thence South 141.35 feet (along bears North 13°34'42" West 141.35 feet) to a point on a 175.00 foot radius reverse curve to the left of which the radius point bears South 82°21'42" West, thence 2) Northwest along the arc of said curve 290.23 feet through a central angle of 141°48'48" East, thence 3) South 63°39'30" West 116.81 feet to a point on a 168.63 foot radius curve to the left of which the radius point bears South 28°54'30" East, thence 4) Southwesterly along the arc of said curve 73.03 feet through a central angle of 294°34' to the Point of Beginning. LESS AND EXCEPTING any portion lying Westerly of the Northern line of the Marzac Lode Mining Claim, Lot 61.

Table with columns: CURVE, RADIUS, LENGTH, DELTA. Rows C1 through C7 with numerical values for each column.



VILLAGE AT EMPIRE PASS NORTH SUBDIVISION

LOCATED IN THE SOUTH HALF OF SECTION 21 & THE NORTH HALF OF SECTION 28 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH

Administrative forms for approval and acceptance. Includes sections for 'ENGINEER'S CERTIFICATE', 'PLANNING COMMISSION', 'COUNCIL APPROVAL AND ACCEPTANCE', and 'MAYOR'. Includes dates, signatures, and official titles.

Professional seal and contact information for S.W.R.D. (Surveyors, Writers, Recorders, Drafters). Includes phone number (435) 645-4467 and address 322 Main Street, P.O. Box 2664, Park City, Utah 84002-2664.



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FEET

STAFF:
MARSHALL AINSWORTH
MICHAEL DOMONOWICZ
JESSE WOREND

DATE: 8/25/16

FOR: REDUX PARK CITY LLC
JOB NO: 12-2-16
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PROJECTING ENGINEER: LARRY PLAMBERS, 5000000
BY: Paul Jones, 12-2-2016, 12:53:35 PM, 2016-08-25

EMPIRE PHOTOGRAPHY

VILLAGE AT EMPIRE PASS NORTH SUBDIVISION

SHEET 1 OF 1

Planning Commission Staff Report



Application: PL-16-03338
Subject: B2 East Subdivision
Author: Kirsten Whetstone, MS, AICP, Senior Planner
Date: December 14, 2016
Type of Item: Legislative – Subdivision plat

Summary Recommendations

Staff recommends the Planning Commission conducts a public hearing and continues this item to January 11, 2017 to allow additional time for Staff to provide a summary of Flagstaff Development Agreement obligations and development parameters.

Description

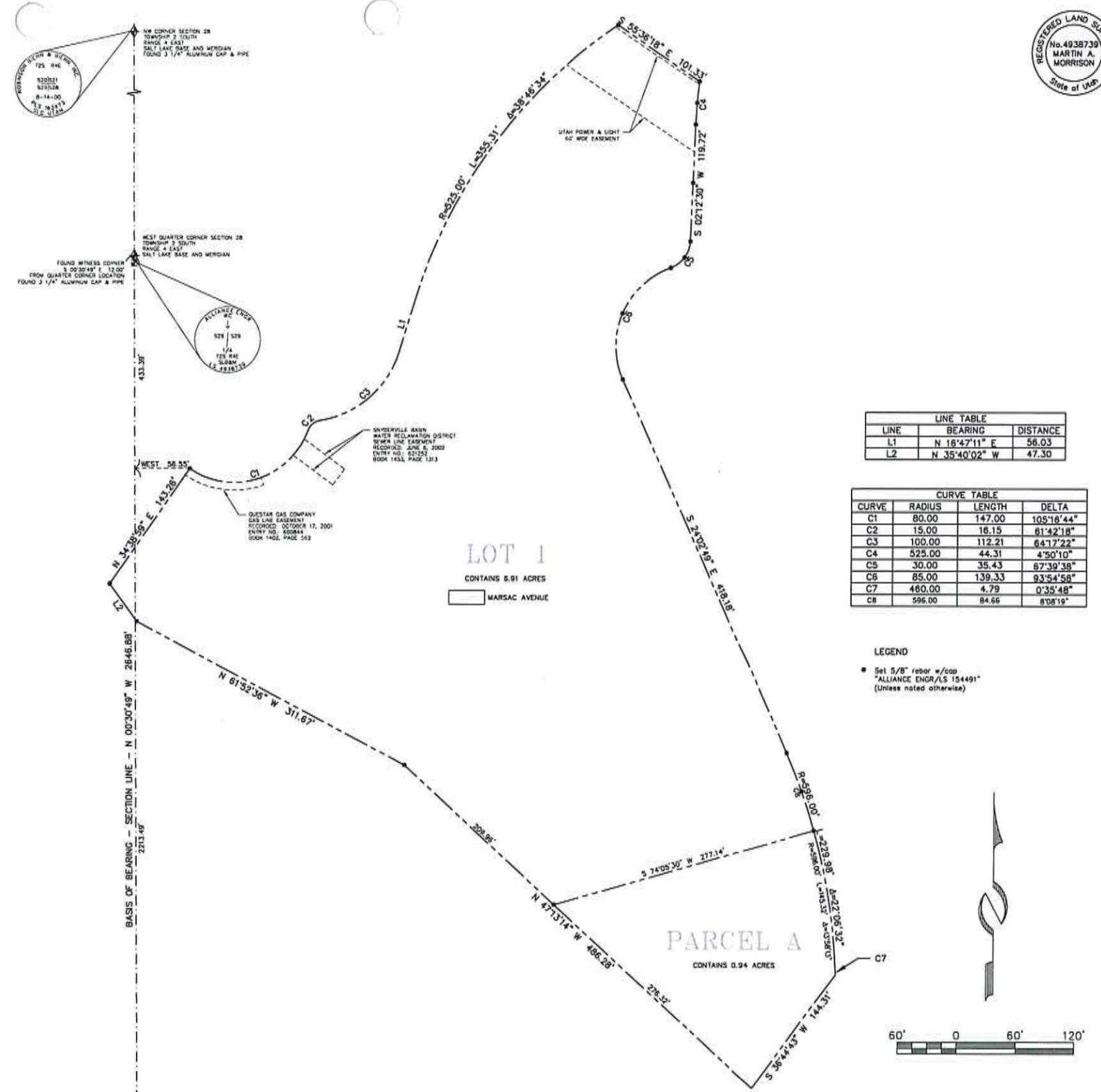
Owner: REDUS Park City LLC
Applicant Representative: Marshall King, Alliance Engineering
Location: 9300 Marsac Avenue within the Pod B2 Empire Pass Master Planned Development (MPD)
Zoning: Residential Development (RD-MPD) District, subject to the Pod B2 Empire Pass Master Planned Development
Adjacent Land Uses: Deer Valley Resort, open space, Montage Hotel and Residences

Proposal

This is a request to subdivide a 7.85 acre metes and bounds described parcel located within Pod B2 of the Empire Pass Pod B2 Master Planned Development approved by Planning Commission on March 14, 2007. The subdivision consists of a 6.91 acre Lot 1, for future development of 81 unit equivalents (UE) of residential condominiums, and a 0.94 acre Parcel A, for ski run/ski area related activities. Existing recorded and proposed utility, drainage, and access easements will be shown on the plat.

Parcel B-2 Empire Village Subdivision plat was recorded on May 23, 2007. The Staff report for Parcel B-2 Subdivision indicated that a future subdivision will encompass the proposed (81 UE) condominiums located to the east of the Empire Day Lodge. The current application requests approval of the B2 East Subdivision plat to create a lot of record for the 81 UE, in not more than 100 individual units, as identified by the Pod B-2 Master Planned Development and Subdivision.

The property has frontage on Marsac Avenue, a State Highway and utilities are available to Lot 1. Sewer service is not available for Parcel A due to current location of the main service line. SBWRD recommends conditions and plat notes to address their concerns. All existing and required easements will be recorded on the plat. No changes are proposed to existing streets.



SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, this Record of Survey map of B2 EAST SUBDIVISION has been prepared under my direction and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTIONS

A parcel of land located in the west half of Section 28 and the southeast quarter of Section 29, Township 2 South, Range 4 East, Salt Lake Base and Meridian.

Beginning at a point that is North 00°30'49" West 2213.49 feet along Section Line and East 56.55 feet from the southwest corner of Section 28, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point also being on the southerly line of the Marsac Avenue Right of Way, according to the official plat thereof on file and of record in the office of the Recorder, Summit County, Utah, and on a curve to the left having a radius of 80.00 feet, of which the radius point bears North 34°38'59" East; and running thence along the southerly line of the Marsac Avenue Right of Way the following five (5) courses: 1) easterly along the arc of said curve 147.00 feet through a central angle of 105°16'44" to a point on a reverse curve to the right having a radius of 15.00 feet, of which the radius point bears South 70°37'45" East; thence 2) northeasterly along the arc of said curve 16.15 feet through a central angle of 61°42'18" to a point on a curve to the left having a radius of 100.00 feet, of which the radius point bears North 08°55'27" West; thence 3) northeasterly along the arc of said curve 112.21 feet (chord bears North 48°55'52" East 106.41 feet) through a central angle of 64°17'22"; thence 4) North 16°47'11" East 56.03 feet to a point on a curve to the right having a radius of 525.00 feet, of which the radius point bears South 73°12'49" East; thence 5) northeasterly along the arc of said curve 355.31 feet through a central angle of 38°46'34"; thence South 55°36'18" East 101.33 feet to a point on a curve to the left having a radius of 525.00 feet; thence southerly along the arc of said curve 44.31 feet (chord bears South 04°37'35" West 44.30 feet) through a central angle of 4°50'10"; thence South 02°12'30" West 119.72 feet to a point on a curve to the right having a radius of 30.00 feet, of which the radius point bears North 87°47'30" West; thence southerly along the arc of said curve 35.43 feet through a central angle of 67°39'38" to a point of reverse curve to the left having a radius of 85.00 feet, of which the radius point bears South 20°07'52" East; thence southwesterly along the arc of said curve 139.33 feet through a central angle of 93°54'58"; thence South 24°02'49" East 418.18 feet to a point on a curve to the right having a radius of 596.00 feet, of which the radius point bears South 65°57'11" West; thence along the arc of said curve 229.98 feet through a central angle of 22°06'32" to a point of compound curve to the right having a radius of 460.00 feet, of which the radius point bears South 88°03'42" West; thence southerly along the arc of said curve 4.79 feet through a central angle of 00°35'48"; thence South 36°44'43" West 144.31 feet; thence North 47°13'14" West 486.28 feet; thence North 61°52'36" West 311.67 feet; thence North 35°40'02" West 47.30 feet; thence North 34°38'59" East 143.26 feet to the point of beginning.

| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | N 16°47'11" E | 56.03 |
| L2 | N 35°40'02" W | 47.30 |

| CURVE | RADIUS | LENGTH | DELTA |
|-------|--------|--------|------------|
| C1 | 80.00 | 147.00 | 105°16'44" |
| C2 | 15.00 | 16.15 | 61°42'18" |
| C3 | 100.00 | 112.21 | 64°17'22" |
| C4 | 525.00 | 44.31 | 4°50'10" |
| C5 | 30.00 | 35.43 | 67°39'38" |
| C6 | 85.00 | 139.33 | 93°54'58" |
| C7 | 460.00 | 4.79 | 0°35'48" |
| C8 | 596.00 | 84.66 | 8°08'19" |

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that REDUS Park City LLC, the undersigned owner of the herein described tract of land, to be known hereafter as B2 EAST SUBDIVISION, does hereby certify that it has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

In witness whereof, the undersigned set his hand this _____ day of _____ 2016.

REDUS Park City LLC, a Delaware limited liability company

By: _____
Its manager

ACKNOWLEDGMENT

State of _____
County of _____

On this _____ day of _____ 2016, _____ personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, _____ acknowledged to me that he is an authorized signatory of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

A Notary Public commissioned in _____

Printed Name _____

Residing in: _____

My commission expires: _____

NOTE:

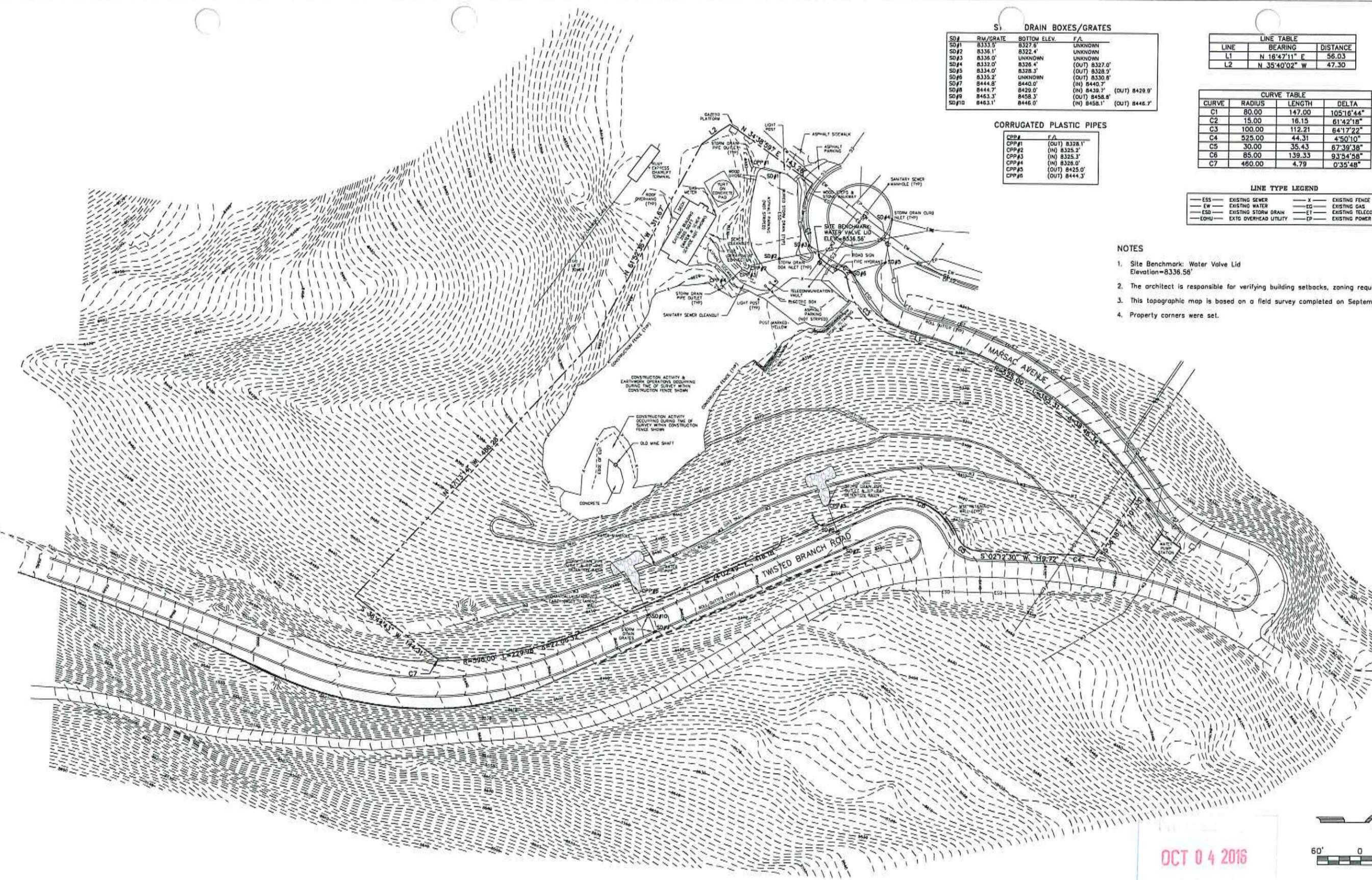
- This plat is subject to the Conditions of Approval in Ordinance 2016-_____
- ERU note: to be determined



B2 EAST SUBDIVISION

LOCATED IN THE WEST HALF OF SECTION 28 & THE SOUTHEAST QUARTER OF SECTION 29
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

| | | | | | | | |
|---|---|---|--|--|---|---|--|
| <p>(435) 649-9467</p> <p>323 Main Street P.O. Box 2064 Park City, Utah 84060-2064</p> | <p>SNYDERVILLE BASIN WATER RECLAMATION DISTRICT</p> <p>REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____</p> <p>DAY OF _____, 2017</p> <p>BY _____ S.B.W.R.D.</p> | <p>PLANNING COMMISSION</p> <p>APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____</p> <p>DAY OF _____, 2016</p> <p>BY _____ CHAIR</p> | <p>ENGINEER'S CERTIFICATE</p> <p>I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____</p> <p>DAY OF _____, 2017</p> <p>BY _____ PARK CITY ENGINEER</p> | <p>APPROVAL AS TO FORM</p> <p>APPROVED AS TO FORM THIS _____</p> <p>DAY OF _____, 2017</p> <p>BY _____ PARK CITY ATTORNEY</p> | <p>COUNCIL APPROVAL AND ACCEPTANCE</p> <p>APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2017</p> <p>BY _____ MAYOR</p> | <p>CERTIFICATE OF ATTEST</p> <p>I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2017</p> <p>BY _____ PARK CITY RECORDER</p> | <p>RECORDED</p> <p>STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____</p> <p>DATE _____ TIME _____ ENTRY NO. _____</p> <p>Page 59</p> <p>FEE _____ RECORDER _____</p> |
| | <p>15/2/16 JOB NO.: 12-2-16 FILE: X:\Empire\dwg\sr\plat2016\120216-B2 East.dwg</p> | | | | | | |



DRAIN BOXES/GRATES

| SD# | RIM/GRATE | BOTTOM ELEV. | F/A |
|-------|-----------|--------------|----------------------------|
| SD#1 | 8333.5' | 8327.0' | UNKNOWN |
| SD#2 | 8336.1' | 8322.4' | UNKNOWN |
| SD#3 | 8336.0' | UNKNOWN | UNKNOWN |
| SD#4 | 8332.0' | 8326.4' | (OUT) 8327.0' |
| SD#5 | 8334.0' | 8328.3' | (OUT) 8328.2' |
| SD#6 | 8335.2' | UNKNOWN | (OUT) 8330.0' |
| SD#7 | 8444.8' | 8440.0' | (IN) 8440.7' |
| SD#8 | 8444.7' | 8429.0' | (IN) 8438.7' (OUT) 8429.9' |
| SD#9 | 8463.1' | 8458.3' | (OUT) 8458.8' |
| SD#10 | 8463.1' | 8446.0' | (IN) 8458.1' (OUT) 8446.7' |

LINE TABLE

| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | N 16°47'11" E | 56.03 |
| L2 | N 35°40'02" W | 47.50 |

CURVE TABLE

| CURVE | RADIUS | LENGTH | DELTA |
|-------|--------|--------|------------|
| C1 | 80.00 | 147.00 | 105°16'44" |
| C2 | 15.00 | 16.15 | 61°42'18" |
| C3 | 100.00 | 112.21 | 64°17'22" |
| C4 | 525.00 | 44.31 | 4°50'10" |
| C5 | 30.00 | 35.43 | 67°39'38" |
| C6 | 85.00 | 139.33 | 93°54'58" |
| C7 | 480.00 | 4.79 | 0°35'48" |

CORRUGATED PLASTIC PIPES

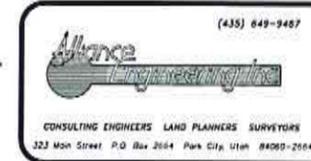
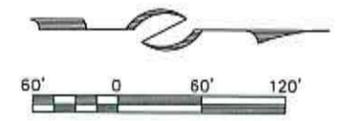
| CPP# | F/A |
|-------|---------------|
| CPP#1 | (OUT) 8328.1' |
| CPP#2 | (IN) 8325.2' |
| CPP#3 | (IN) 8325.3' |
| CPP#4 | (IN) 8328.0' |
| CPP#5 | (OUT) 8425.0' |
| CPP#6 | (OUT) 8444.3' |

LINE TYPE LEGEND

| | | | |
|------|---------------------------|----|-------------------|
| ESS | EXISTING SEWER | X | EXISTING FENCE |
| EW | EXISTING WATER | EG | EXISTING GAS |
| ESSD | EXISTING STORM DRAIN | ET | EXISTING TELECOMM |
| EOHU | EXISTING OVERHEAD UTILITY | EP | EXISTING POWER |

- NOTES**
1. Site Benchmark: Water Valve Lid
Elevation=8336.58'
 2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
 3. This topographic map is based on a field survey completed on September 19, 2016.
 4. Property corners were set.

OCT 04 2016



STAFF:
MICHAEL DEMKOWICZ
MARTY MORRISON
MARSHALL KING
JESSE MORENO

DATE: 10/3/16

EXISTING CONDITIONS & TOPOGRAPHIC MAP
B2 EAST PARCEL
SECTION 28, T2S, R4E

FOR: REDUS PARK CITY LLC
JOB NO.: 12-2-16
FILE: X:\Empire\dwg\srvtopo2016\120216-B2 East.dwg

SHEET
1
OF
1

Page 60



SUBJECT
PROPERTY

OCT 8 4 2016



| | | | |
|---|---|--|--------------------------|
|  <small>CONSULTING ENGINEERS LAND PLANNERS SURVEYORS</small> <small>523 Main Street P.O. Box 2684 Park City, Utah 84050-2684</small> | <small>(435) 549-9487</small> STAFF: MICHAEL DEMKOWICZ JESSE MORENO | AERIAL PHOTOGRAPH B2 EAST PARCEL SECTION 28, T2S, R4E | SHEET 1 |
| | DATE: 10/4/16 | FOR: REDUS PARK CITY LLC JOB NO.: 12-2-18 FILE: X:\Empire\dwg\Exhibits\B2 East-aerial.dwg | OF 1 |



PLANNING DEPARTMENT

Planning Commission Staff Report

Subject: Treasure
Project #: PL-08-00370
Author: Francisco J. Astorga, AICP, Senior Planner
Date: 14 December 2016
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission review Conditional Use Permit (CUP) criteria no. 8, 11, and 15 as presented in staff report. Staff recommends that the Planning Commission provide input and direction. Staff recommends that the Planning Commission conduct a public hearing and continue it to the January 11, 2016 Planning Commission meeting.

Description

Property Owner: Sweeney Land Company and Park City II, LLC represented by Patrick Sweeney
Location: Creole Gulch and Mid-station Sites
Sweeney Properties Master Plan
Zoning: Estate District –Master Planned Development
Adjacent Land Use: Ski resort area and residential
Topic of Discussion: CUP Criteria 8, 11, & 15
Reason for Review: Conditional Use Permits are required for development per the Sweeney Properties Master Plan. Conditional Use Permits are reviewed by the Park City Planning Commission.

Background

The Planning Commission reviewed this application during the November 11, 2016 Planning Commission meeting. During the last meeting the applicant presented a Sketch-up model of the project in order to show different views and answered questions made by the Planning Commission. The Planning Commission conducted a work session discussion with the applicant, provided questions/comments regarding the proposed project, conducted a public hearing and continued it to this meeting.

The Planning Department and Planning Commission must review each of the CUP criteria when considering whether or not the proposed conditional use mitigates impacts. The purpose/focus of this staff report is to provide the Planning Commission relevant information regarding the review of the criteria related to mass, bulk, scale, physical compatibility, excavation, etc., as listed below:

8. building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots;

11. *physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;*

15. *within and adjoining the site impacts on environmentally sensitive lands, slope retention, and appropriateness of the proposed structure to the topography of the site.*

Applicant's Update

During this last review period, the applicant submitted two (2) sets of screen shots as presented during the November 9, 2016 Planning Commission meeting. One set consists of the massing of the 2008/2009 updated Conditional Use Permit in orange while the other set consist of the 1985 MPD study, the Woodruff 3d rendering in red. Staff was able to place each one of these shots side by side for comparison purposes. See Exhibit V - SketchUp Comparisons CUP (2009) & MPD Study (1985).

Based on correspondence received, the applicant will be ready to present on the following topics during this meeting:

- Review of the physical model of the project
- SketchUp presentation
- Discussion of efficiency issues
- Discussion of project design and grading matters

The only updated exhibit by the time of preparation of this staff report was Exhibit V - SketchUp Comparisons CUP (2009) & MPD Study (1985). No other documents have been presented in time for staff to review and comment in preparation for this December 2016 meeting.

Analysis

Many concerns were raised and issues identified through the Master Plan review process. It was identified that a project of this scale and complexity would pose similar and considerable consternation no matter where it was proposed to be built. The Master Planned Development procedure dealt with the general concept of the proposed development and deferred/relegated the very detailed project review elements to the conditional use stage of review. At conditional use review, the following Major Issues (Sweeney Properties Master Plan Section VI) related to mass, bulk, scale, physical compatibility are to be examined in considerable detail:

Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding

neighborhood. The relocation of density from the Town Lift site was partly in response to this issue. The concentration of density into the Creole Gulch area, which because of its topography and the substantial mountain backdrop which helps alleviate some of the concern, and the requested height variation necessary in order to reduce the mass perceived (higher versus lower and wider), have greatly improved the overall scale of the cluster approach. The sites along Park Avenue have been conceptually planned to minimize scale and have provided stepped facades and smaller-scale buildings to serve as a transition.

The scale and massiveness of the proposal is still a primary concern. During the November 9, 2016 Planning Commission meeting the Commission showed concern regarding the compatibility with the scale already established as they asked for a comparison of the proposal and the adjacent neighborhoods. Staff recognizes the challenges of the approved cluster concept on the hillside area adjacent to the Old Town. During the November 2016 meeting, the applicant indicated that, if the Planning Commission required, they would be willing to provide a feel for the buildings (proposal) on the context of the neighborhood; however, the applicant noted that would take a couple of months or more to complete.

Discussion requested. Does the Planning Commission find it necessary to have the applicant provide a contextual neighborhood analysis in order to address special considerations identified in the Scale section of the Major Issues of the Master Plan? The applicant indicated that they would be submitting the physical model of the project. By the preparation of this staff report, such review has not yet been presented to Staff; therefore, staff is unable to comment on this until sufficient time is obtained by staff to review what the applicant will present.

Neighborhood Compatibility - In reviewing the general compatibility of a project of this scale, an evaluation of possible alternative approaches was undertaken. In light of those other development concepts and associated impacts, 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. The non-hillside project sites have also been planned in accordance with both the Historic District guidelines and in keeping with the scale of existing residences. The long build-out period envisioned will also enable a more detailed review at the time when specific project proposals are developed. A number of the staff's recommended conditions are directed toward minimizing the potential conflicts related to neighborhood compatibility considerations.

The clustering approach of the Master Plan was deemed the most compatible. It is critical for the proposal to be in compliance with the Design Guidelines (1983) and in keeping the scale of existing residences. A number of conditions of approval were directed towards minimizing potential conflicts related to neighborhood compatibility as

the applicant's proposal has a significant amount of excavation which makes the project comply with the above-sea-level elevation restriction mentioned in the Master Plan for the two sites; however, the original MPD did not anticipate that the massive excavation would take place back in the 1980's. The Woodruff 3D diagram introduced by the applicant in June 2016 was derived by the site plan and the building sections. The site plan and the building sections were part of clause "*the following plans and exhibits, in addition to this report and the project file, constitute the complete development permit*" indicated on the first page of the Master Plan. When the Planning Commission and City Council approved the Master Plan in 1985/1986 they only had what was shown to them, which did not include the massive excavation which creates building façades exceeding what they reviewed. Furthermore, the Master Plan did not show any signs of the proposed building concept of double fronted buildings from the front and the back as the sample elevations, also include on the complete development permit, returned final (finished) grade back to existing (natural) grade.

Visibility - The issue of visibility is one which varies with the different concepts proposed and vantage or view points selected. The very detailed visual analyses prepared graphically demonstrated how the various proposals might look from key points around town. The cluster approach' although highly visible from certain areas, does not impose massive structures in the most prominent areas. Instead, the tallest buildings have been tucked into Creole Gulch where topography combines with the densely vegetated mountainside to effectively reduce the buildings' visibility. The height and reduction in density at the Mid-Station site has been partly in response to this concern. The staff has included a condition that an exhibit be attached to the Master Plan approval that further defines building envelope limitations and architectural considerations.

Detailed visual analyses were prepared during Master Plan review. Even though it was recognized that the proposal would be highly visible from certain areas, it was not to impose massive structures in the most prominent areas. The Planning Commission has recognized several areas of concern, mainly as a result of the excavation. These areas of concern include the visual massing of buildings 3B and 5A due to the visible location of these buildings from Main Street and Heber Avenue as well as driving up Empire and Lowell Avenue and the entry along the Empire and Lowell Avenue switchback at building 4A as there is a dramatic contrast between the project's streetscape and the adjacent residential streetscape.

Grading - The proposed cluster concept will result in less grading than the alternatives considered. The MPD review enabled the staff, Planning Commission, and developer the opportunity to consider this kind of concern early in the project design process. The concept plans developed have examined the level of site work required and how potential impacts can be mitigated. Various conditions supported by staff have been suggested in order to verify the efforts to be taken to minimize the amount of grading necessary and correlated issues identified.

The Master Plan indicates that less grading was considered in the selection of the clustering concept as it was identified early in the process and as it was reflected in the Woodward drawings. This section further indicated that the concept plan (Master Plan) examined the level of site work required and how impacts can be mitigated. The section identifies that that efforts are to be taken to minimize the amount of grading. The current proposal does the exact opposite of minimizing the amount of grading necessary as depicted in the concept showing the massive amount of excavation towards the rear of the project.

Disturbance - The eight distinct development scenarios presented each had a varying degree of associated site disturbance. The current concept results in considerably less site clearing and grading than any of the others presented (except the total high-rise approach). A balance between site disturbance and scale/visibility has been attained through the course of reviewing alternate concepts. General development parameters have been proposed for Master Plan approval with the detailed definition of "limits of disturbance" deferred until conditional use review.

The selected scenario has the less amount of site clearing and grading than the ones not selected. The last sentence of the text above indicated that the limits of disturbance would be deferred to the condition use review. The 2004 Land Management Code defines “limits of disturbance” and Construction Activity as the following:

15-15-1.127. **Limits of Disturbance.** The designated Area in which all Construction Activity must be contained.

15-15-1 .56. **Construction Activity.** All Grading, excavation, construction, Grubbing, mining, or other Development Activity which disturbs or changes the natural vegetation, Grade, or any existing Structure, or the act of adding an addition to an existing Structure, or the erection of a new principal or Accessory Structure on a Lot or Property.

[15-15-1.71. **Development.** The act, process, or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or Demolishing any Structure or improvement to Property including Grading, clearing, Grubbing, mining, excavating, or filling of such Property. Includes Construction Activity.

15-15-1.214. **Structure.** Anything constructed, the Use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground; definition includes "Building".]

Section V Narrative of the Master Plan/Hillside Properties section indicates that “As part of the Master Plan, the land not included within the development area boundary will be rezoned to Recreation Open Space (ROS).” Staff finds that there are significant cliffscape/retaining walls outside of the line identified on Sheet 22, again same clause

applies: “*the following plans and exhibits, in addition to this report and the project file, constitute the complete development permit*”, identified as the **building area boundary**, which also matches the ROS zoned areas.

Discussion Requested: Does the Planning Commission agree that the development which includes the cliffscape/retaining walls need to take place with the building area boundary, and not outside of this defined area?

Environmental Concerns

The applicant has submitted the following documents with their Conditional Use Permit application to address environmental concerns:

1. [Exhibit L – Soils Capacity Letters \(Appendix A-5\)](#). This document consists of the following documents:
 - 1977 Soils Investigation prepared by Rollins, Brown and Gunnell
 - 1979 Preliminary Engineering Geologic Report prepared by William Lund
 - 1994 Engineering Geology Reconnaissance Report prepared SHB AGRA
 - 2003 Geotechnical/Geological Consultation Letter prepared by AGECE

2. [Exhibit M – Mine Waste Mitigation Plan \(Appendix A-6\)](#). The applicant submitted correspondence between the City’s 2005 Environmental Coordinator and the applicant’s Civil Engineer. These letter included the following attachments:
 - February 4, 2005 Letter from Mr. Jeff Schoenbacher, Environmental Coordinator
 - December 15, 2005 Letter from Mr. Jeff Schoenbacher, Environmental Coordinator Letter with attachment
 - January 27, 2006 Letter from Mr. Rob McMahon P.E., Alliance Engineering, Inc.

The applicant explains in the Mine Waste Mitigation Plan narrative that they plan to keep on site the mineralized mine waste identified in the various adit sites. Some adit sites and other areas are to be treated in place with a mineral stabilizing additive to prevent metal leaching, covered with topsoil held in place with a geo-grid, and hydro-seeded with a native grasses and flowers seed mixture acceptable to PCMC. Another adit site is to remain in the development area and placed in a sealed liner and covered with a concrete cap or at least 10 feet of clean fill material.

The City is currently reviewing the submitted documents, letters, reports, and will provide to the Planning Department an up-to-date recommendation in the future.

3. [Exhibit R – LEED \(Appendix A-14\)](#). This document prepared by the applicant, simply indicates the applicant’s desire to utilize the LEED ND rating system that integrates the principles of smart growth, new urbanism, and green building. Additional information can be found at www.usgbc.org/leed/nd.

4. [Exhibit T – Excavation Management Plan \(Appendix A-16\)](#), document prepared by Alta Engineering, Rob McMahon, PE. The overall concept of the excavation operations is to manage all excavated materials on site as three (3) zones have been identified by the applicant to accept some of the estimated excess excavated material that is to be generated by the proposed construction. As written in the plan, the fill placement zones should be chosen carefully to minimize impacts on existing vegetation, preserve important vistas, to improve and enhance ski run grades, etc.

The City is currently reviewing the submitted plan and will provide to the Planning Department an up-to-date recommendation regarding their excavation management proposal.

The Planning Department recognized the following:

- The proposed design requires a very large excavation and re-grading of the entire site. The project is located on the mountain side on steep topography. The impacts to the slope and existing topography are substantial and unmitigated. The project as designed will create a very large hole on the site. The project does not step with the natural topography of the site as shown on the Master Plan. As discussed previously, staff finds the project as designed is not in compliance with the concept approved by the City Council during the 1986 Master Plan approval.
- The excavation management plan estimates a total of 960,000 cubic yards of excavation to be relocated from the site. The plan includes moving excavated material up the mountain on a conveyor system to re-grade portions of the ski runs. The submitted plan identifies specific locations for only 415,000 cubic yards. The remaining 625,000 cubic yards are outlined in the plan but not detailed in for the volumes in any one location. No grading plan has been submitted for any of the locations. Staff is not able to determine the depth of filling in any one location and its effects on drainage, mitigating factors, etc. The proposed primary and secondary zones are all on ski runs and other slopes that contains grades that are 25% and greater. One of the secondary zones removes all of the vegetation and places fill (unknown depth) just below the Treasure Hollow and Creole Gulch ski run intersection at the top of the Sweeney Property, zoned ROS, with no areas of designated ski runs.
- The excavation management plan includes the areas on the mountain which will be re-graded. This methodology may create less construction traffic on the adjacent streets. The overall impact of excavating 960,000 cubic yards of existing earth will be a great impact to the site and the existing topography. Staff has not yet seen an analysis of the drainage and soil stability, once the excavated material is placed on site.
- There is significant mine waste on the development site. In 2009 the Park City Environmental Coordinator indicated that he was not in agreement with the applicant's environmental proposal. The development is within the Spiro Drinking Water protection zone. All contaminated materials must be handled to meet local, state, and federal regulations. The letters written between the City's Environmental Coordinator and the applicant were attached as an exhibit on the

September 23, 2009 staff report. The specifics of a proposed plan have not been submitted.

Future Review

Staff recommends that the Planning Commission start familiarizing themselves, if they have not done so yet, with the traffic/transportation documents prepared by the applicant and the City for future review in order to begin addressing Conditional Use Permit criteria (2) traffic considerations including capacity of the existing Streets in the Area, (5) location and amount of off-Street parking, and (6) internal vehicular and pedestrian circulation system. Staff would like to start addressing these items soon; however, staff will respect the Planning Commission's comments provided in June 2016 regarding scheduling as they indicated that the schedule presented then was too ambitious and they would go through the process slowly and methodically. See available documents below currently on the City's website.

- [1st Addendum to Traffic Impact Analysis, PEC \(March 2005\)](#)
- [2nd Addendum to Traffic Impact Analysis, PEC \(April 6, 2005\)](#)
- [3rd Addendum to Traffic Impact Analysis, PEC \(January 7, 2008\)](#)
- [4th Addendum, PEC \(April 2, 2009\)](#)
- [5th Addendum, PEC \(June 18, 2005\) \(parking generation study\)](#)
- [6th Addendum, PEC \(June 25, 2009\)](#)
- [Early \(2008\) Opinion Summary](#)
- [Lowell Ave. Improvements Opinion Summary, Alta Engineering \(April 2, 2009\)](#)
- [Parking Counts, Alta Engineering \(April 15, 2009\)](#)
- [Proposed Parking and Traffic Operations \(July 16, 2009\)](#)
- [Revised Letter, Walkability Study Recommended Improvements and Effects on Traffic of Proposed Roadway Section on Empire Ave. \(June 18, 2009\)](#)
- [Traffic Impact Analysis, PEC \(July 2004\)](#)
- [Treasurer Hill Traffic Review, Fehr & Peers \(July 20, 2005\) \(funded by Park City\)](#)
- [Updated Traffic Review, Fehr & Peers \(December 2005\)](#)
- [Walkability Study Recommended Improvements, PEC \(March 31, 2009\)](#)

Notice

The property was posted and notice was mailed to property owners within 300 feet on May 11, 2016 for the initial 2016 meeting held on June 8, 2106. Legal notice was published in the Park Record according to requirements of the Land Management Code prior to every meeting.

Public Input

Public input has been received by the time of this report. See the following [website](#) with public input received as of April 2016. All public comments are forwarded to the Planning Commission via the staff report link above and kept on file at the Planning Office. Planning Staff will not typically respond directly to the public comments, but may choose to address substantive review issues in subsequent staff reports. There are four (4) methods for public input to the Planning Commission:

- Attending the Planning Commission meetings and giving comments in the public hearing portion of the meeting.
- Preparing comments in an e-mail to treasure.comments@parkcity.org.
- Visiting the Planning office and filling out a Treasure CUP project Comment Card.
- Preparing a letter and mailing/delivering it to the Planning Office.

Summary Recommendations

Staff recommends that the Planning Commission review Conditional Use Permit (CUP) criteria no. 8, 11, and 15 as presented in staff report. Staff recommends that the Planning Commission provide input and direction. Staff recommends that the Planning Commission conduct a public hearing and continue it to the January 11, 2016 Planning Commission meeting.

Exhibits/Links

[Exhibit A - Public Comments](#)

[Exhibit B - Approved Sweeney Properties Master Plan \(Narrative\)](#)

[Exhibit C - Approved MPD Plans](#)

[Exhibit D - Proposed Plans – Visualization Drawings1](#)

| | |
|-------------|---|
| Sheet BP-01 | The Big Picture |
| Sheet V-1 | Illustrative Plan |
| Sheet V-2 | Illustrative Pool Plaza Plan |
| Sheet V-3 | Upper Area 5 Pathways |
| Sheet V-4 | Plaza and Street Entry Plan |
| Sheet V-5 | Building 4b Cliffscape Area |
| Sheet V-6 | Exterior Circulation Plan |
| Sheet V-7 | Parking and Emergency Vehicular Access |
| Sheet V-8 | Internal Emergency Access Plan |
| Sheet V-9 | Internal Service Circulation |
| Sheet V-10 | Site Amenities Plan |
| Sheet V-11 | Usable Open Space with Development Parcels |
| Sheet V-12 | Separation-Fencing, Screening & Landscaping |
| Sheet V-13 | Noise Mitigation Diagrams |
| Sheet V-14 | Signage & Lighting |
| Sheet V-15 | Contextual Site Sections - Sheet 1 |
| Sheet V-16 | Contextual Site Sections - Sheet 2 |

[Exhibit E - Proposed Plans – Visualization Drawings2](#)

| | |
|------------|--------------------------------|
| Sheet V-17 | Cliffscapes |
| Sheet V-18 | Retaining Systems |
| Sheet V-19 | Selected Views of 3D Model - 1 |
| Sheet V-20 | Selected Views of 3D Model – 2 |
| Sheet V-21 | Viewpoints Index |
| Sheet V-22 | Camera Viewpoints 1 & 2 |
| Sheet V-23 | Camera Viewpoints 3 & 4 |
| Sheet V-24 | Camera Viewpoints 5 & 6 |

Sheet V-25 Camera Viewpoints 7 & 8
Sheet V-26 Camera Viewpoints 9 & 10
Sheet V-27 Camera Viewpoint 11
Sheet V-28 Illustrative Plan – Setback

Exhibit F - Proposed Plans – Architectural/Engineering Drawings 1a

Sheet VM-1 Vicinity & Proposed Ski Run Map
Sheet EC.1 Existing Conditions
Sheet SP.1 Site & Circulation Plan Sheet GP.1 Grading Plan
Sheet HL.1 Height Limits Plan
Sheet HL.2 Roof Heights Relative to Existing Grade
Sheet FD.1 Fire Department Access Plan

Exhibit G - Proposed Plans – Architectural/Engineering Drawings 1b

Sheet P.1 Level 1 Use Plan
Sheet P.2 Level 2 Use Plan
Sheet P.3 Level 3 Use Plan
Sheet P.4 Level 4 Use Plan
Sheet P.5 Level 5 Use Plan
Sheet P.6 Level 6 Use Plan
Sheet P.7 Level 7 Use Plan
Sheet P.8 Level 8 Use Plan
Sheet P.9 Level 9 Use Plan
Sheet P.10 Level 10 Use Plan
Sheet P.11 Level 11 Use Plan
Sheet P.12 Level 12 Use Plan
Sheet P.13 Level 13 Use Plan
Sheet P.14 Level 14 Use Plan
Sheet P.15 Level 15 Use Plan
Sheet P.16 Area, Unit Equivalent & Parking Calculations

Exhibit H – Proposed Plans – Architectural/Engineering Drawings 2

Sheet E.1AC2.1 Buildings 1A, 1C& 2 Exterior Elevations
Sheet E.1B.1 Building 1B Exterior Elevations
Sheet E.3A.1 Building & Parking Garage Exterior Elevations
Sheet E.3BC.1 Building 3BC Exterior Elevations
Sheet E.3BC.2 Building 3BC Exterior Elevations
Sheet E.3BC.3 Building 3BC Exterior Elevations
Sheet E.4A.1 Building 4A Exterior Elevations
Sheet E.4A.2 Building 4A Exterior Elevations
Sheet E.4B.1 Building 4B Exterior Elevations
Sheet E.4B.2 Building 4B Exterior Elevations
Sheet E.4B.3 Building 4B Exterior Elevations
Sheet E.4B.4 Building 4B Exterior Elevations
Sheet E.5A.1 Building 5A Exterior Elevations
Sheet E.5B.1 Building 5B Exterior Elevations

| | |
|--------------|---------------------------------|
| Sheet E.5C.1 | Building 5C Exterior Elevations |
| Sheet E.5C.2 | Building 5C Exterior Elevations |
| Sheet E.5D.1 | Building 5D Exterior Elevations |
| Sheet S.1 | Cross Section |
| Sheet S.2 | Cross Section |
| Sheet S.3 | Cross Section |
| Sheet S.4 | Cross Section |
| Sheet S.5 | Cross Section |
| Sheet S.6 | Cross Section |
| Sheet S.7 | Cross Section |
| Sheet S.8 | Cross Section |
| Sheet S.9 | Cross Section |
| Sheet UP.1 | Concept Utility Plan |

[Exhibit I – Applicant’s Written & Pictorial Explanation](#)

- | | |
|-------------------------|------------------------------|
| I. Overview | VII. Lift Improvement |
| II. Master Plan History | VIII. Construction Phasing |
| III. Site plans | IX. Off Site Amenities |
| IV. Special Features | X. Material Board |
| V. Landscape | XI. Submittal Document Index |
| VI. Management | |

[Exhibit J – Fire Protection Plan \(Appendix A-2\)](#)

[Exhibit K – Utility Capacity Letters \(Appendix A-4\)](#)

[Exhibit L – Soils Capacity Letters \(Appendix A-5\)](#)

[Exhibit M – Mine Waste Mitigation Plan \(Appendix \(A-6\)](#)

[Exhibit N – Employee Housing Contribution \(Appendix A-7\)](#)

[Exhibit O – Proposed Finish Materials \(Appendix A-9\)](#)

[Exhibit P – Economic Impact Analysis \(Appendix A-10\)](#)

[Exhibit Q – Signage & Lighting \(appendix A-13\)](#)

[Exhibit R – LEED \(Appendix A-14\) Exhibit S – Worklist \(Appendix A-15\)](#)

[Exhibit S – Excavation Management Plan \(Appendix A-16\)](#)

[Exhibit T – Project Mitigators \(Appendix A-18\)](#)

[Exhibit U – Outside The Box \(Appendix A-20\)](#)

Updated Exhibit V – SketchUp Comparison of CUP (2009) & MPD Study (1985)

Exhibit W – Applicant’s Position Paper December 2016

[November 9, 2016 Staff Report Exhibits](#)

Exhibit W – Applicant’s Draft Presentation

Exhibit X – Building Sections with Measurements

Exhibit Y – SPMP Building Sections (Sheet 18) with Measurements

Exhibit Z – SPMP Midstation Samples Elevations (Sheet 23) w Measurements

Exhibit AA – SPMP Creole Samples Elevations (Sheet 24) w Measurements

Exhibit BB – Treasure Presentation Cliffscapes

Exhibit CC – Applicant’s Computer Renderings (from applicant’s website)

Exhibit DD – Applicant’s Photo Composites (from applicant’s website)

Exhibit EE – Applicant’s Visualizations Sheets V-21 – V-27
Exhibit FF – SPMP Site Plan (Sheet 17) Exhibit GG – Proposed Site Plan
Exhibit HH – SPMP Development Requirements & Restrictions (Sheet 22) - Height

[November 9, 2006 Planning Commission Minutes](#)

Additional Exhibits/Links

[2009.04.22 Jody Burnett MPD Vesting Letter](#)

[Staff Reports and Minutes 2016](#)

[Staff Reports and Minutes 2009-2010](#)

[Staff Reports and Minutes 2006](#)

[Staff Reports and Minutes 2005](#)

[Staff Reports and Minutes 2004](#)

[2004 LMC 50th Edition](#)

[1997 General Plan](#)

[1986.10.16 City Council Minutes](#)

[1985.12.18 Planning Commission Minutes](#)

[1986 Comprehensive Plan](#)

[1985 Minutes](#)

[1985 LMC 3rd Edition](#)

Updated Exhibit 1983 Park City Historic District Design Guidelines

[Parking, Traffic Reports and Documents](#)

MPD Amendments:

[October 14, 1987 - Woodside \(ski\) Trail](#)

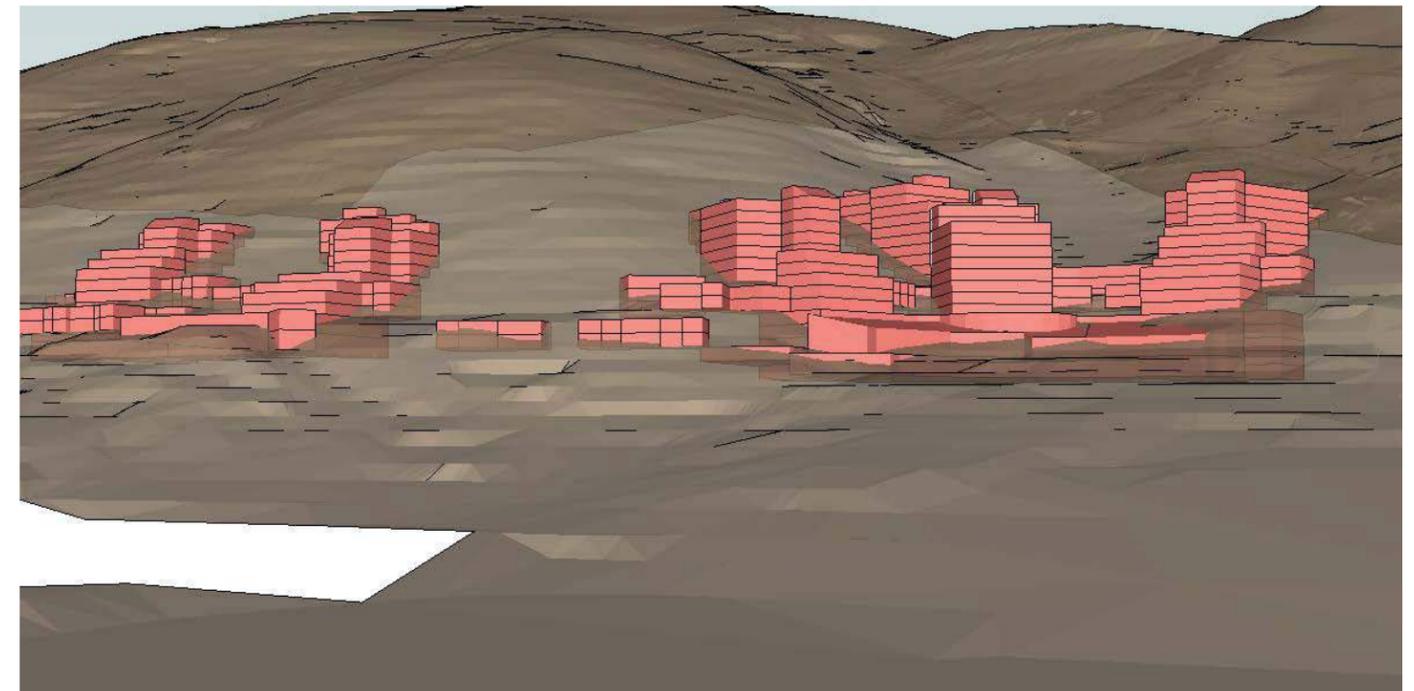
[December 30, 1992 - Town Lift Base](#)

[November 7, 1996 – Town Bridge](#)

9th

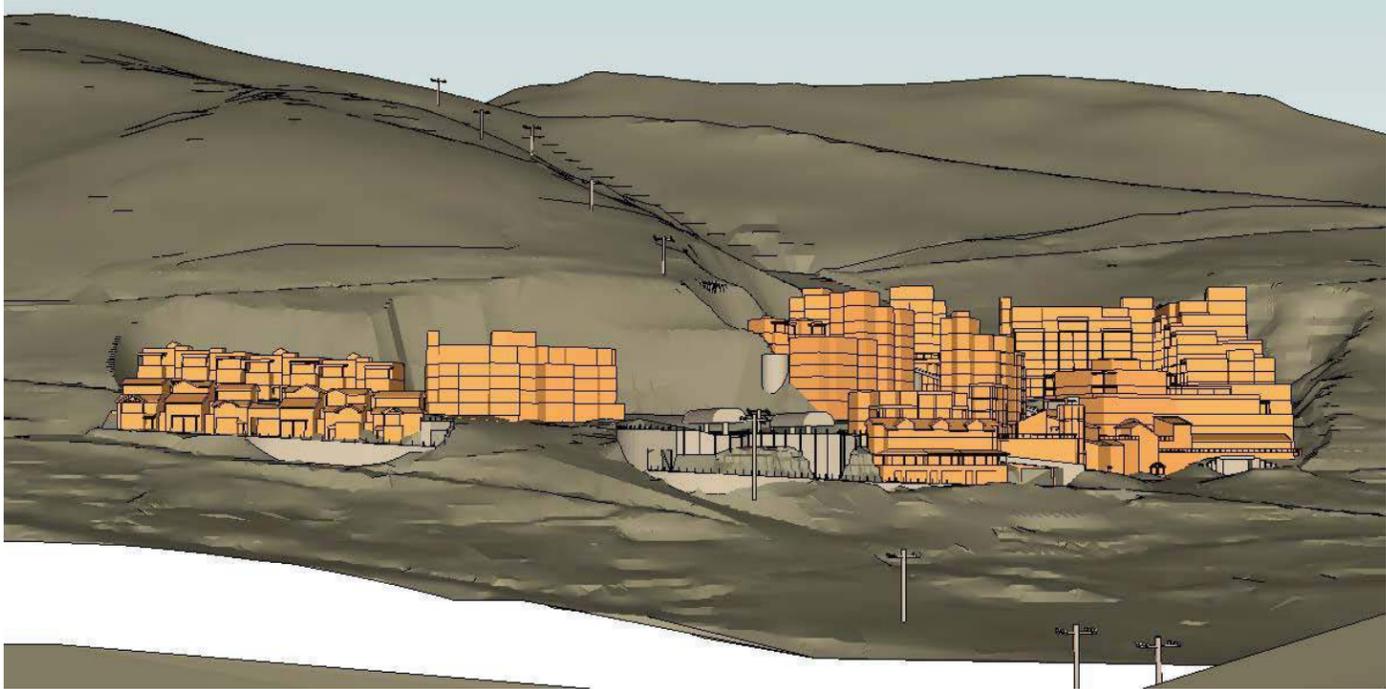


CUP (2009)

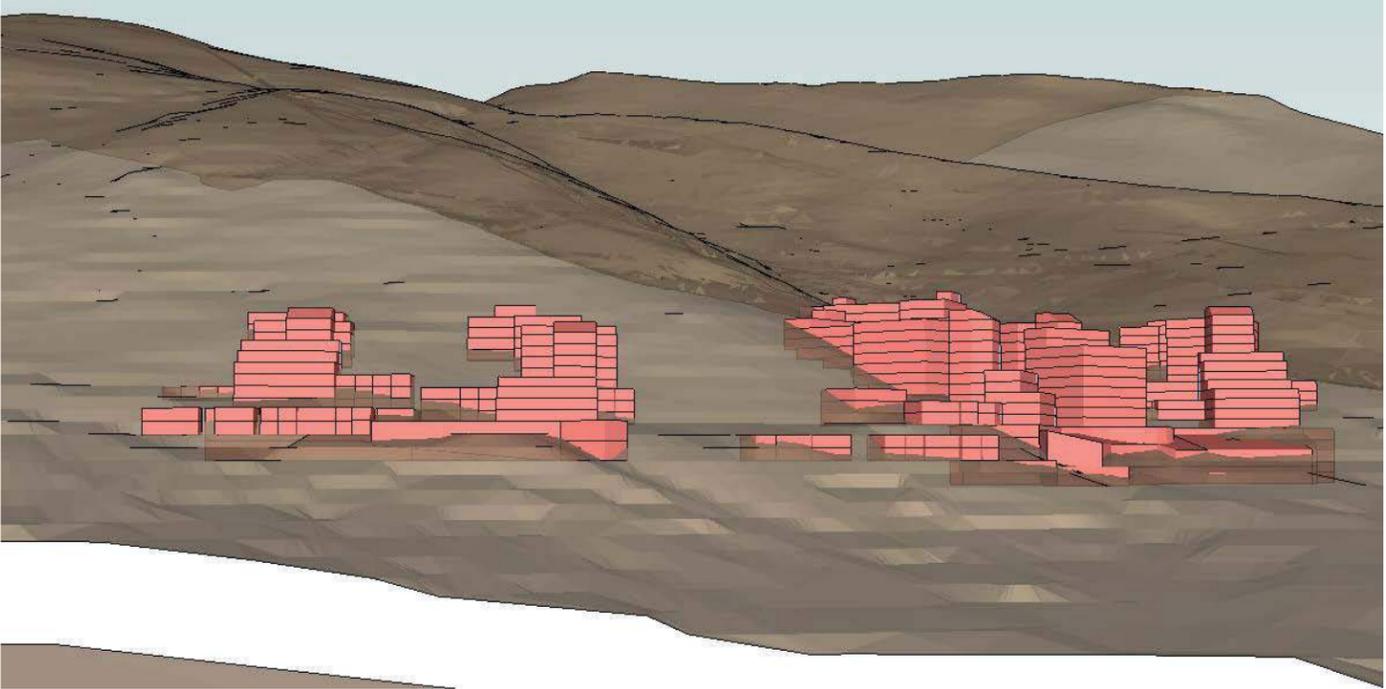


MPD Study (1985)

Above Transit



CUP (2009)

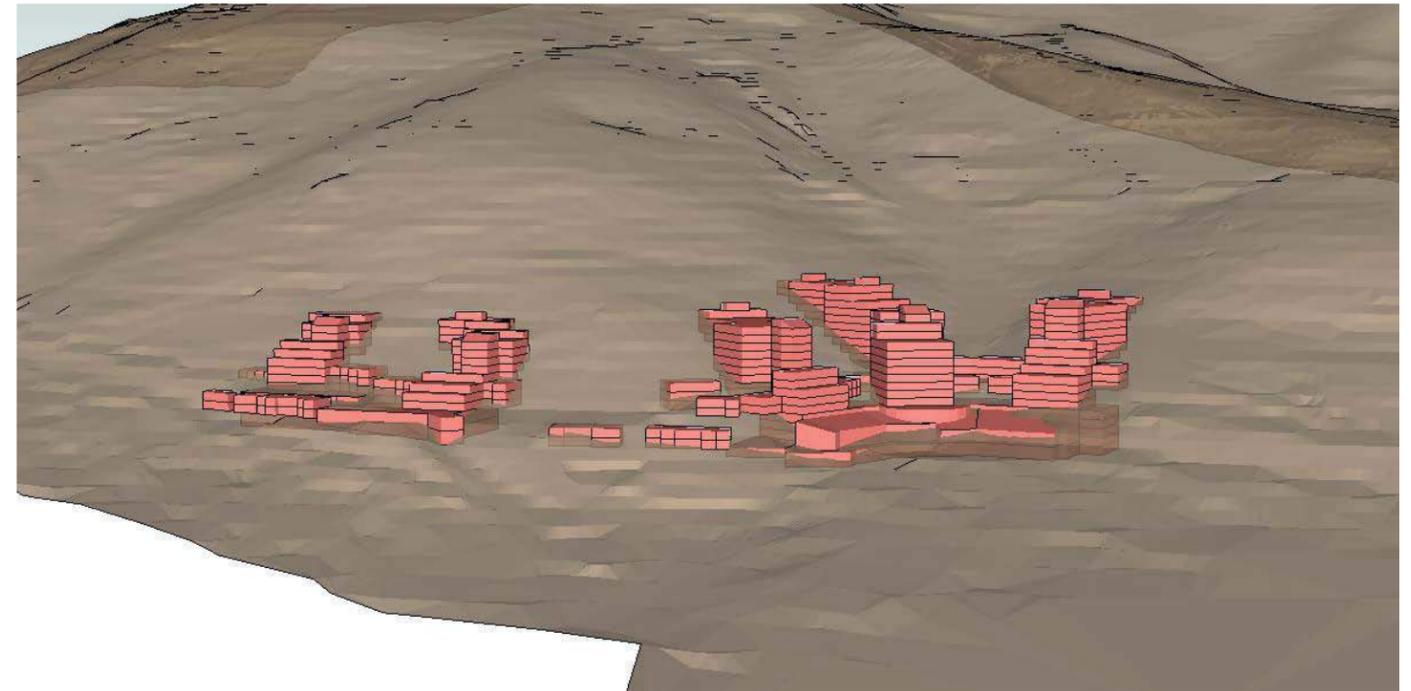


MPD Study (1985)

Aerie

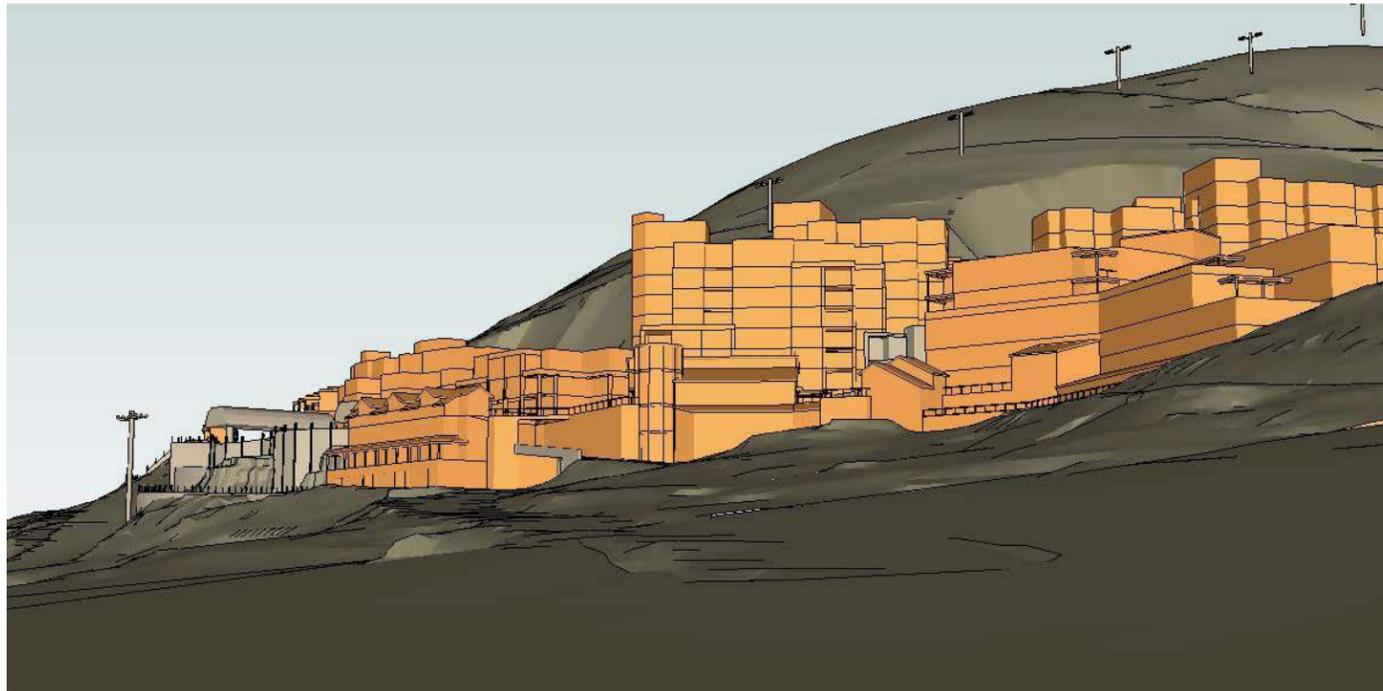


CUP (2009)

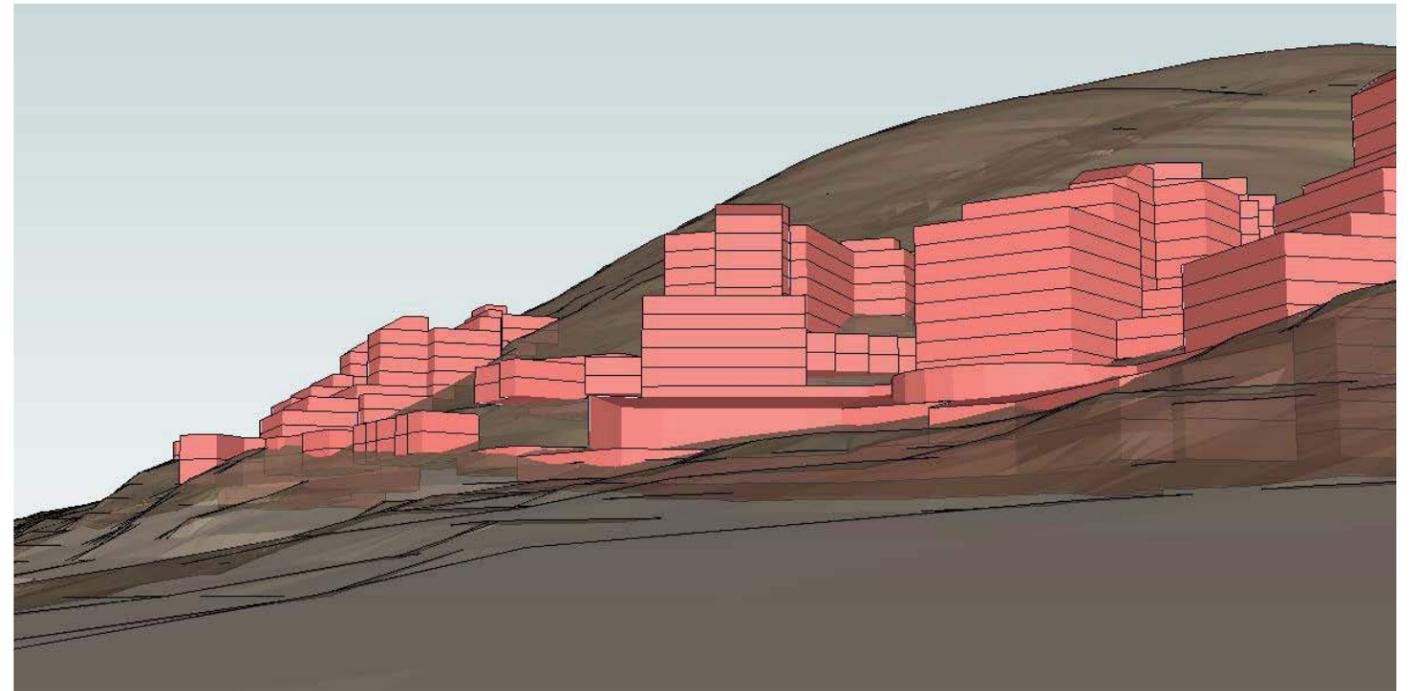


MPD Study (1985)

Lowell Empire



CUP (2009)

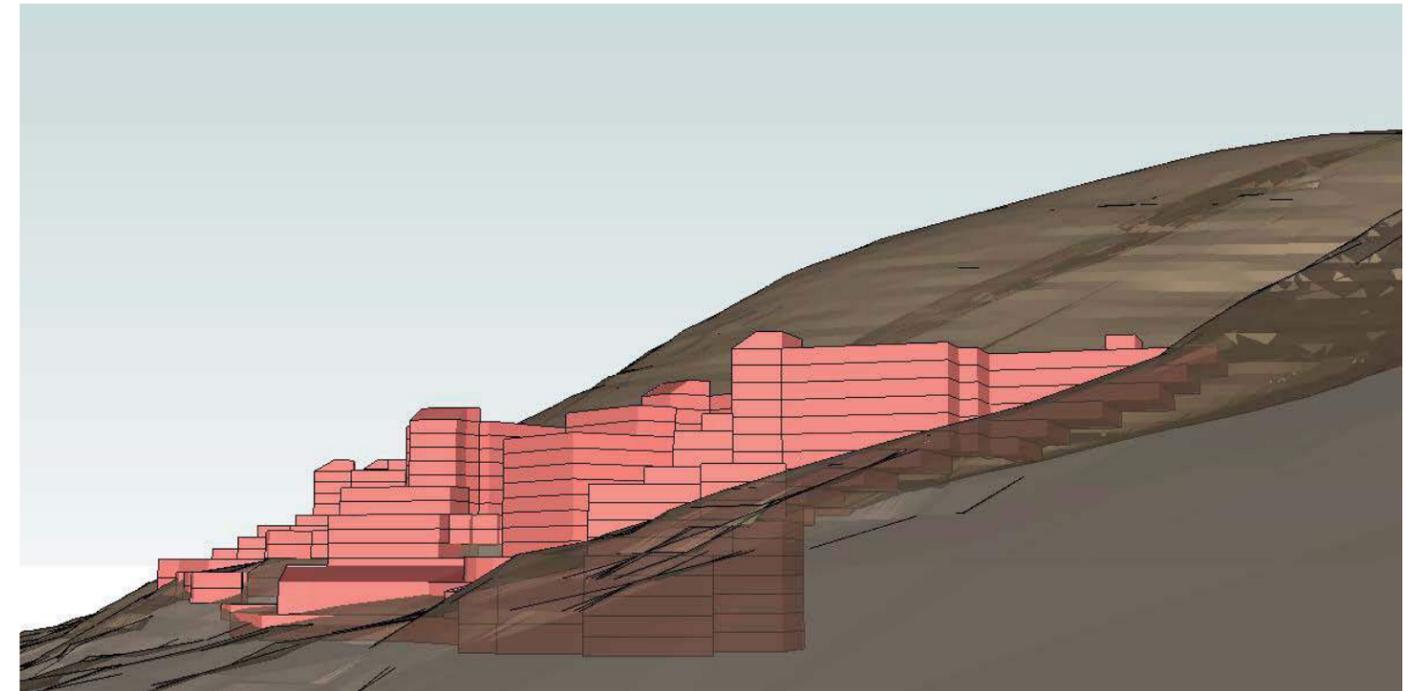


MPD Study (1985)

Northstar

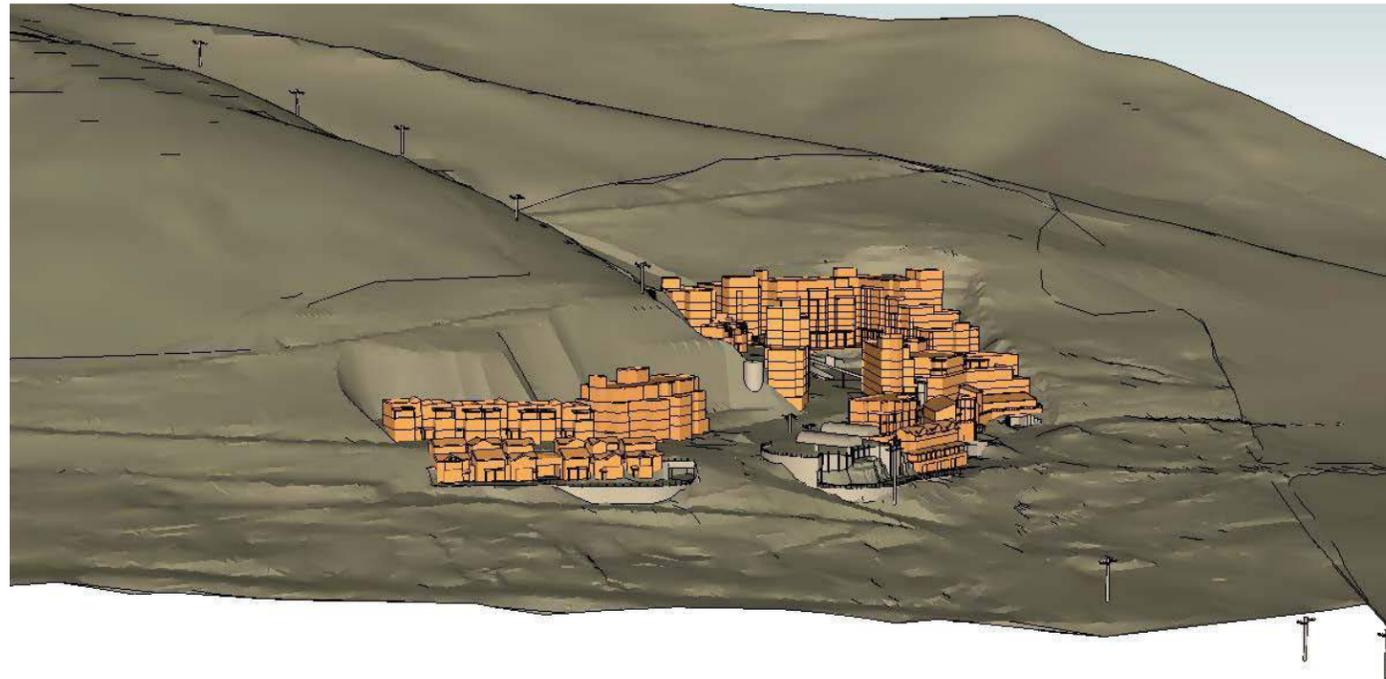


CUP (2009)

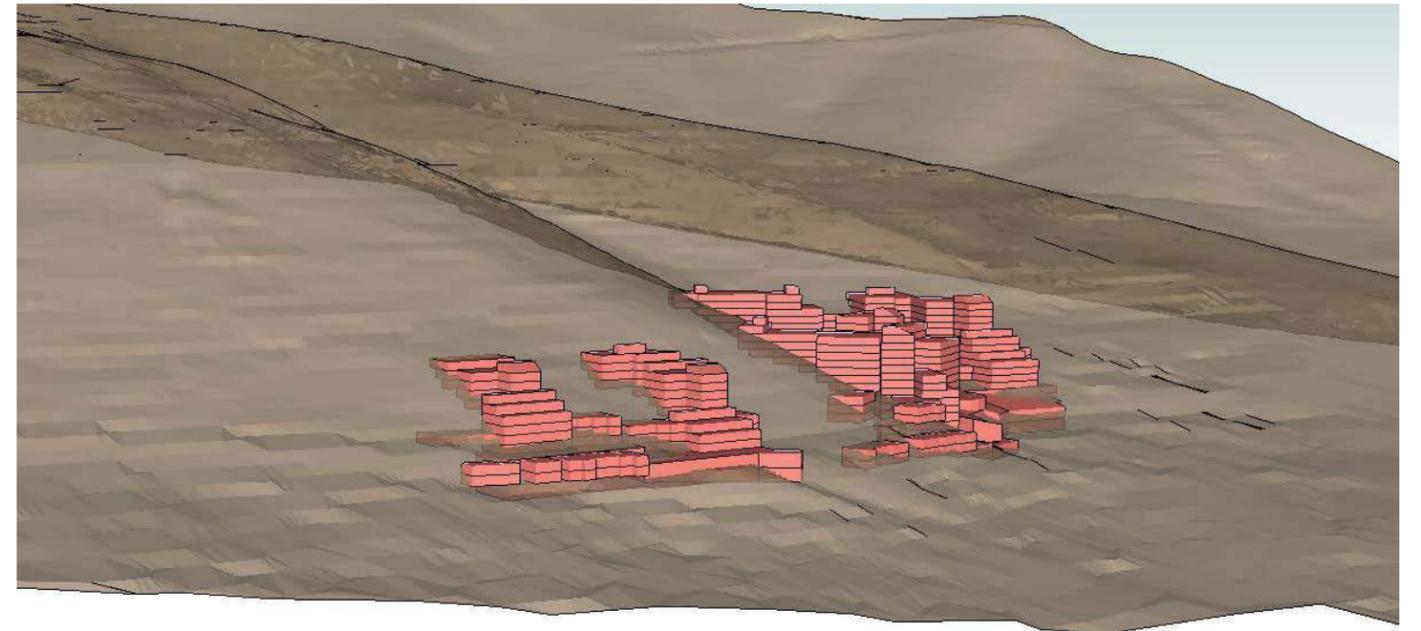


MPD Study (1985)

Ontario



CUP (2009)

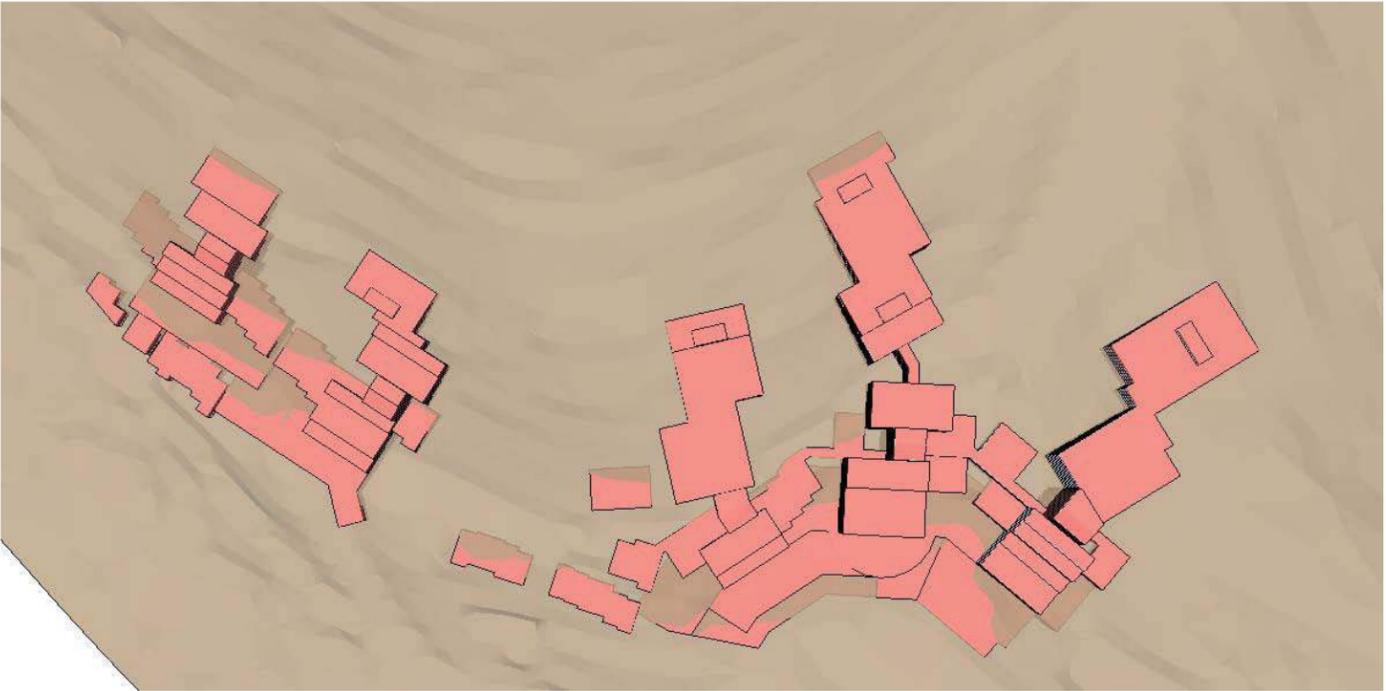


MPD Study (1985)

Plan View

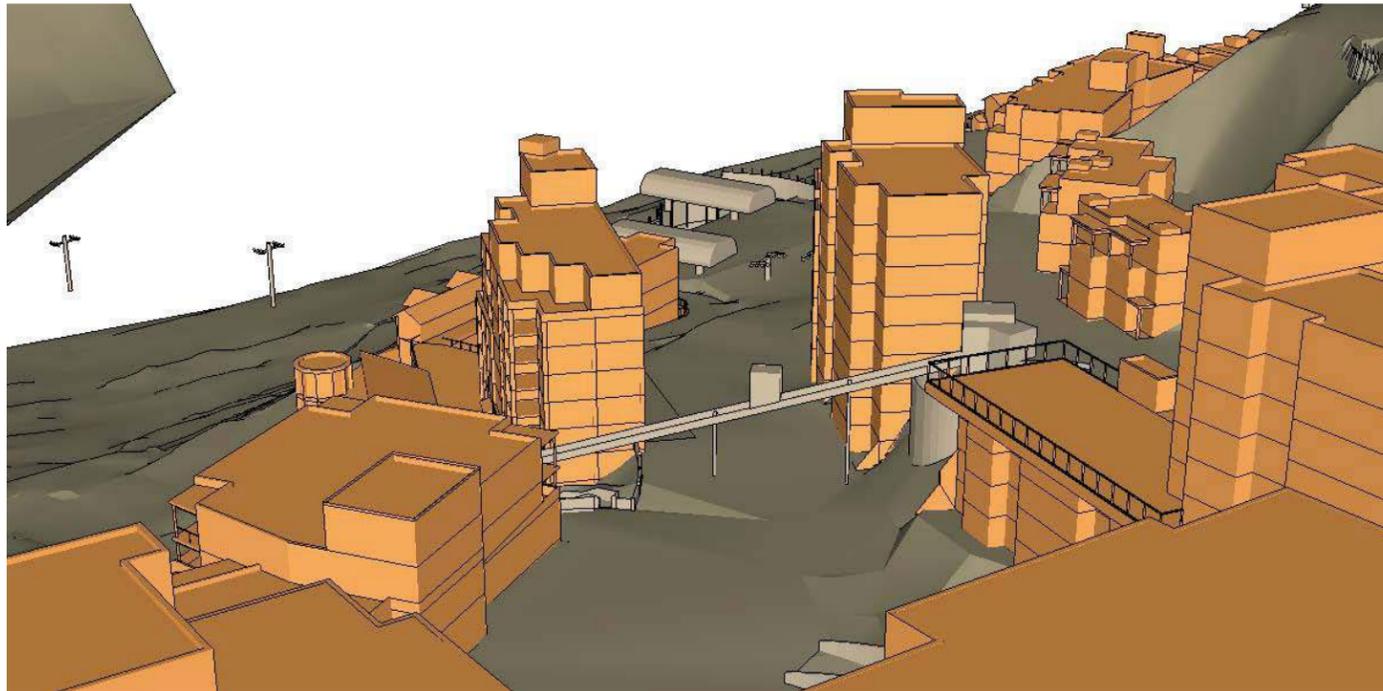


CUP (2009)

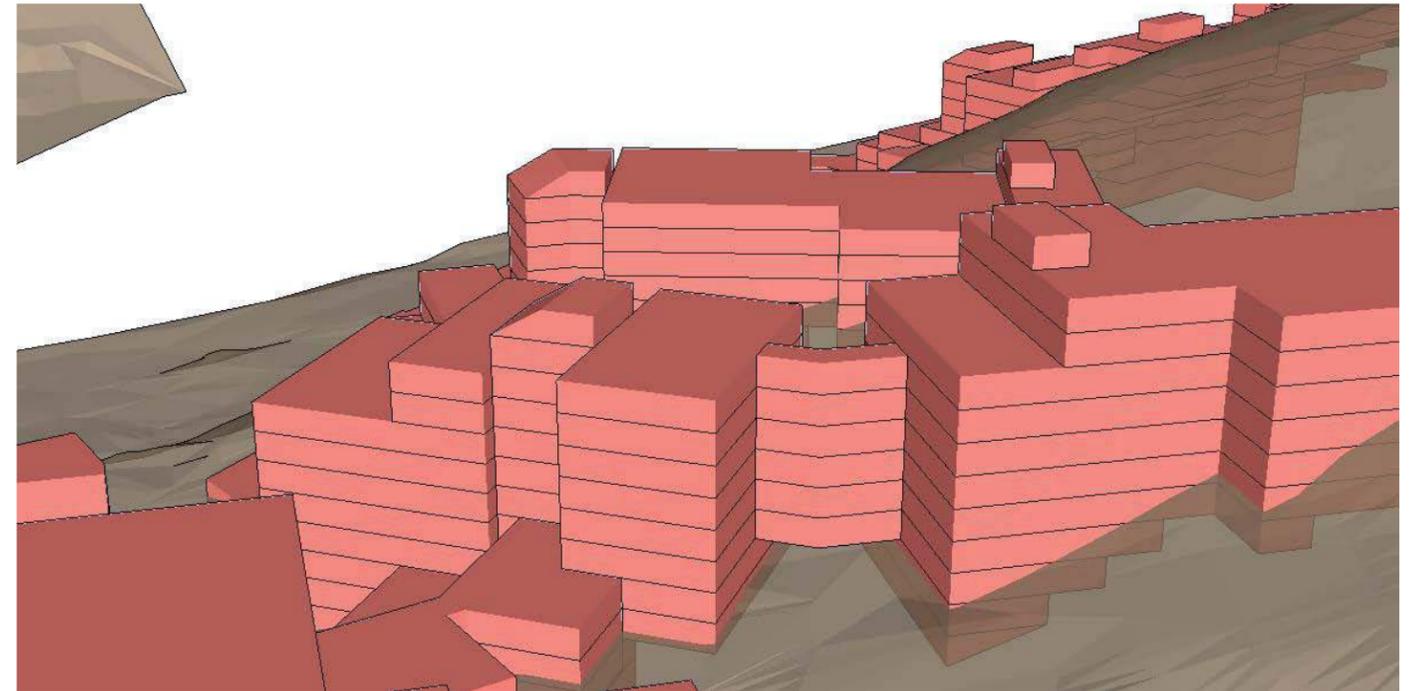


MPD Study (1985)

Ski Run

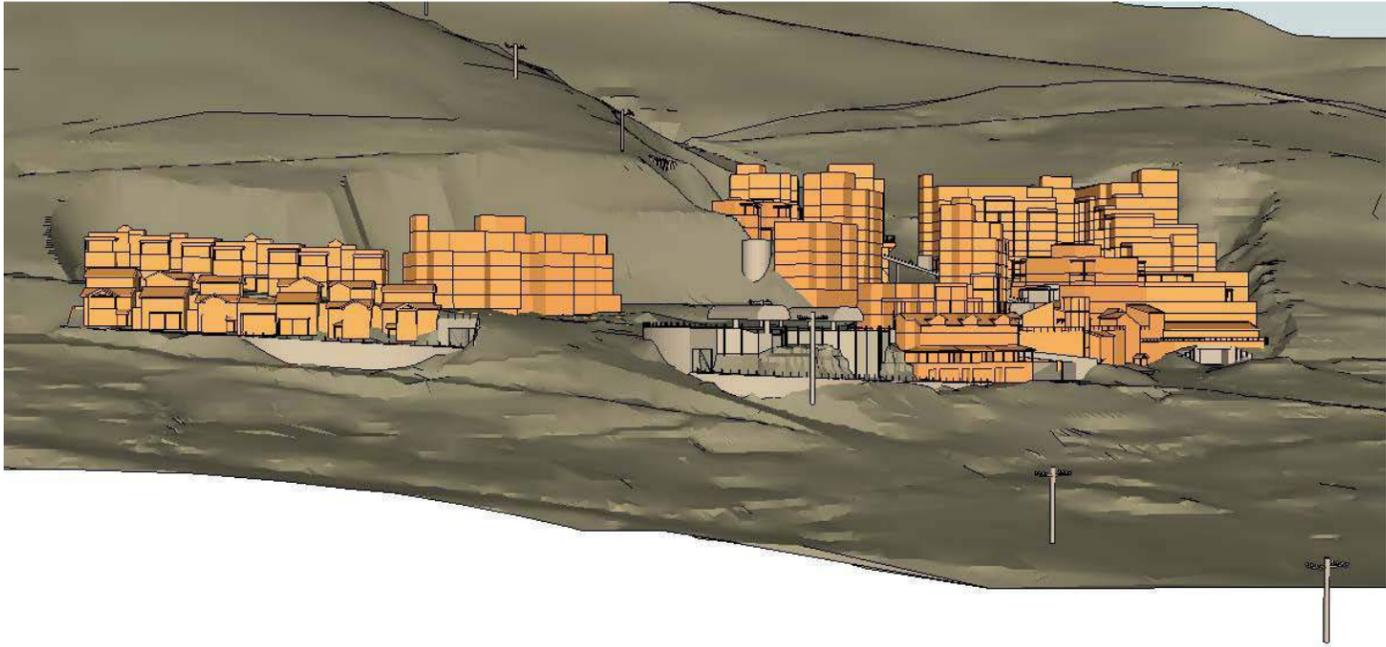


CUP (2009)

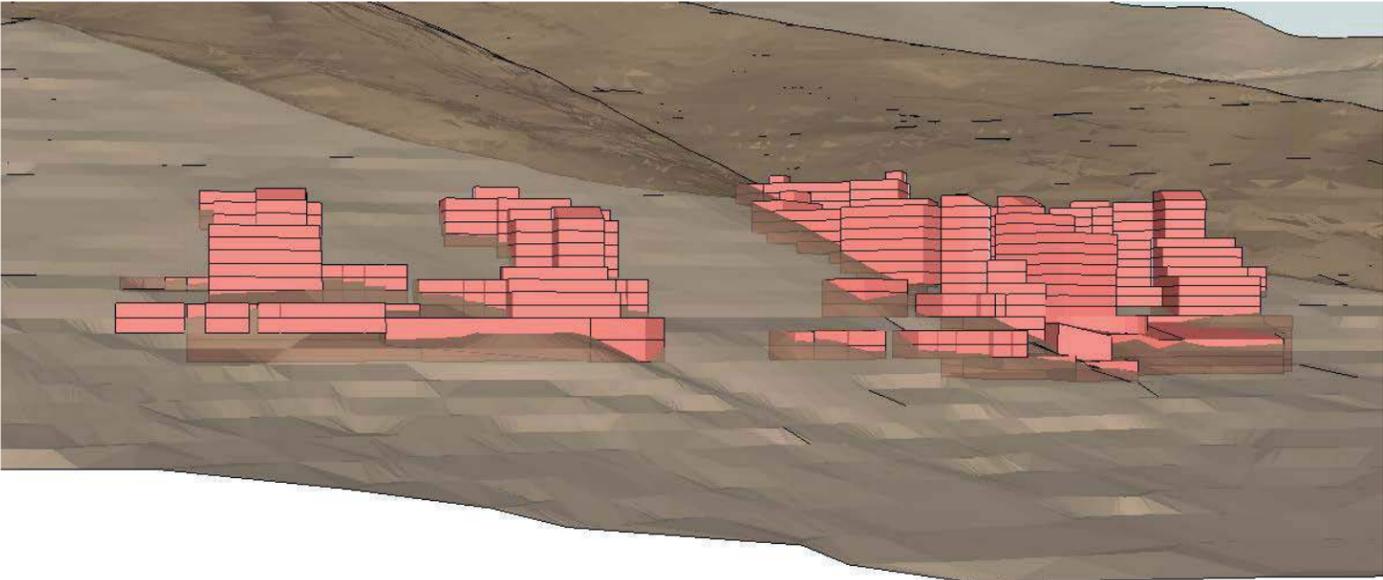


MPD Study (1985)

South Marsac



CUP (2009)



MPD Study (1985)



DATE: December 9, 2016

SUBJECT: Treasure Hill Properties' Square Footage and Volume Are Allowed and Appropriate under the Applicable Standards and Criteria

1. Background.

The Planning Commission Staff Report dated July 13, 2016, recites the applicable background of the Sweeney Properties Master Plan ("SPMP") and current Conditional Use Permit ("CUP") Application. (*See* p. 1-2.)

In April 2016, the Applicant, MPE, Inc., requested that the Planning Commission place its CUP Application for the development of the Hillside Properties back on the Commission's agenda and to review the Application for compliance with the applicable Land Management Code ("LMC") and SPMP Approval. The Planning Commission held public hearings on the CUP Application on June 8, July 13, August 10, and September 14, 2016.

The topics that the Planning Commission directed Staff and MPE to address at these past hearings and at the hearing scheduled for October 12 address portions of several criteria under the Conditional Use Review Process set forth in the applicable 2003 LMC,¹ and in particular address the following criteria:

- 8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;
- 11. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing; and
- 15. Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

The topics also touch upon several of the CUP Standards for Review, including, in particular:

¹ Staff and MPE agree that the Fiftieth Edition of the LMC revised on July 10, 2003 ("2003 LMC") applies to the CUP Application.

2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation; and
4. the effects of any differences in Use or scale have been mitigated through careful planning.

The topics that MPE has discussed with the Planning Commission during the previous hearings in 2016 have also included several of the conditions of the SPMP Approval, including the building height and building envelope limits established by the SPMP Approval.

The CUP Application satisfies the CUP Standards for Review, each of the criteria set forth in the 2003 LMC, and the associated conditions of the SPMP Approval, including the criteria, standards, and conditions covered by the issues addressed during the prior hearings.

Because “[a] conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use,” and because the CUP Application conforms to the conditions of the SPMP Approval and proposes additional mitigating factors to address the impacts of square footage and volume, the Planning Commission should conclude that the CUP Application meets the criteria, standards, and conditions relating to these issues. Utah Code § 10-9a-507(2)(a).

2. The CUP Application Is Efficient.

2.1 Staff Has Failed to Provide an Explanation of Its Conclusions about Efficiency, Despite the Applicant’s Request.

In its July 13, 2016, report, Planning Staff concluded, without any explanation or justification, that the “current application is excessive and inefficient.” (July 13, 2016 Staff Report, p. 105.) In its September 9, 2016, submission, the Applicant noted that this conclusion lacked “any analysis or explanation.” (September 9, 2106 Position Paper, p. 4.)

Instead of providing an explanation or support for its conclusion, in its October 12, 2016, report, Staff again concluded, without providing any explanation, that “inefficient and excess square footage included in the project is creating adverse impacts from the building massing and bulk.” (October 12, 2016 Staff Report, p. 51.) Despite the Applicant’s request for an explanation of what square footage is “excess” and how the current Application is “inefficient,” Staff has failed to provide a response to the Applicant’s request.

2.2 Staff Continues to Repeat Inaccurate Analyses from Prior Staff Reports.

Although Staff has been unable to provide the Applicant with an explanation of its conclusions about efficiency, recent Staff reports have repeated false claims in older Staff reports about the design’s efficiency. In particular, in the Staff Report of September 14, 2016, Staff quoted the following from the report dated September 23, 2009:

Within Exhibit A, staff has calculated the common space, circulation, and accessory space as a percentage of each building.

The percentage is up to 41% in some buildings creating an inefficient design.

(September 14, 2016 Staff Report, p. 97 (quoting [September 23, 2009 Staff Report](#), p. 28).)

But Staff's analyses, as set forth in Exhibit A to the September 23, 2009, report—including Staff's claim about certain buildings having 41% of their square footage in common, circulation, and accessory space—are riddled with errors. Nonetheless, Staff compounded these errors by repeating them verbatim in recent Staff reports, without bothering to verify their accuracy.

First, Staff's September 23, 2009, efficiency calculations are based on imaginary numbers. The claimed 41% figure—which Staff touted in 2009 and continues to tout to this very day—comes from Staff's analysis of Building 1B. ([September 23, 2009 Staff Report, Ex. A, p. 39.](#)) In its analysis, Staff claimed that Building 1B has a total of 60,816 square feet, of which 25,079 square feet—or 41%—is common, circulation, and accessory space. (*Id.*)

Although it is uncertain where Staff obtained these numbers, it did not obtain them from the CUP Application. Attached hereto as Exhibit 1 is a spreadsheet titled "Efficiency Ratios of Above-Grade Spaces," which the Applicant has prepared based on its Application. (*See also* [Sheet P.16 – Area, Unit Equivalent & Parking Calculations, March 20, 2009](#) rev. (setting forth correct building square footages for Staff in early 2009).) As demonstrated by Exhibit 1 and Sheet P.16, Building 1B actually has a total of 44,051 square feet of above-ground space, of which 13,248 is common, circulation, and accessory space. The percentage of such space to the total is therefore 30%, making the building 70% efficient.²

Similar errors are found in Staff's analysis of other buildings, including significant discrepancies for Building 4B, which Staff claimed to have 94,257 square feet of common, circulation, and accessory space³ when, in reality, the building only includes 82,195 square feet of such space. (*Compare* [September 23, 2009 Staff Report, Ex. A, p. 43](#) with [Sheet P.16 – Area, Unit Equivalent & Parking Calculations, March 20, 2009](#) rev.)

Second, even where Staff used square footage information from the CUP Application, it failed to follow industry standards and the City's own Land Management Code when it calculated building efficiencies by including below-ground space, including parking. By including parking square footage in the common, circulation, and accessory category, the City made the Application artificially appear less efficient than it is.

As the Applicant has noted previously, the City's own definition of "Gross Floor Area" provides that "[b]asement Areas below Final Grade are not considered Floor Area." 2003 LMC § 15-15-1.91(A). Thus, such areas should not be included in any analysis of efficiency, which essentially looks at the ratio of residential/commercial unit space to the total amount of space. Penner, Richard H., *et al.*, Hotel and Design Planning and Development (Second Edition,

² Even if parking space is included in the calculations, which, as explained below, is not appropriate, Staff's calculations are off by more than 7,000 square feet—or nearly 15%.

³ Even with parking space included, which is not appropriate, Staff's calculations are still based on incorrect numbers.

December 2012) at 318 (“The relative efficiency of typical hotel floors can be compared most directly by calculating the percentage of the total floor area devoted to guestrooms.”). Of course, including parking space in any such analysis has the obvious effect of putting a thumb on the scale, making the project appear less efficient than it actually is.

The exclusion of parking space from the efficiency calculation is also consistent with industry standards. For example, the Cornell University School of Hotel Administration has explained, in a paper addressing hotel efficiency issues, that “[t]otal hotel gross area is the entire hotel, *excluding parking*.” deRoos, J. A. (2011), *Planning and Programming a Hotel*, at 5 (Fig. 21.3), Cornell University, School of Hospitality Administration (available at <http://scholarship.sha.cornell.edu/articles/310>) (emphasis added). Thus, in determining the efficiency of various hotel designs, the hotel industry excludes parking areas from the calculation of total space, as does Park City’s Land Management Code.

2.3 By Objective, Industry Standards, the Proposed Design Is Efficient.

Measured against common, typical, and objective standards, the design proposed in the Application is highly efficient. As set forth in Exhibit 1, the vast majority of the project’s floors have efficiency ratios greater than 70%, with many exceeding 80%. Common floor-efficiency standards within the hotel industry range between 60% and 75%. *See Penner, Hotel and Design Planning and Development* at 318 (“The relative efficiency of typical hotel floors . . . varies from below 60 percent in an inefficient atrium plan to more than 75 percent in the most tightly designed double-loaded slab.”); *see id.* at 319 (Fig. 15.2).

Thus, even though a small handful of floors have ratios between 60% and 70%, these floors are still well within hotel-industry guidelines. Moreover, the floors in this range of efficiency often have unique uses that explain such lower ratios, such as employee facilities and ski ticket offices.

The very few floors with efficiency ratios less than 60% are explained by necessary hotel amenities and floor-area uses, such as lobbies, employee housing, ballrooms and associated facilities, and laundry/maintenance facilities. Obviously, such uses and facilities are common in hotels and will typically reduce the efficiency of particular floors within the hotel.

Indeed, in terms of overall square footage, the Applicant’s design is efficient by industry standards. A typical hotel design that includes features and amenities similar to those proposed by the Applicant will have a total efficiency ratio in the range of 46–48%. *See Penner, Hotel and Design Planning and Development* at 308 (Fig. 14.6–“Summary Hotel Area Program”). Here, by contrast, the Applicant’s design has an overall efficiency of 68%—far above typical hotel efficiency ratios.

2.4 The City’s Own Analysis Confirms the Applicant’s Design Is Efficient.

Contrary to the City’s unsupported and unexplained statements about “excess” space and inefficient design, the City’s own objective analysis proves otherwise. The City’s [Exhibit W](#), which is an analysis by the City’s Planning Director of the percentage of square footage devoted to circulation and “back of house” uses in other hotels in the City, the Applicant’s design is at least as efficient as the most comparable hotels in the City. According to the City’s own analysis, the Applicant’s design has less circulation and “back of house” than St. Regis, the same as The

Montage, and virtually the same as Marriott Mountainside. Moreover, the Applicant's review of publicly available information suggests the City's analysis includes significant errors that underestimate the percentages for the other hotels, but the City has been unwilling to provide the underlying data for Exhibit W despite repeated requests by the Applicant.

3. The Proposed Parking Is Also Efficient as Possible.

Although parking is specifically addressed under CUP criteria not currently before the Commission, including criteria 5 and 13, attached as Exhibit 2 is an analysis setting forth the average space per parking stall for each of the proposed parking areas in the CUP Application. The Applicant is submitting this information at this time to respond to specific inquiries by the Commission regarding this issue.

The proposed parking design takes into account numerous design requirements and approval parameters in the SPMP, including the need to accommodate all parking needs in underground facilities, the unique topography of the site, fire and safety concerns, service parking and staging requirements, access issues, guest expectations, minimizing neighborhood impacts, and other operational considerations. Exhibit 2 identifies how these considerations have impacted the overall square footage of certain portions of the proposed parking areas.

4. The Current Proposal Is the Same Concept as Approved in the SPMP.

Both the November 9, 2016 (p. 8), and the October 12, 2016 (p. 53), Staff Reports contain the same statement: "*As discussed previously*, staff finds the project as designed is not in compliance with the concept approved by the City Council during the 1986 Master Plan approval" (emphasis added). However, a search of the record for a prior discussion by Staff of compliance with the concept approved by the SPMP yields nothing. This same language is contained, verbatim, in the September 23, 2009, Staff Report, which itself provides no reference to any prior Staff discussions about such issue. ([September 23, 2009 Staff Report](#), p. 34.) Thus, it appears that the City keeps repeating a purported finding for which it has never provided any explanation or analysis.

Moreover, these conclusory statements stand in sharp contrast to Staff's prior conclusion, stated in several other contemporary Staff reports, that "[t]he current Treasure Hill CUP plans comply with the clustered development concept approved with the Sweeney MPD." (See, e.g., March 9, 2005 Staff Report p. 2.)

Unlike Staff's current conclusory statement, as repeated from the September 23, 2009, Staff Report, Staff's earlier conclusion actually refers to the language of the SPMP approval.

Indeed, the SPMP refers to the proposed development "concept" several times. For example, Finding 1 refers to the "proposed clustered development concept." (SPMP Report, p. 2.) The SPMP Report provides additional context for this statement, explaining that

[a] variety of development concepts were submitted during the course of reviewing the proposed Master Plan. . . . The alternative concepts ranged from a "conventional" subdivision approach involving the extension of Norfolk Avenue, to a modern high—rise

concept. The staff, Planning Commission and general public have all favored the clustering of development as opposed to spreading it out. . . . The latest concept developed represents a refined version of the cluster approach originally submitted.

(SPMP Report, p. 7.) The SPMP further provides that “[t]he development concept proposed would cluster the bulk of the density derived into two locations; the Town Lift Mid-Station site and the Creole Gulch area.” (SPMP Report, p. 8.)

Similarly, under the heading “Overall Concept,” the SPMP Report explains that

[t]he concept of clustering densities on the lower portion of the hillside with some transferring to the Coalition properties has evolved from both previous proposals submitted and this most recent review process. . . . After considerable staff discussion and input, the cluster concept was developed. Because of the underlying zoning and resultant density currently in place, the cluster approach to developing on the hillside has been favored throughout the formal review and Hearing process.

(SPMP Report, p. 12.)

Nothing about the Applicant’s proposed design varies from the development concept approved in the SPMP. The application continues to cluster the density in the two locations identified in the SPMP for development. Thus, contrary to Staff’s current unexplained finding, which itself conflicts with Staff’s prior finding, the Applicant’s current design is exactly the same as the concept approved in the SPMP.

BJM:

EXHIBIT 1

EFFICIENCY RATIOS OF ABOVE-GRADE SPACES

| USEABLE SPACE | | EFFICIENCY RATIO BETWEEN 60% & 70% | | EFFICIENCY RATIO < 60% | | | | | | |
|-------------------------|-----------------------|------------------------------------|----------------------|------------------------|--------------------|---------------------------|----------------------------|----------------------------|------------------------------|--|
| BUILDING | | ABOVE GRADE SPACES | | | | | | | | EFFICIENCY |
| BLDG. No. | LEVEL | UNITS * (NET) | COMMON & CIRCULATION | ACCESSORY | PARKING (GROSS) | VESTED COMM. * (GROSS) | SUPPORT COMM. * (GROSS) | MEETING SPACE * (GROSS) | TOTAL ABOVE GRADE (GROSS) | RATIO USEABLE AREA (*) ÷ TOTAL AREA |
| PARKING | Midstn - L1 | | | | | | | | 0 | Below Grade |
| 1A | 3-Story Townhouses | 2,146 | 249 | | | | | | 2,395 | 89.60% |
| | | 2,113 | 234 | | | | | | 2,347 | 90.03% |
| | | 1,776 | 200 | | | | | | 1,976 | 89.88% |
| | | 1,818 | 214 | | | | | | 2,032 | 89.47% |
| | | 2,171 | 229 | | | | | | 2,400 | 90.46% |
| | | 2,206 | 227 | | | | | | 2,433 | 90.67% |
| | SUBTOTAL | 12,230 | 1,353 | 0 | 0 | 0 | 0 | 0 | 13,583 | |
| 1B | L1 | | | | | | | | 0 | Below Grade |
| | L2 | 3,690 | 5,528 | 244 | | | | | 9,462 | 39.00% |
| | L3 | 7,164 | 1,647 | 244 | | | | | 9,055 | 79.12% |
| | L4 | 7,164 | 1,647 | 244 | | | | | 9,055 | 79.12% |
| | L5 | 7,164 | 1,647 | 244 | | | | | 9,055 | 79.12% |
| | L6 | 5,621 | 1,559 | 244 | | | | | 7,424 | 75.71% |
| | SUBTOTAL | 30,803 | 12,028 | 1,220 | 0 | 0 | 0 | 0 | 44,051 | |
| 1C | L1 | | | | | | | | 0 | Below Grade |
| | 3-Story Townhouses | 23,478 | 2,002 | | | | | | 25,480 | 92.14% |
| | SUBTOTAL | 23,478 | 2,002 | 0 | 0 | 0 | 0 | 0 | 25,480 | |
| MIDSTATION TOTAL | | 66,511 | 15,383 | 1,220 | 0 | 0 | 0 | 0 | 83,114 | 80.02% |
| PARKING | Creole | | | | | | | | 0 | Below Grade |
| | 4AB | | | | | | | | 0 | Below Grade |
| | 5AD | | | | | | | | 0 | Below Grade |
| RAMP & ROADWAY | | | | | | | | 0 | Below Grade | |
| 2 | L1 | 433 | 130 | | 3,661 | | | | 4,224 | 10.25% |
| | 2-Story Townhouses | 5,936 | 524 | | | | | | 6,460 | 91.89% |
| | L4 | | | 750 | | 1,397 | | | 2,147 | 65.07% |
| | SUBTOTAL | 6,369 | 654 | 750 | 3,661 | 1,397 | 0 | 0 | 12,831 | |
| EMPLOYEE HOUSING | L1 | | | 2,147 | | | | | 2,147 | |
| | L2 | | | 2,261 | | | | | 2,261 | 0.00% |
| | L3 | | | 2,261 | | | | | 2,261 | |
| | SUBTOTAL | | | 6,669 | 0 | 0 | 0 | 0 | 6,669 | |
| 3A | L1 | | | | | 3,746 | | | 3,746 | 100.00% |
| | SUBTOTAL | | | 0 | 0 | 3,746 | 0 | 0 | 3,746 | |
| 3B | L1 | | 1,333 | 2,816 | | 8,273 | | | 12,422 | 66.60% |
| | L2 | 3,541 | 1,105 | 160 | | | | | 4,806 | 73.68% |
| | L3 | 3,541 | 1,105 | 160 | | | | | 4,806 | 73.68% |
| | L4 | 3,541 | 1,105 | 160 | | | | | 4,806 | 73.68% |
| | L5 | 3,429 | 1,113 | 160 | | | | | 4,702 | 72.93% |
| | L6 | 3,429 | 1,113 | 160 | | | | | 4,702 | 72.93% |
| | L7 | 3,429 | 1,113 | 160 | | | | | 4,702 | 72.93% |
| | L8 | 2,871 | 1,106 | 160 | | | | | 4,137 | 69.40% |
| | SUBTOTAL | 23,781 | 9,093 | 3,936 | 0 | 8,273 | 0 | 0 | 45,083 | |
| 3C | L1 | | 404 | | | 4,054 | | | 4,458 | 90.94% |
| | L2 | 4,189 | 386 | | | | | | 4,575 | 91.56% |
| | L3 | 4,002 | 386 | | | | | | 4,388 | 91.20% |
| | SUBTOTAL | 8,191 | 1,176 | 0 | 0 | 4,054 | 0 | 0 | 13,421 | |
| PLAZA BLDGS. | STAIR | | 450 | 180 | | | | | 630 | 0.00% |
| | POOL | | 792 | | | | | | 792 | 0.00% |
| | SUBTOTAL | | 450 | 972 | | | | | 1,422 | |
| 4A | L1 | | 7,574 | 8,763 | | | | 10,815 | 27,152 | 39.83% |
| | L2 | | 4,654 | 7,299 | | | | 5,312 | 17,265 | 30.77% |
| | L3 | | 377 | 4,663 | | | 10,994 | | 16,034 | 68.57% |
| | L4 | | 2,500 | 4,676 | | | 10,106 | | 17,282 | 58.48% |
| | L5 | 11,290 | 1,735 | 654 | | | | | 13,679 | 82.54% |
| | L6 | 5,941 | 1,237 | 654 | | | | | 7,832 | 75.86% |
| | SUBTOTAL | 17,231 | 18,077 | 26,709 | 0 | 21,100 | 16,127 | 99,244 | | |
| 4B | B1 | | | | | | | | 0 | Below Grade |
| | L1 | | | | | | | | 0 | Below Grade |
| | L2 | | 6,720 | 620 | | | 5,626 | | 12,966 | 43.39% |
| | L3 | 4,700 | 2,687 | 2,218 | | | | | 9,605 | 48.93% |
| | L4 | 13,316 | 6,003 | 10,737 | | | | | 30,056 | 44.30% |
| | L5 | 19,774 | 7,063 | 1,209 | | | | | 28,046 | 70.51% |
| | L6 | 20,192 | 6,277 | 1,209 | | | | | 27,678 | 72.95% |
| | L7 | 14,917 | 5,159 | 3,883 | | | | | 23,959 | 62.26% |
| | L8 | 17,503 | 5,247 | 1,209 | | | | | 23,959 | 73.05% |
| | L9 | 16,354 | 5,153 | 1,209 | | | | | 22,716 | 71.99% |
| | L10 | 15,469 | 4,980 | 1,209 | | | | | 21,658 | 71.42% |
| | L11 | 16,001 | 4,202 | 507 | | | | | 20,710 | 77.26% |
| | L12 | 14,382 | 4,187 | 507 | | | | | 19,076 | 75.39% |
| | SUBTOTAL | 152,608 | 57,678 | 24,517 | 0 | 5,626 | 0 | 240,429 | | |
| 5A | B1 | | | | | | | | 0 | Below Grade |
| | L1 | | | | | | | | 0 | Below Grade |
| | L2 | 2,787 | 4,520 | 97 | | | | | 7,404 | 37.64% |
| | L3 | 5,281 | 1,494 | 214 | | | | | 6,989 | 75.56% |
| | L4 | 5,281 | 1,494 | 214 | | | | | 6,989 | 75.56% |
| | L5 | 5,281 | 1,494 | 214 | | | | | 6,989 | 75.56% |
| | L6 | 5,281 | 1,494 | 214 | | | | | 6,989 | 75.56% |
| | L7 | 5,281 | 1,611 | 97 | | | | | 6,989 | 75.56% |
| | L8 | 2,578 | 1,122 | 214 | | | | | 3,914 | 65.87% |
| | L9 | 2,578 | 1,122 | 214 | | | | | 3,914 | 65.87% |
| | L10 | 2,578 | 1,122 | 214 | | | | | 3,914 | 65.87% |
| | SUBTOTAL | 36,926 | 15,473 | 1,692 | 0 | 0 | 0 | 54,091 | | |
| 5B | 3-Story Townhouses | 9,445 | 1,070 | | | | | | 10,515 | 89.82% |
| | SUBTOTAL | 9,445 | 1,070 | 0 | 0 | 0 | 0 | 0 | 10,515 | |
| 5C | B1 | | | | | | | | 0 | Below Grade |
| | L1 | | | | | | | | 0 | Below Grade |
| | L2 | 3,303 | 1,577 | 304 | | | | | 5,184 | 63.72% |
| | L3 | 6,606 | 2,477 | 304 | | | | | 9,387 | 70.37% |
| | L4 | 6,606 | 2,477 | 304 | | | | | 9,387 | 70.37% |
| | L5 | 6,606 | 2,477 | 304 | | | | | 9,387 | 70.37% |
| | L6 | 3,303 | 1,991 | 97 | | | | | 5,391 | 61.27% |
| | L7 | 3,303 | 1,616 | 304 | | | | | 5,223 | 63.24% |
| | L8 | 3,303 | 1,726 | 194 | | | | | 5,223 | 63.24% |
| | L9 | 3,303 | 1,616 | 304 | | | | | 5,223 | 63.24% |
| | L10 | 3,303 | 1,616 | 304 | | | | | 5,223 | 63.24% |
| L11 | 3,303 | 1,616 | 304 | | | | | 5,223 | 63.24% | |
| | SUBTOTAL | 42,939 | 19,189 | 2,723 | 0 | 0 | 0 | 64,851 | | |
| 5D | B1 | | | | | | | | 0 | Below Grade |
| | L1 | 4,985 | 1,176 | 179 | | | | | 6,340 | 78.63% |
| | L2 | 4,985 | 1,176 | 179 | | | | | 6,340 | 78.63% |
| | L3 | 4,985 | 1,642 | 179 | | | | | 6,806 | 73.24% |
| | L4 | 4,985 | 1,176 | 179 | | | | | 6,340 | 78.63% |
| | L5 | 4,985 | 1,176 | 179 | | | | | 6,340 | 78.63% |
| L6 | 4,985 | 1,176 | 179 | | | | | 6,340 | 78.63% | |
| | SUBTOTAL | 29,910 | 7,522 | 1,074 | 0 | 0 | 0 | 38,506 | | |
| CREOLE TOTAL | | 327,400 | 130,382 | 69,042 | 3,661 | 17,470 | 26,726 | 16,127 | 590,808 | 65.63% |
| PROJECT TOTAL | | 393,911 | 145,765 | 70,262 | 3,661 | 17,470 | 26,726 | 16,127 | 673,922 | 67.40% |

NOTES

Note: Below grade spaces not included in efficiency ratios.

3,880 s.f. lobby for 1 Buildings (38% of total)

Only stairs to units within parking garage are "useable space"

Ticket office, classified "resort accessory"

Added per City's request

Service corridor behind commercial uses, classified "accessory"

Upper story stepped, decreasing useable area

Public access from Lowell
Public restrooms & snack bar

Ballroom lobby, breakout space & prep area (60% of total)
Ballroom lobby, breakout space & prep area (69% of total)
2,604 s.f. employee locker room (16% of total)
2,274 s.f. project offices + 1,168 s.f. ski storage (20% of total)

3,098 s.f. lobby and registration area (24% of total)
1,598 s.f. maintenance facility (17% of total)
9,528 s.f. laundry facility (32% of total)

2,674 s.f. sitting area/lounge for guests (11% of total)

3,119 s.f. lobby for 5 Buildings (42% of total)

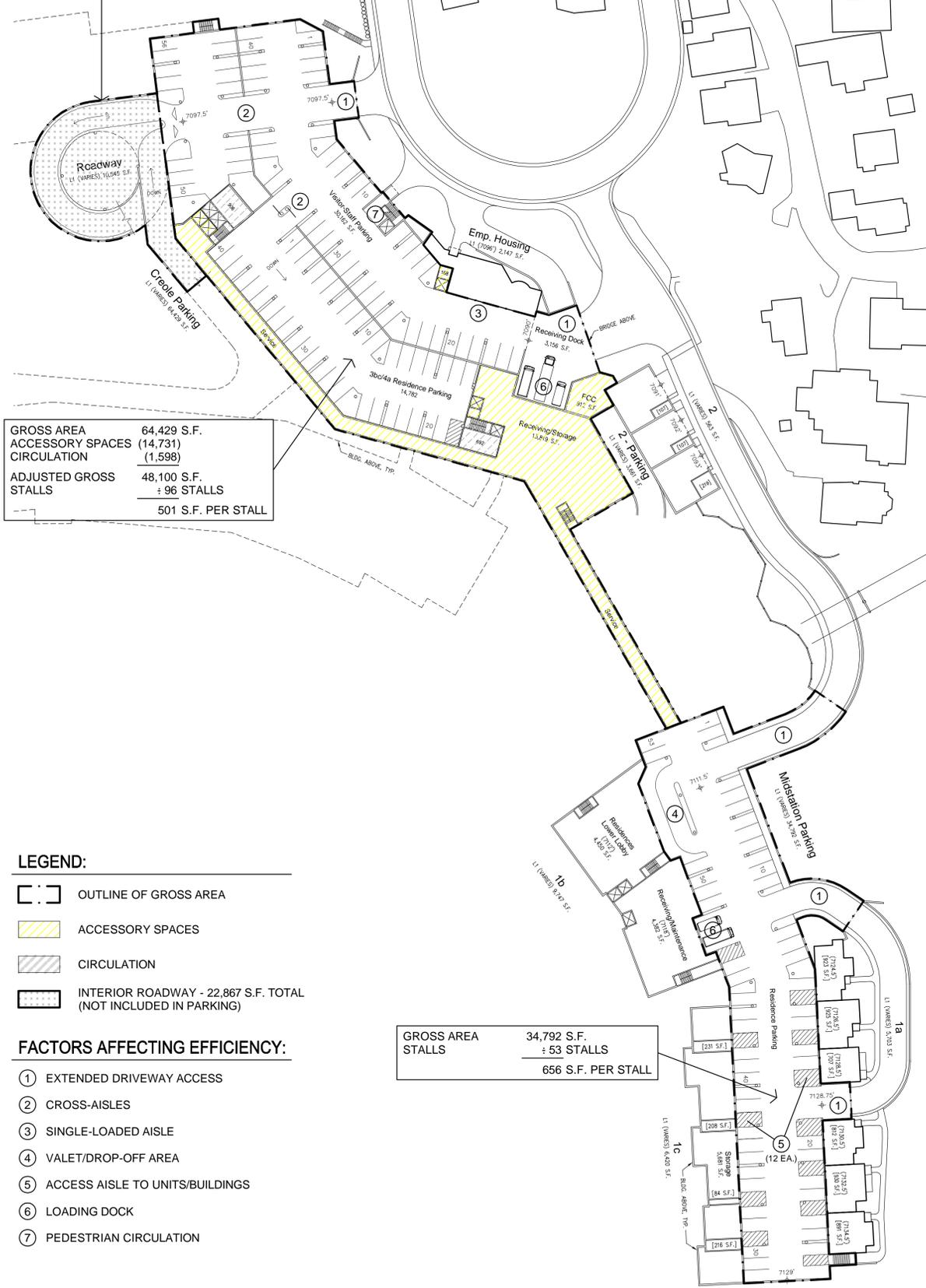
Number of units half of levels below

Number of units half of levels above

Number of units half of levels below

EXHIBIT 2

INTERIOR ROADWAY - 10,545 S.F.



| | |
|------------------|--------------------|
| GROSS AREA | 64,429 S.F. |
| ACCESSORY SPACES | (14,731) |
| CIRCULATION | (1,598) |
| ADJUSTED GROSS | 48,100 S.F. |
| STALLS | ± 96 STALLS |
| | 501 S.F. PER STALL |

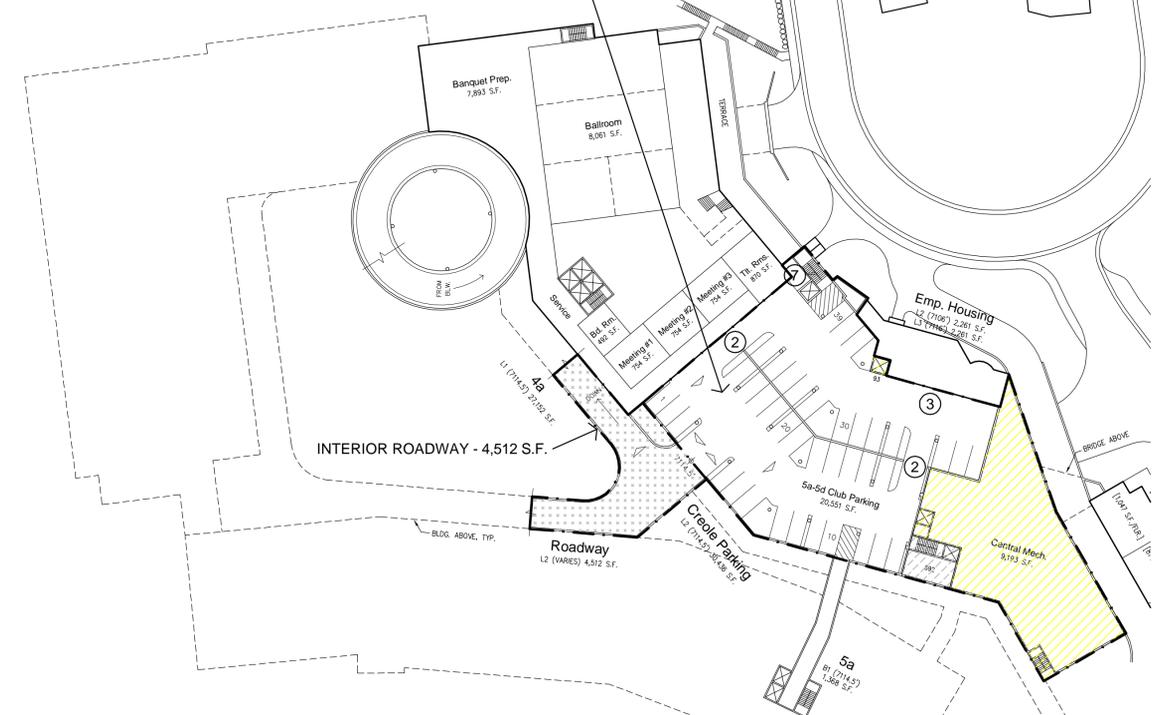
- LEGEND:**
- OUTLINE OF GROSS AREA
 - ACCESSORY SPACES
 - CIRCULATION
 - INTERIOR ROADWAY - 22,867 S.F. TOTAL (NOT INCLUDED IN PARKING)

- FACTORS AFFECTING EFFICIENCY:**
- 1 EXTENDED DRIVEWAY ACCESS
 - 2 CROSS-AISELS
 - 3 SINGLE-LOADED AISLE
 - 4 VALET/DROP-OFF AREA
 - 5 ACCESS AISLE TO UNITS/BUILDINGS
 - 6 LOADING DOCK
 - 7 PEDESTRIAN CIRCULATION

| | |
|------------|--------------------|
| GROSS AREA | 34,792 S.F. |
| STALLS | ± 53 STALLS |
| | 656 S.F. PER STALL |

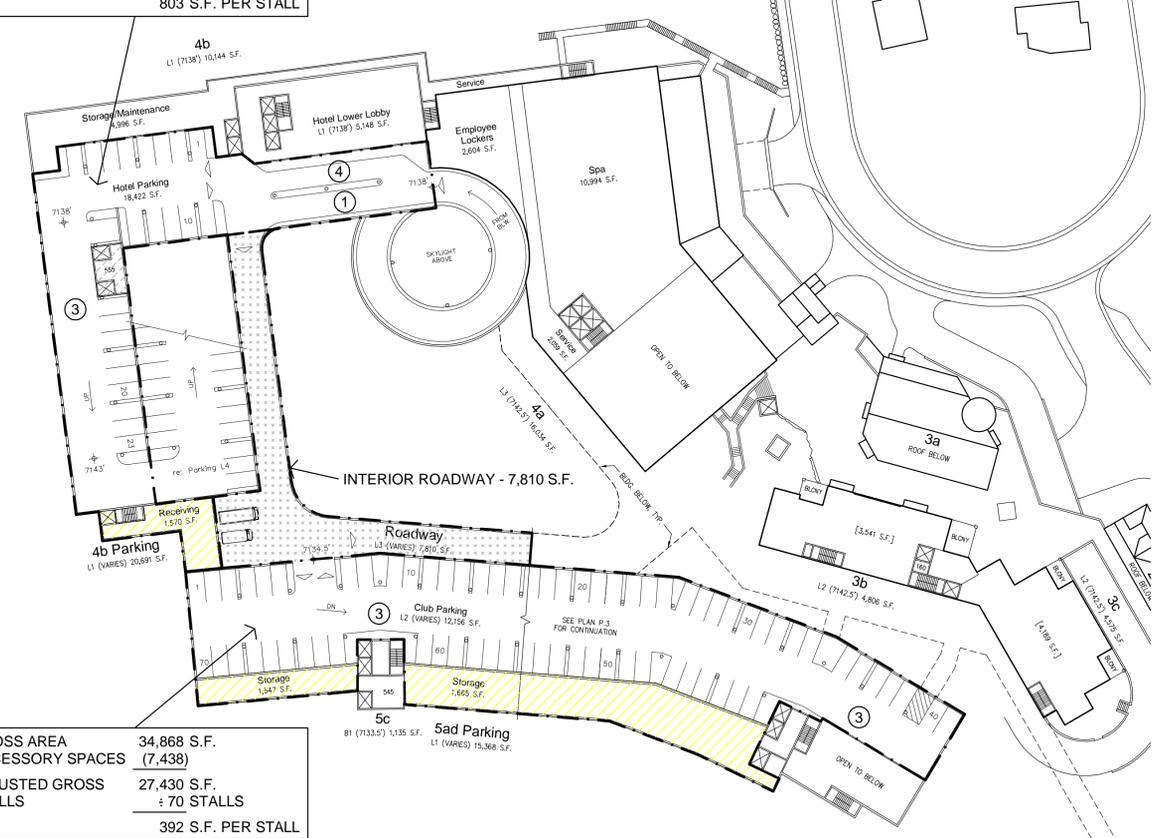
CREOLE & MIDSTATION PARKING - LEVEL 1

| | |
|------------------|--------------------|
| GROSS AREA | 30,436 S.F. |
| ACCESSORY SPACES | (9,193) |
| CIRCULATION | (692) |
| ADJUSTED GROSS | 20,551 S.F. |
| STALLS | ± 39 STALLS |
| | 527 S.F. PER STALL |



CREOLE PARKING - LEVEL 2

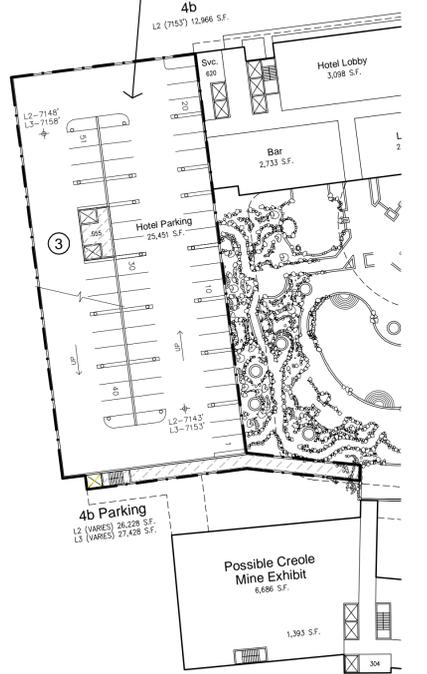
| | |
|------------------|--------------------|
| GROSS AREA | 20,691 S.F. |
| ACCESSORY SPACES | (1,570) |
| CIRCULATION | (699) |
| ADJUSTED GROSS | 18,472 S.F. |
| STALLS | ± 23 STALLS |
| | 803 S.F. PER STALL |



4B & 5AD PARKING - LEVEL 1

| | |
|------------------|--------------------|
| GROSS AREA | 34,868 S.F. |
| ACCESSORY SPACES | (7,438) |
| ADJUSTED GROSS | 27,430 S.F. |
| STALLS | ± 70 STALLS |
| | 392 S.F. PER STALL |

| | |
|------------------|--------------------|
| GROSS AREA | 27,428 S.F. |
| ACCESSORY SPACES | (78) |
| CIRCULATION | (1,899) |
| ADJUSTED GROSS | 25,451 S.F. |
| STALLS | ± 51 STALLS |
| | 499 S.F. PER STALL |



4B PARKING - LEVEL 3 (2 SIM.)

| | |
|------------------|--------------------|
| GROSS AREA | 19,591 S.F. |
| ACCESSORY SPACES | (87) |
| CIRCULATION | (716) |
| ADJUSTED GROSS | 18,788 S.F. |
| STALLS | ± 44 STALLS |
| | 427 S.F. PER STALL |



4B PARKING - LEVEL 4



Planning Commission Staff Report

Application: PL-16-03313
Subject: Historic Kimball Garage- 638 Park Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: December 14, 2016
Type of Item: Administrative - Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Description

Applicant: CPP Kimball LLC represented by Tony Tyler
Location: Historic Kimball Garage at 638 Park Avenue
Zoning: Historic Recreation Commercial (HRC), Heber Avenue Subzone
Adjacent Land Uses: Residential single-family and multi-family; commercial

Summary of Proposal

On September 19, 2016, the Planning Department received an application for a Conditional Use Permit (CUP) for a Private Event Facility at 638 Park Avenue. The applicant is proposing to rehabilitate the existing historic building for Retail and other Commercial uses and add a new addition to the east, adjacent to Main Street. The upper level of the addition will be reserved for a Private Event Facility that extends on to the rooftop terrace. (This CUP will allow for outdoor private events, without requiring individual Administrative CUPs for outdoor events. It also permits the construction of tents on the rooftop terrace, as conditioned.) The Planning Commission reviewed the request for a CUP on November 9, 2016 (see Exhibits 1 & 2), and requested that staff provide additional conditions of approval to regulate noise on the rooftop terrace and balcony, limit the use of tents on the rooftop terrace, and provide a clear mechanism for returning to Planning Commission for review and mitigation of any complaints of failure to comply with the CUP.

Background

Staff presented the background of this site, its recent Historic District Design Review (HDDR), and appeal of the HDDR to Planning Commission on November 9, 2014 ([Staff Report](#), Page 23). On September 19, 2016, the Park City Planning Department received a Conditional Use Permit (CUP) application requesting approval of a Private Event Facility at 638 Park Avenue; the application was deemed complete on September 28, 2016. The space will be on the top level of the new addition bordering Heber Avenue

and Main Street proposed for the historic Kimball Garage. There will be 3,785 square feet of event space, connected to a lobby and warming kitchen, as well as access to a 477 square foot outdoor balcony overlooking the Heber Avenue-Main Street corner and a second level 2,530 square foot rooftop terrace over the historic Kimball Garage. Both the balcony and the terrace will be used as part of the Private Event Facility. The remainder of the rehabilitated historic structure and new development will be divided into commercial spaces on the lower levels.

The Planning Commission reviewed this CUP request for a private event facility that has an outdoor capacity on November 9, 2016, but continued the item to the December 14th meeting in order to provide staff and the applicant additional time to revise the Conditions of Approval. Because this CUP regulates the outdoor rooftop terrace, the applicant will not be required for additional Admin-CUPs for any outdoor events and uses that may utilize the rooftop terrace associated with the private event facility; the CUP also permits the installation of any tents on the rooftop deck. The Planning Commission expressed concern about the following during the November meeting:

- Need for a clear mechanism for the Planning Commission to re-review the CUP should there be any complaints related to noise, traffic, hours of operations, glare, light, etc. that could impact the adjoining residential neighborhood.
- Need for additional restrictions related to outdoor events and noise.
- Parameters for enclosing the rooftop terrace with a tent during events.

The purposes of the Historic Recreation Commercial (HRC) District:

- A. maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,
- B. encourage pedestrian oriented, pedestrian-scale Development,
- C. minimize visual impacts of automobiles and parking,
- D. preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,
- E. provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,
- F. provide a moderate Density bed base at the Town Lift,
- G. allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,
- H. encourage preservation and rehabilitation of Historic Buildings and resources.
- I. maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

Project Description

As described in the November 14, 2016, staff report, the applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street. The historic Kimball Garage and the new addition will be broken into seven (7) retail spaces on the lower level of the new addition as well as the main level of the Kimball Garage and new addition. Because this property is located in the

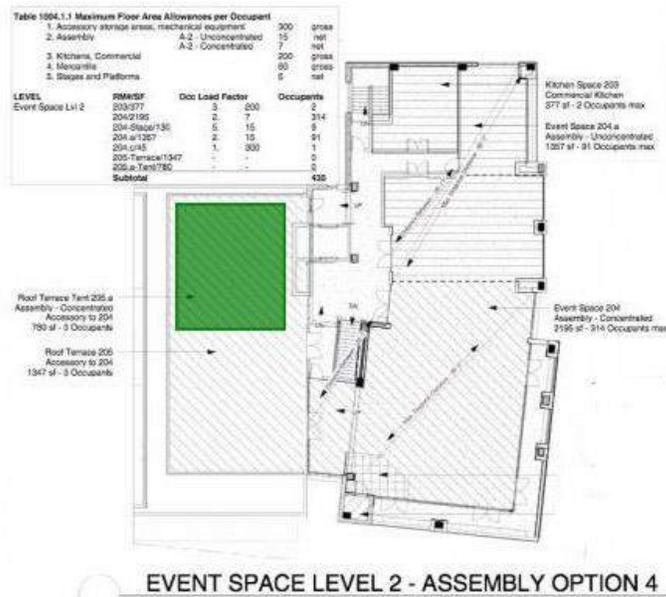
Heber Avenue Subzone, the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District.

On the third level of the new addition, the applicant is proposing a Private Event Facility which includes access to a balcony and rooftop terrace. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street. This CUP will regulate both the interior Private Event Facility as well as this use as the outdoor use of the rooftop space that is part of this use.

The Private Event Facility will be 3,785 square feet on the top floor above the street level commercial spaces as well as the adjacent rooftop terrace, and it will be accessible from an elevator and stair lobby that connects with an entrance on Heber Avenue. The event space spills out onto a 477 square foot balcony that wraps the façade of the new addition along Heber Avenue and Main Street. A second level roof terrace of 2,530 square feet is proposed over the roof of the historic Kimball Garage. The CUP addresses the interior private event space as well as the rooftop terrace and balcony.

The CUP will also regulate any tents installed on the rooftop terrace as part of the Private Event Facility use. The applicant has designed a side-gable tent of 780 square feet. The tent is fifteen in height from its base to the top of its roof peak; it does not exceed the height limitations of this zone. The applicant proposes to install the tent on the northeast corner of the rooftop terrace, where it will be screened from Park Avenue by the barrel-vault roof and the parapet of the historic Kimball Garage. The tent is set back beyond the east-west midpoint of the rooftop terrace to further minimize its visibility and reduce its size. The square outline below shows the placement of the proposed tent. (See Exhibit 3—Tent Specifications & Rendering.)

In the November 9, 2016, staff report for this item, staff had initially recommended that any tents on the rooftop terrace be reviewed on a case-by-case basis through an Administrative CUP (Admin-CUP). Based on the feedback from the Planning Commission and the number of Conditions of Approval staff has introduced related to the tent, staff finds that it would be redundant to require the Admin-CUP. Rather, staff will regulate the tent through this CUP. Because the proposed tent is over 400 square feet, the Building Department will require a fire permit each time the tent is installed; the frequency and duration of the tent's installation will be monitored by the Planning Department through this permit.



The green shading shows the proposed location of the 780 square foot tent to be installed on the rooftop terrace.

Analysis

Staff presented a Land Management Code analysis as part of the November 9th report (See page 385-386 of the report). Staff found that the proposal complied with the lot and size requirements of the HRC Zoning District.

Analysis of Conditional Use Criteria

Conditional Uses are subject to review according to the following criteria set forth in the LMC 15-1-10(E). Staff’s analysis is in *italics*.

(1) Size and location of the Site;

The property consists of 18,550.13 square feet of lot area and is currently developed with the 13,477 square foot historic Kimball Garage building. The applicant is proposing to construct a 19,381 square foot addition proposed on the east side of the existing building. The new addition will include a second level balcony that wraps the corner of the addition along Heber Avenue and Main Street as well as a new roof terrace above the existing Kimball Garage. (The outdoor use is part of the Private Event Facility to be located on the top level of this new addition.) The addition complies with setbacks, height, and density and is appropriate for the size and location of the Site.

No unmitigated impacts.

(2) Traffic considerations including capacity of the existing Streets in the Area;

The property is currently accessed by Main Street along the east side, Heber Avenue along the south side, and Park Avenue along the west side. The previous owners of the building—the Kimball Art Center—regularly used the entire building and adjacent plaza

area on the southeast corner of the site for events, approved through Special Events permits. Because the current owner will be reducing the overall size of the event space compared to that of the previous owners, they did not conduct a transportation study as they found there would be reduced demand based on the size of the proposed event space.

Staff has met with the Building Department to discuss occupancy load. The occupancy load is based off of square footage, number of sanitation fixtures, and the seating plan. In talking with the Park City Fire Marshall, the exterior spaces would not necessarily be included in the occupancy load. Should they be enclosed, they would then need to be reviewed to determine a safe occupancy load.

During their occupancy of the building, the Kimball Art Center frequently held large events both through the special events license, Master Festival License, and private events. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people (including the use of the rooftop terrace and balcony), a 32% reduction from past event occupancy loads; however, the frequency of the private events will increase due to this use.

Staff does not anticipate that the new event space will generate any new traffic to the site, compared to that of the Kimball Art Center's past events. Many of the applicant's anticipated events—meetings, cocktail receptions, weddings, etc.—will likely not meet the maximum occupancy load of the space; however, others will. Guests and patrons using the Private Event Space will have to abide by the same parking and access restrictions as other visitors to Main Street and this development. Depending on the size of the event, staff anticipates seeing an increase during load in and load out; however, staff also finds that the Main Street area along with China Bridge are adapted for these influxes of traffic.

Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following:

- A. Use of City personnel;
- B. Impacts via disturbance to adjacent residents;
- C. Traffic/parking;
- D. Disruption of the normal routine of the community or affected neighborhood; or
- E. Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.

Any organized activity involving the use of, or having an impact, on the above shall require a permit as outlined in Section 4-8-2 of the Municipal Code. Event levels are determined based on degree of City Impacts including but not limited to anticipated

attendance, use of amplified sound, transportation and parking, use of public or private property and admission. Any event may be defined as the following if they meet one or more of the listed criteria in a given category:

- F. Level One Event: The attraction of crowds up to 199 people; OR necessity for rolling street closure.*
- G. Level Two Event: The attraction of crowds between 200 and 499 people; OR necessity for partial street closure.*
- H. Level Three Event: The attraction of crowds greater than 500 people; OR necessity for street closure.*

As proposed, the event facility can hold approximately 480 people, which would be considered a Level Two Event. Staff finds that the applicant shall request a Special Events Permit for any event that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP as outlined in Condition of Approval #2.

Because any event at full occupancy—480 people—could be considered a Level Two Event, staff has incorporated additional conditions of approval consistent with those used by the Special Events Department for Level Two Special Events, including:

#3. Guests and patrons using the Private Event Facility shall abide by the same parking and access restrictions as other visitors to Main Street.

#4. The applicant, at its cost, shall incorporate such measures to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the events will be conducted with due regard for safety are provided and paid for by the applicant.

#5. The owner shall orient the activities so as to minimize sound impacts to the neighborhoods and the applicant shall monitor the following:

- a. The owner, or his/her designee, shall provide on-site management for each aspect of the event.*
- b. The owner shall be responsible to ensure that the sound system maintains level adjustments not to exceed provisions of the Park City Noise Ordinance for the outdoor use.*

No unmitigated impacts, as conditioned.

(3) Utility capacity:

A final approved storm water, utility, and grading plan is required prior to issuance of a building permit. All above ground utility infrastructure (transformers, ground sleeves, telephone boxes, cable boxes, etc.) are to be located on the property and behind the new addition, on the northwest corner of the site. The applicant has proposed to install mechanical equipment and utilities, such as heating and air conditioning units, on the rooftop of the new addition. The transformer will be located to the west of the new addition, in the rear yard.

Staff recommends Condition of Approval #9 requiring that a Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that are satisfying this condition. Condition of Approval #10 addresses the screening of any ground-level or rooftop equipment from public view.

No unmitigated impacts, as conditioned.

(4) Emergency vehicle Access;

Primary emergency access for the building is from Main Street, Heber Avenue, and Park Avenue. The entrance to the upper level event space will be limited to a lobby located along Heber Avenue. **No unmitigated impacts.**

(5) Location and amount of off-Street parking;

As previously noted, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to an FAR of 1.5; the applicant is proposing a total FAR of 1.45 following completion of the new addition. Any traffic generated by the private event facility will likely find parking in one of the City's public parking lots such as the Flagpole lot or China Bridge, along Park Avenue, or in one of the nearby private parking garages at Summit Watch, Gateway Mall, or the Town Lift. The applicant anticipates that most event attendees will be shuttled from off-street lodging or will be lodging in Old Town.

Staff has found that no new traffic will be generated to this site; however, staff does anticipate an increase in traffic at this intersection during load-in and load out. Staff finds that the Main Street area along with China Bridge are adapted for these influxes of traffic.

Staff has incorporated Condition of Approval #3 emphasizing guests and patrons using the Private Event Facility shall abide by the same parking and access restrictions as other visitors to Main Street.

No unmitigated impacts.

(6) Internal vehicular and pedestrian circulation system;

The upper level Private Event Facility will be accessed from Heber Avenue. Event attendees will enter a lobby with stairs and an elevator that lead to the upper level event space. (Access, circulation, and lobby areas are permitted within Storefront property.) There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.**

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
*The use is consistent with neighboring structures as it primarily faces Main Street and Heber Avenue. The upper level event space will feature a balcony that wraps around the Heber Avenue and Main Street façade of the new addition and overlooks the Main Street and Heber Avenue intersection. On the west side, the event space will lead out onto a rooftop terrace above the historic Kimball Garage. The roof terrace is setback from the parapet of the historic building in order to minimize its appearance but also further separate it from neighboring uses. On the west side, the roof terrace will be separated from the residential neighborhood along Park and Woodside by the barrel-vault roof of the Kimball. As previously noted, this CUP regulates the outdoor space as part of the Private Event Facility. **No unmitigated impacts.***

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;
The historic Kimball Garage is a horizontally-oriented one-story brick block structure that consumes nearly half of the property. The new addition complements the visual and physical qualities of the historic building. Building components and materials used on the new addition, such as the proposed wood and brick materials as well as the windows and doors, are of scale and size to those found on the original building. Window shapes, patterns, and proportions found on the historic building are reflected in the new addition. The addition is visually separated from the historic building on the Heber Avenue façade by a transitional element and its change of materials; this is not an in-line addition. Though the historic building is characterized by its large, low mass, the new addition has been broken up to reflect the general width of buildings on lower Main Street and complement the rhythm and pattern of the streetscape. Additionally, the lower level commercial spaces will maintain the Heber Avenue and Main Street-orientation of the buildings.

The BOA found that the proposed removal of one of the barrel-vaulted roof forms to accommodate the rooftop terrace was appropriate largely because the terrace would not be visible from the public right-of-way. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, heaters, tents, and other temporary structures from detracting from the invisibility of the deck. Staff finds that the use of umbrellas, portable heaters, and similar improvements may be used during the private events; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use as indicated by Condition of Approval #11.

LMC 15-4-6 Temporary Structures, Tents, and Vendors, only allow tents and other temporary structures to be installed for a duration no longer than 14 days and no more than 5 times per year on the same Property or Site. As previously discussed, the Building Department will have to re-evaluate the space's occupancy load should a tent be installed on the rooftop terrace based on the space's sanitation facilities, seating, food service/handling, snow removal, etc. The Building Department also requires a fire permit for the installation of any tent equal to or greater than 400 square feet, the

square footage measured from the outside dimensions. Planning Staff finds that they can track the frequency and duration of the tent through a fire permit.

The Planning Commission expressed concern about the use of tents on the rooftop terrace, especially given the BOA's input to maintain the rooftop terrace as invisible from the public right-of-way. Staff finds that any tent to be constructed temporarily on the rooftop terrace shall be setback from the parapet and the south edge of the roof terrace in order to limit its visibility and mass from the street. The tent is not anticipated to increase the occupancy of the existing building. Staff finds the following Conditions of Approval should be included with this approval:

#12. Any proposed tent will require approval of an Administrative CUP. As such, the review shall find:

- a. The tent shall not increase the occupancy of the existing building.
- b. The tent shall be setback from the parapet along Heber Avenue and the south edge of the roof terrace in order to limit its visibility and mass from the street.
- c. The tent shall be solid in color; however, it may have some clear openings such as windows or doors. The colors and materials of the tent shall complement the building and shall not contain reflective material.
- d. The tent shall be no more than fifteen feet (15') in height.
- e. The tent's installation and/or disassembly shall not require the use of any machinery such as cranes, compressors, or generators. Hand portable air compressors may be used to operate power tools as necessary.
- f. The tent shall not be erected for more than four (4) consecutive days up to fifteen (15) times per year (including setup and removal), except for the once a year in which the tent shall be allowed to be erected for ten (10) days (including setup and removal). The number of days the tent is up shall not exceed 70 days, as required by LMC 15-4-16.
- g. The applicant is responsible for coordinating the necessary building permits with the Building Department for all plans for tents.

As previously described, the applicant has proposed a tent specifically designed for this site. It is fifteen feet (15') in height and 780 square feet. The tent will be installed on the north half of the rooftop terrace, above the northeast corner of the historic Kimball Garage. The location of the tent minimizes its visibility from Heber and Park Avenues as it will be shielded by the barrel-vault roof form to the west and the parapet of the historic building to the south. The new addition to the east will make the tent invisible from Main Street. (See Exhibit 3.)

No unmitigated impacts, as conditioned.

(9) Usable Open Space:

*There are no open space requirements specified for this development. The property meets the required front, rear, and side yard setbacks except for the historic property. Per LMC 15-2.5-6 historic structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid non-complying structures. The lot is 18,550 square feet and the total building footprint is 13,260 square feet, which leaves 5,290 square feet of footprint. Staff finds that approximately 28.5% of the lot is open space. **No unmitigated impacts.***

(10) Signs and lighting:

*All new signs and exterior lighting must be in conformance with the Park City codes and the Design Guidelines for Historic Districts and Historic Sites. Signs require a separate sign permit issued by the City. All exterior lighting is designed to be down directed and shielded. Any existing exterior lighting not in compliance with the Code shall be modified prior to final certificate of occupancy. **No unmitigated impacts, as conditioned.***

(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing:

Lower Main Street is characterized by large multi-story mixed use developments containing commercial and residential condominium uses. The physical design of the new development is consistent with the surrounding larger-scale developments such as the Town Lift and Summit Watch. Staff has reviewed the proposed addition for compliance with the architectural character, volumetric design, and height of this structure compared to its neighbors on Lower Main Street. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors. The mass of the building is largely hidden by breaks in its façade that reflect the typical widths of historic Main Street facades, similar to the design of the surrounding buildings.

The proposed use is similar to the ancillary uses associated with the former Kimball Art Center located on the same site. The private event space will serve as a support facility for the community, providing private event space for meetings and other events throughout the year. The private event space will support the tourism economy of Main Street and bring additional visitors to Old Town.

No unmitigated impacts, as conditioned.

(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site:

The Private Event Facility includes the interior space on the top level, the outdoor rooftop deck above the historic Kimball Garage, and the balcony along Main and Heber. There are no expected additional impacts on adjacent residents/visitors or Property Off-Site. The applicant anticipates that noise will be similar to the existing use of the building and glare will be minimized based on the site lines and overhang on the Heber Avenue balcony. Staff has added Condition of Approval #22 to mitigate the impacts of any unanticipated light pollution within a year's time of the Certificate of Occupancy.

Additionally, no dust or odor should be created by this use. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance. Staff recommends the following Conditions of Approval to address these issues:

#13. The typical hours of operation shall be limited to 8am to midnight.

#14. The rooftop terrace shall not be used for activities that may create dust or odor, such as but not limited to cooking.

During the November 9, 2016, meeting, the public expressed concern about the amount of noise that could be generated by allowing outdoor events on the proposed roof terrace. The Park City Noise Ordinance prohibits Liquor Licensed Premises, such as this private event space, from creating excess amplified sound. The Municipal Code defines amplified sound as speech, music, and other sound projected or transmitted by electronic equipment including amplifiers, music, or other sound projected or transmitted by electronic equipment including amplifiers, loud speakers, microphones, or similar devices or combinations of devices which are powered by electricity, battery, or combustible fuel and which are intended to increase the volume, range, distance, or intensity of speech, music, or other sound. Staff finds that the following Conditions of Approval should be added to further mitigate noise:

#15. The owner shall not permit or provide either live or recorded amplified music within the interior of the space without first having closed all exterior doors and windows of the licensed premise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.

#16. Outdoor speakers shall not cause to exist any loud speaker or sound amplification equipment on the outdoor balcony or rooftop terrace associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining. Music is limited from 11am to 10pm and may not emanate beyond the boundaries of the rooftop terrace or balcony as regulated by the Noise Ordinance.

#17. In accordance with Park City Municipal Code 6-3-9, any violation shall be measured at a distance of at least twenty-five feet (25') from the source of the device upon public property or within the public right-of-way or twenty-five feet (25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighting scale. A measurement of 65 decibels shall be considered to be excessive and unusually loud.

No unmitigated impacts, as conditioned.

(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas:

*Service and delivery volumes to the building will increase based on the use of the private event space; however the applicant does not anticipate additional trucks or more frequent service than the previous art center, and no additional loading areas are proposed. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.***

(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities:

The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480. The applicant has not yet submitted a condo plat application to subdivide the spaces and sell them to private entities, which is reflected in Condition of Approval #18.

In order to ensure the successful operation and management of the Private Event Facility in complying with this Conditional Use Permit, staff has added Condition of Approval #23 in which to permit opportunity for this application to be re-reviewed by the Planning Commission should any additional issues or concerns be found:

#23. In the event that sustained complaints are registered with the City regarding this use, including complaints of glare, noise, smoke, odor, grease, or traffic, the applicant will be required to provide mitigation of the nuisance within 30 days. The Planning Department shall investigate these complaints and take measures necessary to ensure that the property owner complies with the requirements of this permit. Additionally, the Planning Department may bring forward these complaints to the Planning Commission, as deemed necessary by the Planning Director, in order to further mitigate the nuisance. Should the nuisance not be mitigated, the Planning Commission may deem this CUP void.

Complies as Conditioned.

(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

*The property is located within the Sensitive Lands Ordinance boundary and flood plain Zone A. Staff recommends including a Conditions of Approval regarding the removal of soils and that the building is located in a FEMA flood Zone A (lowest occupied floor shall be at or above the base flood elevation). **No unmitigated impacts, as conditioned.***

(16) Reviewed for consistency with the goals and objectives of the Park City General Plan; however, such review for consistency shall not alone be binding.

*Goal 16 of the General Plan expresses the need to maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors. In addition to investing in the rehabilitation of one of the City's Landmark historic buildings, the private event space will support the tourism industry while also catering to locals needs. The private event space utilize Main Street as a backdrop and setting for the events while also providing an opportunity to draw more locals to Main Street. The events will draw visitors to Main Street, as well, and encourage visitation to the diverse business mix of the street-level commercial uses. The private event space will contribute to our goals of maintaining and enhancing the long term viability of the Historic District. **Complies.***

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notices were mailed to property owners within 300 feet on November 26, 2016. A legal notice was published in the Park Record on October 22 and November 26, 2016. No public input has been received at the time of this report.

Public Comment

Public input was taken as part of the November 9th Planning Commission meeting, see Exhibit 2—Minutes. Staff has also received written public input, included as Exhibit 4.

Alternatives

1. The Planning Commission may approve the Conditional Use Permit for the Private Event Facility as conditioned or amended, or
2. The Planning Commission may deny the Conditional Use Permit for the Private Event Facility and direct staff to make Findings for this decision, or
3. The Planning Commission may continue the discussion on the Conditional Use Permit for Private Event Facility to a date certain to allow the applicant and Staff to provide additional information or analysis.

Significant Impacts

There are no significant fiscal or environmental impacts from this application that have not been mitigated with conditions of approval.

Recommendation

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Findings of Fact

1. The Condition Use Permit is for a private event facility at 638 Park Avenue .
2. The property is located in the Historic Recreation Commercial (HRC) District).
3. Per 15-2.5-10he property is located in the Heber Avenue Subzone; the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District.
4. The property is bound by Main Street to the east, Heber Avenue to the south, and Park Avenue to the west. These are all public streets.
5. The Park City Council also approved a Kimball on Main plat amendment for this property at 638 Park Avenue on May 19, 2016. The plat has not yet been recorded.
6. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
7. The Historic District Design Review (HDDR) for the new development was originally approved on June 20, 2016. The applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street.
8. An appeal of the HDDR was submitted by the Park City Museum and Historical Society on June 30, 2016. The Board of Adjustment met on October 18, 2016, denied the appeal and upheld staff's determination. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, tents, and other temporary structures from detracting from the invisibility of the deck.
9. The BOA found that the rooftop deck addition above the historic Kimball Garage was appropriate as the Design Guidelines permit construction of rooftop additions and the addition would remove one of the two barrel-vaulted roof forms. The addition was permissible because it was generally not visible from the primary public right-of-way along Heber Avenue.
10. On March 20, 2016, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio (FAR) of 1.5. In 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). The proposed FAR of the proposed project with the new addition is 1.45.
11. In 1984, the Kimball Art Center had a Gross Floor Area of approximately 13,477 square feet, which generates an FAR of 0.7. The 0.7 FAR is less than the 1.5 FAR that they paid for as part of the Main Street Parking Special Improvement District.
12. The minimum front/rear yard setbacks are ten feet (10'). The historic structure has a 1-foot front yard setback along Park Avenue and the new addition will have a 12-foot rear yard setback along Main Street.
13. Gross Commercial Floor Area includes all enclosed Areas of the building, but excludes parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas

below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area.

14. Because 638 Park Avenue is located in the Heber Avenue Subzone, the FAR limitation of the HRC District does not apply to gross commercial floor area; however, the parking exception is only for an FAR up to 1.5.
15. The minimum side yard setbacks are five feet (5'); the historic structure currently has a side yard setback of 6 feet along the north property line. The new addition will have a 5-foot setback from the north property line.
16. On corner lots, such as this, the side yard setback that faces a street is ten feet (10'). The historic structure has a 1-foot side yard setback along Heber Avenue; the new addition will have a 10-foot setback along Heber Avenue.
17. Per LMC 15-2.5-4, a project may have only one vehicular Access from Park Avenue, Main Street, Heber Avenue, Swede Alley, or Deer Valley Drive, unless an additional Access is approved by the Planning Commission. The applicant has provided vehicular access along Heber Avenue.
18. Per LMC 15-2.5-5, no structure, including a tent, shall be erected to a height greater than 32 feet from Existing Grade; the height of the roof on the new addition is a maximum of 30.5 feet.
19. Per LMC 15-2.5-5(A)(3), mechanical equipment and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building; the applicant is proposing parapets incorporated into the design of the street front facades in order to reduce the visibility of rooftop mechanical equipment. These parapets do not exceed 4.5 feet in height, for a maximum height of 35 feet above existing grade.
20. Per LMC 15-2.5-5(A)(5), an Elevator Penthouse may extend up to eight feet (8') above the Zone Height. The applicant has proposed an elevator penthouse on the northwest corner of the new addition. The height of the Elevator Penthouse does not exceed 38 feet in height from Existing Grade.
21. Per LMC 15-2.5-6, Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures.
22. Per LMC 15-2.5-8, all exterior mechanical equipment must be screened to minimize noise infiltration to adjoining Properties and to eliminate visual impacts on nearby Properties, including those Properties located above the roof tops of Structures in the HRC District. The applicant has proposed to locate mechanical equipment on the rooftop of the new addition, screening it with parapets and other rooftop screening.
23. Per LMC 15-2.5-9, all Development must provide an on-Site refuse collection and loading Area. Refuse and service Areas must be properly Screened and ventilated. Refuse collection Areas may not be located in the required Yards. The applicant has proposed an acceptable refuse storage area along the north property line, adjacent to Main Street.
24. On the third level of the new addition, the applicant is proposing a Private Event Facility. The Private Event Facility will include 3,785 square feet of interior space on the top floor above the street level commercial spaces as well as a 477 square foot outdoor balcony and 2,530 square foot rooftop terrace.

25. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street.
26. The Private Event Facility will be accessible from a street-level lobby along Heber Avenue. Access, circulation, and lobby areas are permitted within Storefront property.
27. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people, a 32% reduction from past event occupancy loads.
28. Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following: (A) Use of City personnel; (B) Impacts via disturbance to adjacent residents; (C) Traffic/parking; (D) Disruption of the normal routine of the community or affected neighborhood; or (E) Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.
29. There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
30. Outdoor use of the terraces and balconies are permitted by this CUP, and shall comply with all conditions and regulations included herein.
31. Any temporary structures, such as tents, are permitted by this CUP, and shall comply with all conditions and regulations included herein.
32. The Building Department will require a fire permit for the installation of any tent in excess of 400 square feet, measured from the outside dimensions.
33. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance.
34. There are no open space requirements specified for this development.
35. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors.
36. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
37. The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480.

38. The site is located within the Park City Soils Ordinance boundary and FEMA flood Zone A.
39. The site is located in a FEMA flood Zone A.
40. The CUP application was deemed complete on September 28, 2016 upon receipt of additional materials.
41. The proposed conditional use meets the criteria set forth in LMC 15-1-10(E).
42. The staff findings in the Analysis section of this report are incorporated herein.

Conclusions of Law

1. The CUP, as conditioned, is consistent with the Park City Land Management Code.
2. The proposed use, as conditioned, will be compatible with the surrounding structures in use, scale, mass and circulation.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval

1. All standard conditions of approval apply to this Conditional Use Permit for a Private Event Facility as well as a temporary tent.
2. Should the owner host an event in the Private Event Facility that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP, a Special Event permit may be required.
3. Guests and patrons using the Private Event Facility shall abide by the same parking and access restrictions as other visitors to Main Street.
4. The applicant, at its cost, shall incorporate such measures to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the events will be conducted with due regard for safety are provided and paid for by the applicant.
5. The owner shall orient the activities so as to minimize sound impacts to the neighborhoods and the applicant shall monitor the following:
 - a. The owner, or his/her designee, shall provide on-site management for each aspect of the event.
 - b. The owner shall be responsible to ensure that the sound system maintains level adjustments not to exceed provisions of the Park City Noise Ordinance for the outdoor use.
6. All exterior signs require a separate sign permit reviewed by the Planning and Building Departments and multi-tenant buildings require a Master Sign Plan.
7. The final building plans and construction details for the project shall meet substantial compliance with the HDDR approved on June 20, 2016 and the drawings reviewed by the Planning Commission on November 9, 2016.
8. Utility and grading plans, including storm water drainage plans, must be approved by the City Engineer prior to Building Permit issuance.
9. A Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that

- are satisfying this condition
10. All exterior mechanical equipment shall be painted and/or otherwise screened and shielded from public streets. All wall and roof top vents and protruding mechanical shall be painted to match the adjacent wall or roof and/or screened from public view.
 11. The use of umbrellas, portable heaters, and similar improvements may be used during an event; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use during the private event.
 12. Any proposed tent shall comply with the following regulations:
 - a. The tent shall not increase the occupancy of the existing building.
 - b. The tent shall be setback from the parapet along Heber Avenue and the south edge of the roof terrace in order to limit its visibility and mass from the street.
 - c. The tent shall be solid in color; however, it may have some clear openings such as windows or doors. The colors and materials of the tent shall complement the building and shall not contain reflective material.
 - d. The tent shall be no more than fifteen feet (15') in height.
 - e. The tent's installation and/or disassembly shall not require the use of any machinery such as cranes, compressors, or generators. Hand portable air compressors may be used to operate power tools as necessary.
 - f. The tent shall not be erected for more than four (4) consecutive days up to fifteen (15) times per year (including setup and removal), except for the once a year in which the tent shall be allowed to be erected for ten (10) days (including setup and removal). The number of days the tent is up shall not exceed 70 days, as required by LMC 15-4-16.
 - g. The applicant is responsible for coordinating the necessary building permits with the Building Department for all plans for tents.
 13. The typical hours of operation shall be limited to 8am to midnight.
 14. The rooftop terrace shall not be used for activities that may create dust or odor, such as but not limited to cooking.
 15. The owner shall not permit or provide either live or recorded amplified music within the interior of the space without first having closed all exterior doors and windows of the licensed premise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.
 16. Outdoor speakers shall not cause to exist any loud speaker or sound amplification equipment on the outdoor balcony or rooftop terrace associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining. Music is limited from 11am to 10pm and may not emanate beyond the boundaries of the rooftop terrace or balcony as regulated by the Noise Ordinance.
 17. In accordance with Park City Municipal Code 6-3-9, any violation shall be measured at a distance of at least twenty-five feet (25') from the source of the device upon public property or within the public right-of-way or twenty-five feet

(25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighting scale. A measurement of 65 decibels shall be considered to be excessive and unusually loud.

18. The applicant must submit a condo plat in order to sell any of the individual retail/commercial units.
19. A final Construction Mitigation Plan must be approved by the Planning and Building Departments prior to issuance of a building permit.
20. All projects within the Soils Ordinance Boundary require a Soil Mitigation Plan to be submitted and approved by the Building and Planning Departments prior to issuance of a Building Permit.
21. Property is located in a FEMA flood Zone A. The lowest occupied floor shall be at or above the base flood elevation. Additionally, an H and H study must be completed showing the impacts to the flood plain. Any changes to the flood plain by 12 inches or more will require the filing of a LOMR.
22. All exterior lighting, including any existing lighting and lighting on the balcony and terrace, shall comply with the Lighting Requirements of LMC 15-5-5(I). The lighting shall be downward directed and fully shielded. Exterior lighting shall be approved by the Planning Department prior to installation.
23. In the event that sustained complaints are registered with the City regarding this use, including complaints of glare, noise, smoke, odor, grease, or traffic, the applicant will be required to provide mitigation of the nuisance within 30 days. The Planning Department shall investigate these complaints and take measures necessary to ensure that the property owner complies with the requirements of this permit. Additionally, the Planning Department may bring forward these complaints to the Planning Commission, as deemed necessary by the Planning Director, in order to further mitigate the nuisance. Should the nuisance not be mitigated, the Planning Commission may deem this CUP void.

Exhibits

Exhibit 1 –11.9.16 Planning Commission Report + Exhibits

Exhibit 2 –11.9.16 Planning Commission Minutes

Exhibit 3 –Tent Specifications & Rendering

Exhibit 4 – Public Comment

Planning Commission Staff Report



Application: PL-16-03313
Subject: Historic Kimball Garage- 638 Park Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: November 9, 2016
Type of Item: Administrative - Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Description

Applicant: CPP Kimball LLC represented by Tony Tyler
Location: Historic Kimball Garage at 638 Park Avenue
Zoning: Historic Recreation Commercial (HRC), Heber Avenue Subzone
Adjacent Land Uses: Residential single-family and multi-family; commercial

Summary of Proposal

On September 19, 2016, the Planning Department received an application for a Conditional Use Permit (CUP) for a Private Event Facility at 638 Park Avenue. The applicant is proposing to rehabilitate the existing historic building for Retail and other Commercial uses and add a new addition to the east, adjacent to Main Street. The upper level of the addition will be reserved for a Private Event Facility.

Background

On September 19, 2016, the Park City Planning Department received a Conditional Use Permit (CUP) application requesting approval of a Private Event Facility at 638 Park Avenue; the application was deemed complete on September 28, 2016. The space will be on the top level of the new addition bordering Heber Avenue and Main Street proposed for the historic Kimball Garage. There will be 3,785 square feet of event space, connected to a lobby and warming kitchen, as well as access to a 477 square foot outdoor balcony overlooking the Heber Avenue-Main Street corner and a second level 2,530 square foot rooftop terrace over the historic Kimball Garage. Both the balcony and the terrace will be used as part of the Private Event Facility. The remainder of the rehabilitated historic structure and new development will be divided into commercial spaces on the lower levels.

The Historic District Design Review (HDDR) for the new development was originally approved on June 20, 2016; an appeal of the HDDR was submitted by the Park City

Museum and Historical Society on June 30, 2016. The Board of Adjustment met on October 18, 2016, denied the appeal and upheld staff's determination ([Staff Report](#), page 23; Draft Minutes—Exhibit E). The Park City Museum had objected to a number of issues, one being the removal of one of the two (2) barrel vaults forming the roof of the building; however, the BOA found that the removal complied with the Design Guidelines as rooftop additions are permitted on commercial buildings in the Main Street National Register District, of which the Kimball Garage is a part of. Further, because the barrel was not visible from the rights-of-way, it was appropriate to remove it to accommodate the rooftop deck addition which will sit below the parapet and will generally not be visible from the Heber Avenue right-of-way.

The BOA stressed that the rooftop terrace addition was largely permissible because it would generally not be visible from the Heber Avenue right-of-way. As designed, the rooftop terrace will be setback from the Heber Avenue façade of the building in order to minimize the visibility of the necessary railing from street view. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, tents, and other temporary structures from detracting from the invisibility of the deck. (See Exhibit E, BOA Draft Minutes 10.18.16)

The Park City Council also approved a Kimball on Main plat amendment for this property at 638 Park Avenue on May 19, 2016. The plat has not yet been recorded as the applicant is working with the City to dedicate sidewalk easements.

On March 20, 2016, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio (FAR) of 1.5. It is important to note that in 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). The property is currently in the Heber Avenue Subzone of the HRC District. The proposed FAR of the proposed project with the new addition is 1.45.

Purposes of the Historic Recreation Commercial (HRC) District:

- A. maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,
- B. encourage pedestrian oriented, pedestrian-scale Development,
- C. minimize visual impacts of automobiles and parking,
- D. preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,
- E. provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,
- F. provide a moderate Density bed base at the Town Lift,
- G. allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,
- H. encourage preservation and rehabilitation of Historic Buildings and resources.
- I. maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages

a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

Project Description

The applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street. The Historic District Design Review (HDDR) for the proposed development was approved on June 20, 2016; appealed by the Park City Historical Society & Museum on June 30, 2016; and staff’s determination was upheld by the Board of Adjustment on October 18, 2016.

The historic Kimball Garage and the new addition will be broken into seven (7) retail spaces on the lower level of the new addition as well as the main level of the Kimball Garage and new addition. Because this property is located in the Heber Avenue Subzone, the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District. Commercial Retail and Service, Minor; Restaurant; and Bar are allowed uses in the Heber Avenue Subzone.

On the third level of the new addition, the applicant is proposing a Private Event Facility which includes access to a balcony and rooftop terrace. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street.

The Private Event Facility will be 3,785 square feet on the top floor above the street level commercial spaces as well as the adjacent rooftop terrace, and it will be accessible from an elevator and stair lobby that connects with an entrance on Heber Avenue. The event space spills out onto a 477 square foot balcony that wraps the façade of the new addition along Heber Avenue and Main Street. A second level roof terrace of 2,530 square feet is proposed over the roof of the historic Kimball Garage. The CUP addresses the interior private event space as well as the rooftop terrace and balcony.

Land Management Code (LMC) Analysis

The proposal complies with lot and site requirements of the HRC Zoning District as described in the table below:

| Required | HRC Zone Designation | Proposed |
|------------------------|----------------------|-----------------------|
| Lot size | Not specified | 18,550.13 SF |
| Setbacks | | |
| Front (West/Park Ave.) | 10 feet | .25 feet ² |
| Rear (East/Main St.) | 10 feet | 12 feet |

| | | |
|---|--|---|
| Side (South/Heber Ave.) Side (North) | 10 feet ¹ 5 feet | 1 foot ² 6 feet |
| Height above existing grade | 32 feet | 30.5 feet |
| Floor Area Ratio | Floor Area Ratio (FAR) limitation of the HRC District does not apply. ³ | 1.45 FAR (Total of existing Kimball and New Addition); Existing 0.7 |
| Parking | Exempt from parking up to an overall for both the historic and new FAR of 1.5 ¹ | 0 spots; applicant is proposing an FAR of 1.45 |

¹This is based on the Planning Director's Determination Letter, March 20, 2016

²Per LMC 15-2.5-6 Historic Structures that do not comply with Building Height, Building Setbacks, Off-Street parking, and driveway location standards are valid Non-complying Structures.

³Per LMC 15-2.5-10, within the Heber Avenue Sub-zone, all of the Site Development Standards and land use limitations of the HRC apply, except (A) the Allowed Uses within the sub-zones are identical to the Allowed Uses in the HCB District; (B) the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District; and (C) the Floor Area Ratio limitation of the HRC District does not apply.

On March 20, 2015, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio (FAR) of 1.5, which is the parking requirement of the HCB District outlined in LMC 15-2.6-9(D) Pre-1984 Parking Exception. It should be noted that in 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). In 1984, the Kimball Art Center had a Gross Floor Area of approximately 13,477 square feet, which generates an FAR of 0.7. The 0.7 FAR is less than the 1.5 FAR that they paid for as part of the Main Street Parking Special Improvement District. As such, the existing building and new addition could be constructed to create an FAR of 1.5 without requiring the applicant to provide parking; an FAR of over 1.5 would have required the applicant to provide parking for the gross floor area exceeding the 1.5 FAR.

Following rehabilitation of the existing Kimball Garage and construction of an addition along Main Street, the applicant is proposing a non-residential FAR of 1.45. Gross Commercial Floor Area includes all enclosed Areas of the building, but excludes parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area. Because 638 Park Avenue is located in the Heber Avenue Subzone, the FAR limitation of the HRC District does not apply to gross commercial floor area; however, the parking exception is only for an FAR up to 1.5.

As previously noted, Gross Commercial FAR only includes enclosed Areas; unenclosed balconies, patios and decks are not included in the Gross Commercial Floor Area. Though the rooftop terrace and balcony will be used as part of the Private Event Space, it will not impact the parking requirement analysis as these areas are not included in the Gross Commercial FAR calculation.

In the past, the Planning Department has not required additional parking for the use of outdoor spaces such as balconies that are used for outdoor dining. The reasoning behind this is that people are more likely to sit outside during warm weather than sit inside, and thus the restaurant's capacity has not changed. The applicant finds that the maximum capacity of the space will be approximately 480 occupants, and it anticipates that event goers will be moving between the interior private event space, the balcony, and the rooftop terrace.

Analysis of Conditional Use Criteria

Conditional Uses are subject to review according to the following criteria set forth in the LMC 15-1-10(E). Staff's analysis is in *italics*.

(1) Size and location of the Site;

*The property consists of 18,550.13 square feet of lot area and is currently developed with the 13,477 square foot historic Kimball Garage building. The applicant is proposing to construct a 19,381 square foot addition proposed on the east side of the existing building. The new addition will include a second level balcony that wraps the corner of the addition along Heber Avenue and Main Street as well as a new roof terrace above the existing Kimball Garage. The addition complies with setbacks, height, and density and is appropriate for the size and location of the Site. **No unmitigated impacts.***

(2) Traffic considerations including capacity of the existing Streets in the Area;

The property is currently accessed by Main Street along its east side, Heber Avenue along the south side, and Park Avenue along the west side. The previous owners of the building—the Kimball Art Center—regularly used the entire building and adjacent plaza area on the southeast corner of the site for events, approved through Special Events permits. Because the current owner will be reducing the overall size of the event space compared to that of the previous owners, they did not conduct a transportation study as they found there would be reduced demand based on the size of the proposed event space.

Staff has met with the Building Department to discuss occupancy load. The occupancy load is based off of square footage, number of sanitation fixtures, and the seating plan. In talking with the Park City Fire Marshall, the exterior spaces would not necessarily be included in the occupancy load. Should they be enclosed, they would then need to be reviewed to determine a safe occupancy load. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people, a 32% reduction from past event occupancy loads.

Staff does not anticipate that the new event space will generate additional traffic to the site, compared to that of the Kimball Art Center’s past events. Many of the applicant’s anticipated events—meetings, cocktail receptions, weddings, etc.—will likely not meet the maximum occupancy load of the space; however, others will.

Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following:

- A. Use of City personnel;
- B. Impacts via disturbance to adjacent residents;
- C. Traffic/parking;
- D. Disruption of the normal routine of the community or affected neighborhood; or
- E. Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.

Should the applicant host an event in the Private Event Facility that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP, a Special Event permit may be required. Staff has added this as Condition of Approval #2.

No unmitigated impacts, as conditioned.

(3) Utility capacity:

A final approved storm water, utility, and grading plan is required prior to issuance of a building permit. All above ground utility infrastructure (transformers, ground sleeves, telephone boxes, cable boxes, etc.) are to be located on the property and behind the new addition, on the northwest corner of the site. The applicant has proposed to install mechanical equipment and utilities, such as heating and air conditioning units, on the rooftop of the new addition. The transformer will be located to the west of the new addition, in the rear yard.

Staff recommends Condition of Approval #6 requiring that a Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that are satisfying this condition. Condition of Approval #7 addresses the screening of any ground-level or rooftop equipment from public view.

No unmitigated impacts, as conditioned.

(4) Emergency vehicle Access;

*Primary emergency access for the building is from Main Street, Heber Avenue, and Park Avenue. The entrance to the upper level event space will be limited to a lobby located along Heber Avenue. **No unmitigated impacts.***

(5) Location and amount of off-Street parking;

*As previously noted, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to an FAR of 1.5; the applicant is proposing a total FAR of 1.45 following completion of the new addition. Any traffic generated by the private event facility will likely find parking in one of the City's public parking lots such as the Flagpole lot or China Bridge, along Park Avenue, or in one of the nearby private parking garages at Summit Watch, Gateway Mall, or the Town Lift. The applicant anticipates that most event attendees will be shuttled from off-street lodging or will be lodging in Old Town. **No unmitigated impacts.***

(6) Internal vehicular and pedestrian circulation system;

*The upper level Private Event Facility will be accessed from Heber Avenue. Event attendees will enter a lobby with stairs and an elevator that lead to the upper level event space. (Access, circulation, and lobby areas are permitted within Storefront property.) There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.***

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses;

*The use is consistent with neighboring structures as it primarily faces Main Street and Heber Avenue. The upper level event space will feature a balcony that wraps around the Heber Avenue and Main Street façade of the new addition and overlooks the Main Street and Heber Avenue intersection. On the west side, the event space will lead out onto a rooftop terrace above the historic Kimball Garage. The roof terrace is setback from the parapet of the historic building in order to minimize its appearance but also further separate it from neighboring uses. On the west side, the roof terrace will be separated from the residential neighborhood along Park and Woodside by the barrel-vault roof of the Kimball. As previously noted, any outdoor dining or outdoor event use of the balcony will require an Administrative-CUP. **No unmitigated impacts.***

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

The historic Kimball Garage is a horizontally-oriented one-story brick block structure that consumes nearly half of the property. The new addition complements the visual and physical qualities of the historic building. Building components and materials used on the new addition, such as the proposed wood and brick materials as well as the windows and doors, are of scale and size to those found on the original building. Window shapes, patterns, and proportions found on the historic building are reflected in the new addition. The addition is visually separated from the historic building on the Heber Avenue façade by a transitional element and its change of materials; this is not an in-line addition. Though the historic building is characterized by its large, low mass,

the new addition has been broken up to reflect the general width of buildings on lower Main Street and complement the rhythm and pattern of the streetscape. Additionally, the lower level commercial spaces will maintain the Heber Avenue and Main Street-orientation of the buildings.

The BOA found that the proposed removal of one of the barrel-vaulted roof forms to accommodate the rooftop terrace was appropriate largely because the terrace would not be visible from the public right-of-way. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, heaters, tents, and other temporary structures from detracting from the invisibility of the deck. Staff finds that the use of umbrellas, portable heaters, and similar improvements may be used during an event; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use as indicated by Condition of Approval #8.

Any temporary structures, such as tents will require an Administrative Conditional Use Permit (CUP) which will permit staff to review the requests on a case-by-case basis and evaluate the impacts of the tents on the rooftop terrace. Further, LMC 15-4-6 Temporary Structures, Tents, and Vendors, only allow tents and other temporary structures to be installed for a duration no longer than 14 days and no more than 5 times per year on the same Property or Site. As previously discussed, the Building Department will have to re-evaluate the space's occupancy load should a tent be installed on the rooftop terrace based on the space's sanitation facilities, seating, food service/handling, snow removal, etc. At time of the Admin-CUP application, staff will review the size of the tent and mitigate its visibility by ensuring that the tent is setback from the edge of the roof deck along Heber Avenue.

No unmitigated impacts, as conditioned.

(9) Usable Open Space:

*There are no open space requirements specified for this development. The property meets the required front, rear, and side yard setbacks except for the historic property. Per LMC 15-2.5-6 historic structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid non-complying structures. The lot is 18,550 square feet and the total building footprint is 13,260 square feet, which leaves 5,290 square feet of footprint. Staff finds that approximately 28.5% of the lot is open space. **No unmitigated impacts.***

(10) Signs and lighting:

*All new signs and exterior lighting must be in conformance with the Park City codes and the Design Guidelines for Historic Districts and Historic Sites. Signs require a separate sign permit issued by the City. All exterior lighting is designed to be down directed and shielded. Any existing exterior lighting not in compliance with the Code shall be modified prior to final certificate of occupancy. **No unmitigated impacts, as conditioned.***

(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

Lower Main Street is characterized by large multi-story mixed use developments containing commercial and residential condominium uses. The physical design of the new development is consistent with the surrounding larger-scale developments such as the Town Lift and Summit Watch. Staff has reviewed the proposed addition for compliance with the architectural character, volumetric design, and height of this structure compared to its neighbors on Lower Main Street. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors. The mass of the building is largely hidden by breaks in its façade that reflect the typical widths of historic Main Street facades, similar to the design of the surrounding buildings.

The proposed use is similar to the ancillary uses associated with the former Kimball Art Center located on the same site. The private event space will serve as a support facility for the community, providing private event space for meetings and other events throughout the year. The private event space will support the tourism economy of Main Street and bring additional visitors to Old Town.

No unmitigated impacts, as conditioned.

(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

*All uses, with the exception of the outdoor roof deck and balcony along Main and Heber, are located inside the new addition and there are no expected additional impacts on adjacent residents/visitors or Property Off-Site. The applicant anticipates that noise will be similar to the existing use of the building and glare will be minimized based on the site lines and overhang on the Heber Avenue balcony. Staff has added Condition of Approval #15 to mitigate the impacts of any unanticipated light pollution within a year's time of the Certificate of Occupancy. Additionally, no dust or odor should be created by this use. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance. Staff recommends conditions of approval related to the hours of use. **No unmitigated impacts, as conditioned.***

(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas;

*Service and delivery volumes to the building will increase based on the use of the private event space; however the applicant does not anticipate additional trucks or more frequent service than the previous art center, and no additional loading areas are proposed. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.***

(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;

The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480. The applicant has not yet submitted a condo plat application to subdivide the spaces and sell them to private entities, which is reflected in Condition of Approval #9 **No unmitigated impacts.**

(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

The property is located within the Sensitive Lands Ordinance boundary and flood plain Zone A. Staff recommends including a Conditions of Approval regarding the removal of soils and that the building is located in a FEMA flood Zone A (lowest occupied floor shall be at or above the base flood elevation). **No unmitigated impacts, as conditioned.**

(16) Reviewed for consistency with the goals and objectives of the Park City General Plan; however, such review for consistency shall not alone be binding.

Goal 16 of the General Plan expresses the need to maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors. In addition to investing in the rehabilitation of one of the City's Landmark historic buildings, the private event space will support the tourism industry while also catering to locals needs. The private event space utilize Main Street as a backdrop and setting for the events while also providing an opportunity to draw more locals to Main Street. The events will draw visitors to Main Street, as well, and encourage visitation to the diverse business mix of the street-level commercial uses. The private event space will contribute to our goals of maintaining and enhancing the long term viability of the Historic District. **Complies.**

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notices were mailed to property owners within 300 feet on November 26, 2016. A legal notice was published in the Park Record on October 22, 2016. No public input has been received at the time of this report.

Alternatives

1. The Planning Commission may approve the Conditional Use Permit for the Private Event Facility as conditioned or amended, or
2. The Planning Commission may deny the Conditional Use Permit for the Private

- Event Facility and direct staff to make Findings for this decision, or
3. The Planning Commission may continue the discussion on the Conditional Use Permit for Private Event Facility to a date certain to allow the applicant and Staff to provide additional information or analysis.

Significant Impacts

There are no significant fiscal or environmental impacts from this application that have not been mitigated with conditions of approval.

Recommendation

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Findings of Fact

1. The Condition Use Permit is for a private event facility at 638 Park Avenue.
2. The property is located in the Historic Recreation Commercial (HRC) District).
3. Per 15-2.5-10he property is located in the Heber Avenue Subzone; the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District.
4. The property is bound by Main Street to the east, Heber Avenue to the south, and Park Avenue to the west. These are all public streets.
5. The Park City Council also approved a Kimball on Main plat amendment for this property at 638 Park Avenue on May 19, 2016. The plat has not yet been recorded.
6. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
7. The Historic District Design Review (HDDR) for the new development was originally approved on June 20, 2016. The applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street.
8. An appeal of the HDDR was submitted by the Park City Museum and Historical Society on June 30, 2016. The Board of Adjustment met on October 18, 2016, denied the appeal and upheld staff's determination. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, tents, and other temporary structures from detracting from the invisibility of the deck.
9. The BOA found that the rooftop deck addition above the historic Kimball Garage was appropriate as the Design Guidelines permit construction of rooftop additions and the addition would remove one of the two barrel-vaulted roof forms. The addition was permissible because it was generally not visible from the primary public right-of-way along Heber Avenue.
10. On March 20, 2016, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio

(FAR) of 1.5. In 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). The proposed FAR of the proposed project with the new addition is 1.45.

11. In 1984, the Kimball Art Center had a Gross Floor Area of approximately 13,477 square feet, which generates an FAR of 0.7. The 0.7 FAR is less than the 1.5 FAR that they paid for as part of the Main Street Parking Special Improvement District.
12. The minimum front/rear yard setbacks are ten feet (10'). The historic structure has a 1-foot front yard setback along Park Avenue and the new addition will have a 12-foot rear yard setback along Main Street.
13. Gross Commercial Floor Area includes all enclosed Areas of the building, but excludes parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area.
14. Because 638 Park Avenue is located in the Heber Avenue Subzone, the FAR limitation of the HRC District does not apply to gross commercial floor area; however, the parking exception is only for an FAR up to 1.5.
15. The minimum side yard setbacks are five feet (5'); the historic structure currently has a side yard setback of 6 feet along the north property line. The new addition will have a 5-foot setback from the north property line.
16. On corner lots, such as this, the side yard setback that faces a street is ten feet (10'). The historic structure has a 1-foot side yard setback along Heber Avenue; the new addition will have a 10-foot setback along Heber Avenue.
17. Per LMC 15-2.5-4, a project may have only one vehicular Access from Park Avenue, Main Street, Heber Avenue, Swede Alley, or Deer Valley Drive, unless an additional Access is approved by the Planning Commission. The applicant has provided vehicular access along Heber Avenue.
18. Per LMC 15-2.5-5, no structure shall be erected to a height greater than 32 feet from Existing Grade; the height of the roof on the new addition is a maximum of 30.5 feet.
19. Per LMC 15-2.5-5(A)(3), mechanical equipment and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building; the applicant is proposing parapets incorporated into the design of the street front facades in order to reduce the visibility of rooftop mechanical equipment. These parapets do not exceed 4.5 feet in height, for a maximum height of 35 feet above existing grade.
20. Per LMC 15-2.5-5(A)(5), an Elevator Penthouse may extend up to eight feet (8') above the Zone Height. The applicant has proposed an elevator penthouse on the northwest corner of the new addition. The height of the Elevator Penthouse does not exceed 38 feet in height from Existing Grade.
21. Per LMC 15-2.5-6, Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures.

22. Per LMC 15-2.5-8, all exterior mechanical equipment must be screened to minimize noise infiltration to adjoining Properties and to eliminate visual impacts on nearby Properties, including those Properties located above the roof tops of Structures in the HRC District. The applicant has proposed to locate mechanical equipment on the rooftop of the new addition, screening it with parapets and other rooftop screening.
23. Per LMC 15-2.5-9, all Development must provide an on-Site refuse collection and loading Area. Refuse and service Areas must be properly Screened and ventilated. Refuse collection Areas may not be located in the required Yards. The applicant has proposed an acceptable refuse storage area along the north property line, adjacent to Main Street.
24. On the third level of the new addition, the applicant is proposing a Private Event Facility. The Private Event Facility will be 3,785 square feet on the top floor above the street level commercial spaces as well as a 477 square foot outdoor balcony and 2,530 square foot rooftop terrace.
25. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street.
26. The Private Event Facility will be accessible from a street-level lobby along Heber Avenue. Access, circulation, and lobby areas are permitted within Storefront property.
27. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people, a 32% reduction from past event occupancy loads.
28. Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following: (A) Use of City personnel; (B) Impacts via disturbance to adjacent residents; (C) Traffic/parking; (D) Disruption of the normal routine of the community or affected neighborhood; or (E) Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.
29. There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
30. Any temporary structures, such as tents will require an Administrative Conditional Use Permit (CUP) in accordance with LMC 15-4-6.
31. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance.

32. There are no open space requirements specified for this development.
33. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors.
34. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
35. The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480.
36. The site is located within the Park City Soils Ordinance boundary and FEMA flood Zone A.
37. The site is located in a FEMA flood Zone A.
38. The CUP application was deemed complete on September 28, 2016 upon receipt of additional materials.
39. The proposed conditional use meets the criteria set forth in LMC 15-1-10(E).
40. The staff findings in the Analysis section of this report are incorporated herein.

Conclusions of Law

1. The CUP, as conditioned, is consistent with the Park City Land Management Code.
2. The proposed use, as conditioned, will be compatible with the surrounding structures in use, scale, mass and circulation.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval

1. All standard conditions of approval apply to this Conditional Use Permit.
2. Should the applicant host an event in the Private Event Facility that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP, a Special Event permit may be required.
3. All exterior signs require a separate sign permit reviewed by the Planning and Building Departments and multi-tenant buildings require a Master Sign Plan.
4. The final building plans and construction details for the project shall meet substantial compliance with the HDDR approved on June 20, 2016 and the drawings reviewed by the Planning Commission on November 9, 2016.
5. Utility and grading plans, including storm water drainage plans, must be approved by the City Engineer prior to Building Permit issuance.
6. A Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that are satisfying this condition
7. All exterior mechanical equipment shall be painted and/or otherwise screened and shielded from public streets. All wall and roof top vents and protruding

mechanical shall be painted to match the adjacent wall or roof and/or screened from public view.

8. The use of umbrellas, portable heaters, and similar improvements may be used during an event; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use during the private event.
9. The applicant must submit a condo plat in order to sell any of the individual retail/commercial units.
10. A final Construction Mitigation Plan must be approved by the Planning and Building Departments prior to issuance of a building permit.
11. All projects within the Soils Ordinance Boundary require a Soil Mitigation Plan to be submitted and approved by the Building and Planning Departments prior to issuance of a Building Permit.
12. Property is located in a FEMA flood Zone A. The lowest occupied floor shall be at or above the base flood elevation. Additionally, an H and H study must be completed showing the impacts to the flood plain. Any changes to the flood plain by 12 inches or more will require the filing of a LOMR.
13. All exterior lighting, including any existing lighting and lighting on the balcony and terrace, shall comply with the Lighting Requirements of LMC 15-5-5(I). The lighting shall be downward directed and fully shielded. Exterior lighting shall be approved by the Planning Department prior to installation.
14. A condominium plat must be recorded prior to the sale of any of the individual units.
15. One year after the Certificate of Occupancy, the applicant and the Planning Department will review any complaints regarding noise, glare, light, and traffic. The Planning Commission may add additional conditions of approval to further mitigate the impacts.

Exhibits

Exhibit A – Applicant’s Written Description

Exhibit B – Site Plan and surveys

Exhibit C – Proposed Plans

Exhibit D – Renderings of Proposed Development

Exhibit E – BOA Action Letter and Draft Minutes, 10.18.16



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WRITTEN STATEMENT

638 Park Avenue
Kimball Garage
August 26, 2016

Provide a written statement describing the request and any other information pertaining to the conversion of the proposed project.

This Conditional Use Permit Application is being made to request approval of the use of a "Private Event Facility". This project is located in the HRC District / Heber Avenue Sub-Zone and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District. The "Private Event Facility" use is listed as a Conditional Use in the HCB District.



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GENERAL DESCRIPTION

638 Park Avenue
Kimball Garage
August 26, 2016

How will the proposed use “fit-in” with surrounding uses?

The existing Kimball Garage historic structure most recently housed the Kimball Arts Center and under this occupancy, it has been used as a “Private Event Facility” for decades. The proposed use is being relocated on site to the second floor of the new addition. This move brings the historic use into compliance with the HCB by removing the use from a “Storefront Property” location. This use fit-in well as it has been a standard use of the site form decades. Additionally, this move of use will open the existing historic Kimball Garage storefront for additional desired commercial and retail uses.

What type of service will it provide to Park City?

The “Private Event Space” will continue to serve as a support facility for community uses and will also support the surrounding nightly rental bed base during the shoulder seasons. During the shoulder seasons the event space will be available for meeting and other events, bringing additional visitors to Main Street, further supporting many Main Street businesses.

Is the proposed use consistent with the current zoning district and with the General Plan?

The site for the “Private Event Space” falls under the “General Plan” section “6.8 Old Town: Main Street as the Heart of Park City”. The proposed use is consistent with this section of the General Plan as it will continue to “keep the locals in the equation” and will continue to “provide local businesses with year round patrons”.

Is the proposed use similar or compatible with other uses in the same area?

- a). The proposed use is similar to the ancillary uses associated with the former Kimball Arts Center located on the same site.
- b). The use is compatible with the surrounding uses of nightly rental and commercial as it will provide the opportunity for additional visitors to the surrounding uses.

Is the proposed use suitable for the proposed site?

The proposed use works well at the proposed site due to its relationships to both the adjacent existing nightly rental and the adjacent commercial uses. Additionally, it has good access for drop-off along Heber Avenue which can be

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accessed without creating congestion along Main Street. The new location moves the use away from the adjoining residential areas.

Will the proposed use emit noise, glare, dust, pollutants, and odor?

- a). Noise will be similar to the existing use.
- b). Glare will be minimal to non-existent based on the site lines and overhangs designed on the building.
- c). Dust will not be created by this use.
- d). Odor will not be created by this use.

What will be the hour of operation and how many people will be employed?

- a). The hours of operation will be typical of Park City event uses and will vary based on each event. Typical operation will be between 8AM and Midnight. Exterior use will be limited to the Park City Code requirements. Outdoor speakers and music will be limited to 11AM to 10PM.
- b). The number of employees for the "Private Event Space" will vary based on the event. The number of employees will generally vary from 4 to 40.

Are (there) other special issues that need to be mitigated?

There are no new special issues required to be mitigated by the relocation of the "Private Event Space" use within this site.





SURVEYOR'S CERTIFICATE

I, Matthew R. Mervin, a duly sworn and qualified land surveyor in the State of Ohio, do hereby certify that I have personally supervised the making of this topographic map and that the same is a true and correct representation of the field work done by me or under my direct supervision in compliance with pertinent statutes and standards for accuracy.

- NOTES**
1. Site boundaries after station list (Elevation 1000 ft)
 2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
 3. This topographic map is based on a field survey performed on December 15, 16, 17, 2011.
 4. Property corners were per

STAFF:
 MICHAEL DEMONICO
 MICHEL DEMONICO

DATE: 12/7/11

JOB NO.: 5-11-11

FILE: J:\A\Survey\Station\map\map\topo\11081111.dwg

SHEET 1 OF 1

Kimball Garage Expansion

Existing Site Plan
 CUP - 002
 SEPT 15, 2016









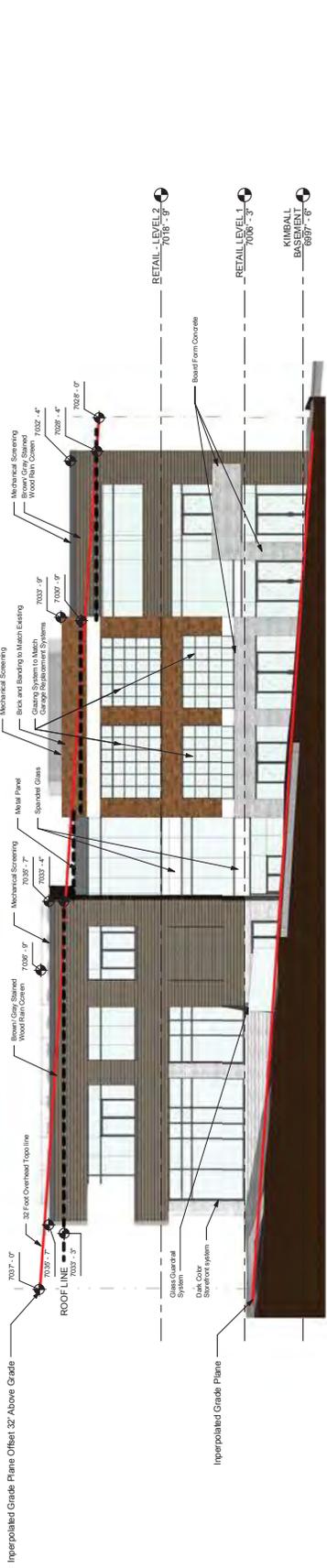


UPPER LEVEL EVENT SPACE

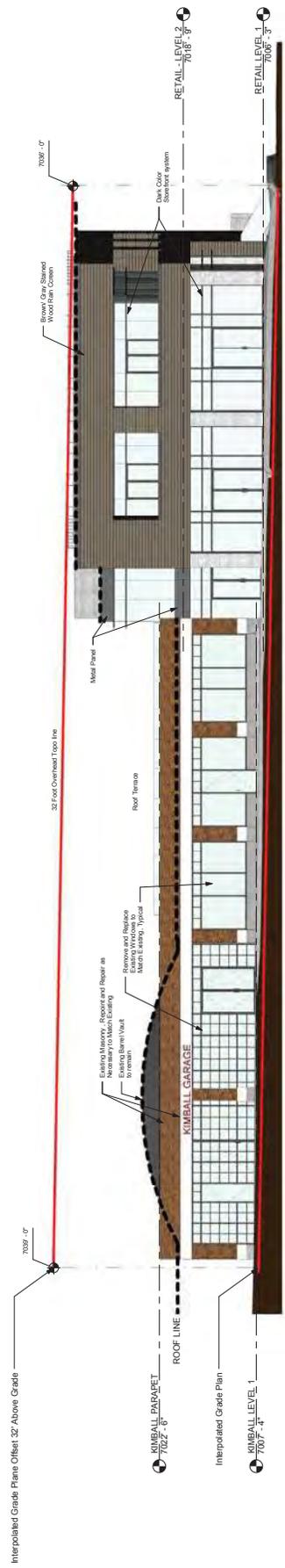
A103

SEPT 15, 2016



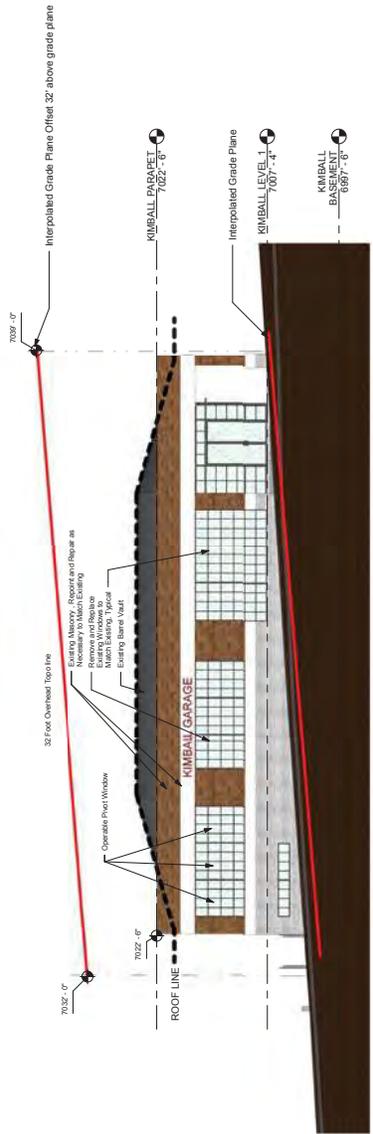


1 EAST ELEVATION

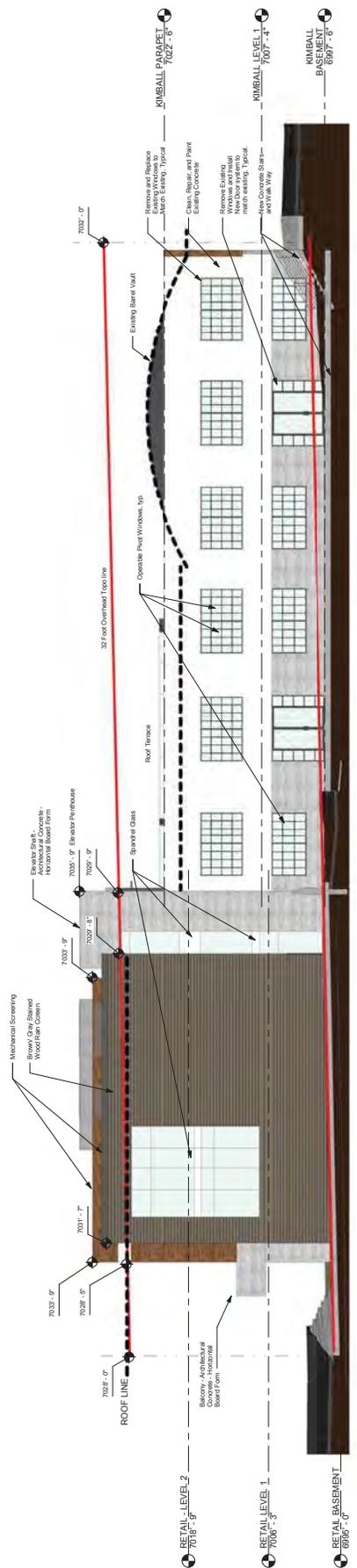


2 SOUTH ELEVATION



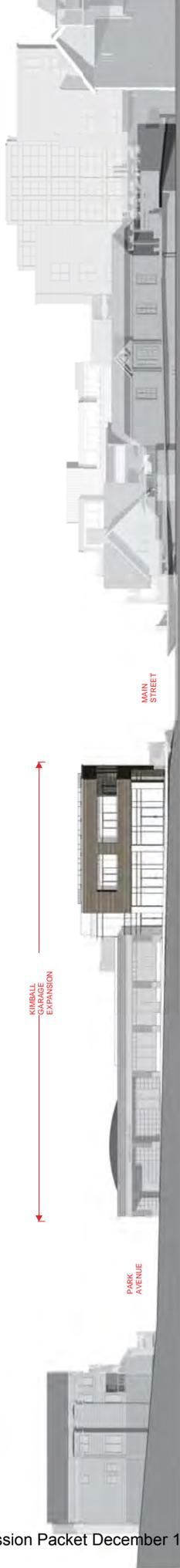


1 WEST ELEVATION

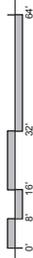


2 NORTH ELEVATION



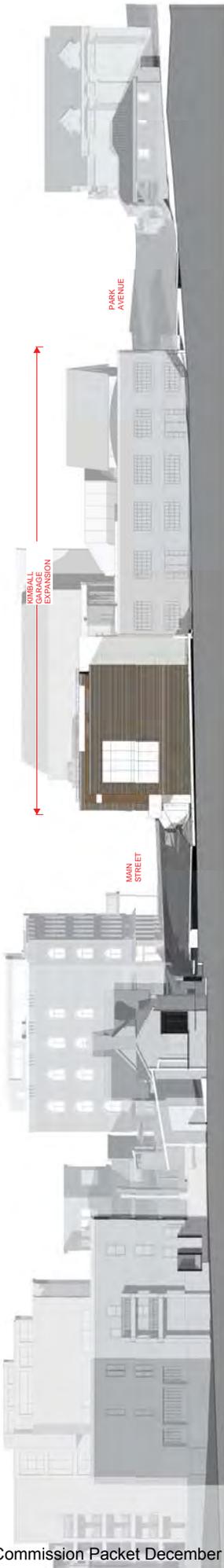


Heber Avenue Elevation

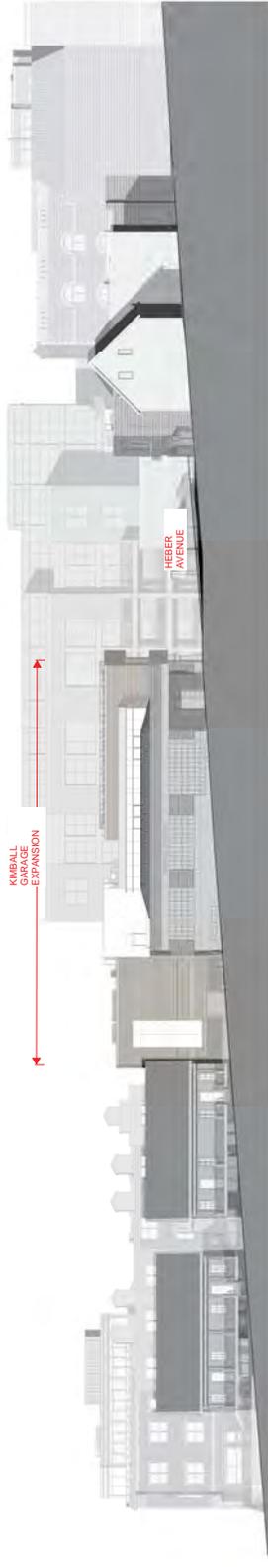


Main Street Elevation

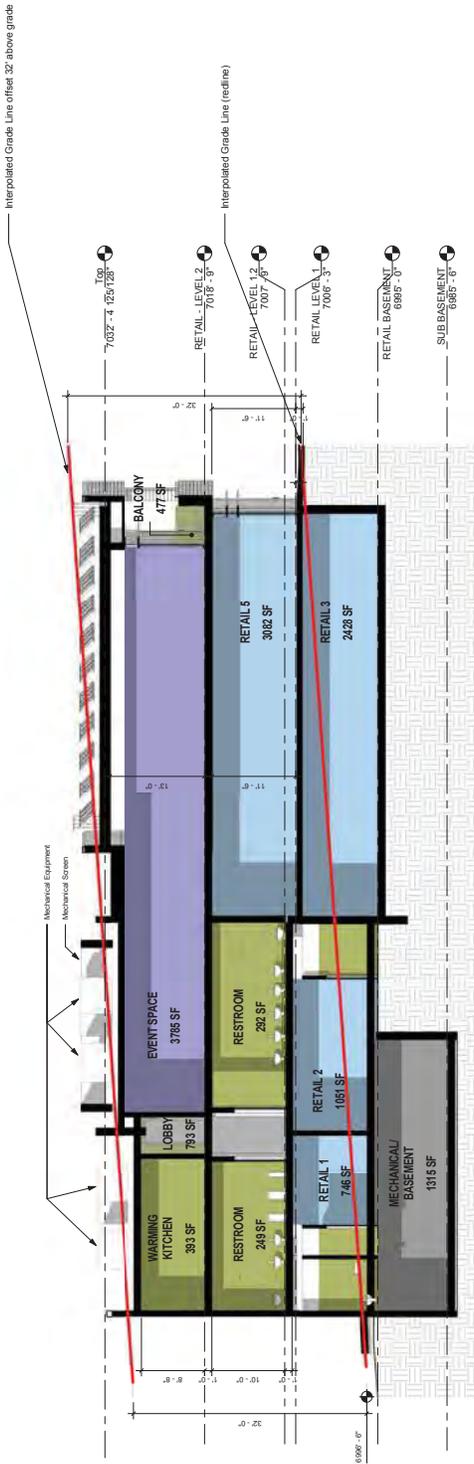




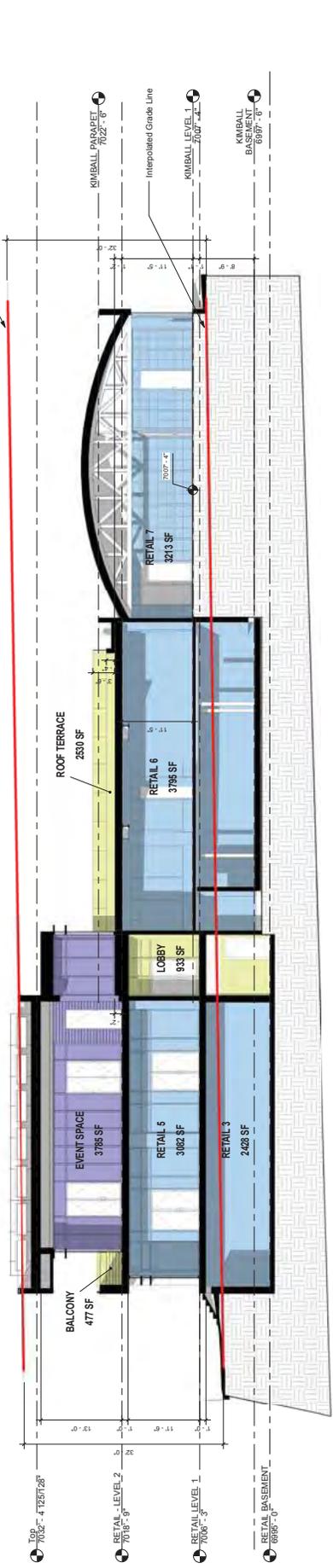
North Elevation
 0' 8' 16' 32' 64'



Park Ave Elevation
 0' 8' 16' 32' 64'



1 MAIN STREET SECTION



2 HEBER SECTION





CORNER PERSPECTIVE
A106
SEPT 15, 2016











LOWER MAIN ST. PERSPECTIVE

A110

SEPT 15, 2016





UPPER MAIN ST. PERSPECTIVE
A111
SEPT 15, 2016







ROOF TERRACE FROM ABOVE
A113
SEPT 15, 2016



ROOF TERRACE
A114
SEPT 15, 2016





October 19, 2016

Sandra Morrison
Park City Historical Society & Museum
PO Box 555
Park City, UT 84060

NOTICE OF BOARD OF ADJUSTMENT ACTION

Application: Appeal of staff's determination of compliance with Design Guidelines and the Land Management Code (LMC)
Project Location: 638 Park Avenue
Project Number: PL-16-03106
Appellant: Park City Historical Society & Museum
Action Taken: Appeal is denied and staff's determination is upheld
Date of Action: October 18, 2016

On October 19, 2016, the City Council called a meeting to order, a quorum was established, a public meeting was held, and the City Council approved your application based on the following:

Findings of Fact:

1. The property is located at 638 Park Avenue.
2. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
3. According to the Historic Sites Form, the historic Kimball Garage was constructed in 1929. The building underwent an extensive renovation that significantly altered the interior and exterior of the structure for use as the Kimball Art Center in 1975-1976. The structure was renovated again in 1999.
4. In 1979, the site was designated as contributory as part of the Park City Main Street Historic District nomination for the National Register of Historic Places.
5. The property is in the Historic Recreation Commercial (HRC) District and Heber Avenue Subzone.
6. On January 20, 2015, LCC Properties Group submitted a Historic District Design Review (HDDR) application for the Landmark property located at 638 Park Avenue.
7. On June 20, 2016, staff approved the Historic District Design Review (HDDR) application for the site.
8. On June 30, 2016, the City received an appeal of a Historic District Design Review (HDDR) application approved by the Planning Department on June 20, 2016 at 638 Park Avenue.
9. This appeal was submitted by Sandra Morrison, representing the Park City Historical Society and Museum.

10. Pursuant to LMC § 15-1-18 (D) Standing to Appeal, the Park City Historical Society and Museum has standing to appeal the HDDR final action because they submitted written comment and testified on the proposal before the Planning Department.
11. The proposal complies with Universal Guideline #3 in that the historic exterior features of a building will be retained and preserved.
12. The proposal complies with Universal Guideline #4 in that distinctive materials, components, finishes, and examples of craftsmanship will be retained and preserved. The owner will reproduce missing historic elements that were original to the building, but have been removed, such as the original entrance along Heber Avenue. Physical or photographic evidence will be used to substantiate the reproduction of missing features.
13. The proposal complies with Universal Guideline #5 in that deteriorated or damaged historic features and elements should be repaired rather than replaced. Where the severity of deterioration or existence of structural or material defects requires replacement, the feature or element should match the original in design, dimension, texture, material, and finish. The applicant must demonstrate the severity of deterioration or existence of defects by showing that the historic materials are no longer safe and/or serviceable and cannot be repaired to a safe and/or serviceable condition. The owner has demonstrated that the historic and early replacement steel frame windows are beyond repair and the owner will be replacing the remaining steel-frame windows along Park Avenue and the rear (north) elevation due to their poor condition.
14. The proposal complies with Universal Guideline #6 in that features that do not contribute to the significance of the site or building and exist prior to the adoption of these guidelines, such as incompatible windows, aluminum soffits, or iron porch supports or railings, may be maintained; however, if it is proposed they be changed, those features must be brought into compliance with these guidelines. The applicant will maintain a non-historic ca. 1976 glass addition beneath the overhang of the original fueling station. Staff finds that this addition was sensitively designed so as not to detract from the historic structure and is compatible with the historic building.
15. The proposal complies with Universal Guideline #10 in that the new additions and related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.
16. The proposal complies with Specific Design Guideline B.1.1 in that the owner will maintain the original roof form, the western barrel vault, as well as any functional and decorative elements.
17. The proposal complies with Specific Design Guideline B.2.1 in that the primary and secondary facade components, such as window/door configuration, wall planes, recesses, bays, and entryways should be maintained in their original location on the façade.
18. The proposal complies with Specific Design Guideline B.4.1 in that the owner will maintain historic door openings, doors, and door surrounds on the Heber and Park Avenue facades.
19. The proposal complies with Specific Design Guideline B.5.1 in that the owner will maintain historic window openings, windows, and window surrounds on the primary facades.
20. The proposal complies with Specific Design Guideline B.5.2 in that the replacement steel windows will be allowed because the historic windows cannot be made safe and serviceable through repair. The BOA questions that certain historic windows are no longer serviceable or may be in a deteriorated state. The BOA will require that an independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement. Replacement windows

will exactly match the historic window in size, dimensions, glazing pattern, depth, profile, and material.

21. The proposal complies with Specific Design Guideline MSHS3 in that traditional orientation with the primary entrance on Heber Avenue will be maintained.
22. The proposal complies with Specific Design Guideline MSHS6 in that rooftop additions may be allowed. The proposed rooftop deck does not exceed one story and will be set back from the primary façade so that it is not visible from the primary public right-of-way.
23. The proposed renovation and new addition meet all setbacks and has increased setbacks from the minimum towards the north side yard area.
24. Staff does not find that the proposed plan will substantially diminish the character of the neighborhood nor will it cause the structure to lose its local designation as a Landmark structure or its eligibility for the National Register of Historic Places.
25. The proposal complies with Universal Design Guidelines #9 in that the c.1976 exterior alteration does not destroy historic materials, features, and spatial relationships that characterize the site or building. The divided-light glass entry addition beneath the overhang on the west side of the building is visually subordinate to the historic building when viewed from the primary public right-of-way. The addition does not obscure or contribute significantly to the loss of historic materials.
26. The proposal complies with Specific Design Guidelines B.1. Roofs. The BOA has determined that the original roof form, consisting of two (2) barrel vaults running north-to-south are not character-defining features of the historic structure, and, thus, the applicant will only be required to maintain the western barrel-vault.
27. The proposal complies with Specific Design Guidelines B.5. Windows. The applicant will maintain historic window openings and window surrounds on the Park Avenue and Heber Avenue facades; the remaining historic and non-historic steel window will be replaced with new windows that exactly match the historic in size, dimensions, glazing pattern, depth, profile, and material. No storms are proposed at this time.
28. The proposal complies with Specific Design Guidelines D.1. Protection for Historic Structures and Sites. The addition will be visually subordinate to the historic building when viewed from the primary public rights-of-way of Park and Heber Avenue. The addition will not obscure or contribute significantly to the loss of historic materials as the applicant proposes to retain the west barrel-vaulted roof form.
29. The proposal complies with Supplemental Rehabilitation Guidelines—Main Street National Register Historic District. The proposed project will not cause the building or district to be removed from the National Register of Historic Places. The alignment and setback along Main Street are character-defining features of the district and will be preserved. Traditional orientation with the primary entrances of the new addition on Main Street will be maintained. The rooftop deck addition will not exceed one story in height and will be set back from the primary façade so that it is not visible from the primary public right-of-way. The BOA finds that the rooftop deck is consistent with the Historic District Guidelines as it is not generally visible from the Park Avenue and Heber Avenue rights-of-way.
30. Pursuant to LMC 15-1-18(G), the Board of Adjustment shall act in a quasi-judicial manner. The appellant has the burden of proving that the land use authority erred. The appellant fails to specifically indicate how staff erred.

Conclusion of Law

1. The proposal complies with the Park City Design Guidelines for Historic Districts and Historic Sites.
2. The proposal complies with the Land Management Code requirements pursuant to the Historic Recreation Commercial (HRC) District.

Order

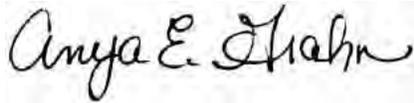
1. The appeal is denied and Staff's determination is upheld.

Condition of Approval

1. An independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement in satisfaction of the Planning Director.

As the appellant, this letter is intended as a courtesy to document the status of your request. The official minutes from the Board of Adjustment are available in the Planning Department office. If you have any questions regarding your application or the action taken, please do not hesitate to contact me at 435.615.5067 or anya.grahn@parkcity.org.

Sincerely,

A handwritten signature in black ink that reads "Anya E. Grahn". The signature is written in a cursive style with a large initial 'A'.

Anya Grahn
Historic Preservation Planner

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF OCTOBER 18, 2016

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi, Jennifer Franklin, David Robinson, Mary Wintzer

EX OFFICIO: Planning Director Bruce Erickson, Anya Grahn, Planner; Polly Samuels McLean, Louis Rodriguez

ROLL CALL

Chair Gezelius called the meeting to order at 5:01 p.m. and noted that the Board did have a quorum.

ADOPTION OF MINUTES OF JUNE 22, 2016.

Board Member Franklin noted that the minutes had auto corrected Mary Wintzer's name to reflect Mary **Winter** and it needed to be changed to **Wintzer**.

MOTION: Board Member Hans Fuegi moved to APPROVE the minutes of June 22, 2016 as amended. Board Member David Robinson seconded the motion.

VOTE: The motion passed. Jennifer Franklin abstained from the vote since she was absent from the June 22nd meeting.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

There were no reports or comments.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

638 Park Avenue – Appeal of Staff's Approval of a Historic District Design Review for the Historic Kimball Garage. (Application PL-16-03106)

Planner Anya Grahn apologized for forgetting to include the action letter for the Historic District Design Review approval in the Staff report. She had it available this evening if the Board needed it.

Planner Grahn reported on public comment she had received earlier that day from Sanford Melville. She provided copies of his letter to the Board.

Planner Grahn explained why the Board of Adjustment was reviewing an appeal of the Staff determination on Design Guideline compliance since that is typically heard by the Historic Preservation Board. She reminded the Board that in December 2015 the LMC was amended to give the Historic Preservation Board more responsibilities regarding material deconstructions. When that change was made, the Board of Adjustment became the appeal body so there were no conflicts of interest. Therefore, the Board of Adjustment was the first body to appeal this application.

Planner Grahn stated that the BOA was reviewing this de Novo. She thought the Staff report was descriptive regarding the overall development of the site. However, she reminded everyone that the building was built in 1929 as the Kimball garage. It was built during Park City's mature mining era, which lasted from 1894 to 1930. The Staff report outlined the changes that have occurred as the site was developed between a gas station and into the Kimball Art Center. The site is listed as Contributory on the 1979 National Register Nomination for the Park City Main Street Historic District. The site is also listed as a Landmark on the Historic Sites Inventory, which is the highest historic designation. Landmark means the structure is National Register eligible because it retains such a high level of historic integrity.

The Staff found that the proposal complied with the LMC and Design Guidelines on June 20th, and it was appealed by the Park City Museum on June 30th. Planner Grahn stated that the Appellant primarily based their objections to the project based on the Secretary of the Interior Standards. She pointed out that the standards are set by the Federal Government and the National Park Service. The Standards are a series of concepts about maintaining, repairing, and replacing historic materials. However, the Staff does not enforce the Secretary of the Interior Standards. The Design Guidelines are Park City's interpretation of those standards; particularly the Universal Guidelines. The Design Guidelines were approved by the City Council in 2009.

The Staff found that the Appellant had four major objections to the proposal. The first is the loss of one of the barrel vaulted roof forms. Planner Grahn presented a photo showing how the Kimball garage looks now. The Staff found that overall the character defining features of the site were the horizontality of the architecture. When this building was constructed in 1929 they did not have the engineering and structural abilities of today. To have a flat roof would have been impossible to construction, which is why they designed the barrel vaults. Planner Grahn noted that the barrel vaults were designed with a flat bottom edge, which helps them to hide and disappear behind the parapet, which is another character defining feature of the site. Planner Grahn stated that other character defining features that the Staff thought related to the horizontality were the long horizontal bays that are divided by vertical columns, the coping above the cornice line, and other features outlined in the Staff report. The Staff found that the rooftop deck as proposed would remove one of the barrel vaults, but because the barrels were

designed to be hidden and were meant to disappear behind the parapet, the Staff felt the addition was appropriate. The Staff also determined that the cantilever in the deck was inappropriate because it would have more of an impact on the historic character of the building and detract from the historic building.

Planner Grahn reported that the Appellant was also objecting to an addition of a new door along Heber Avenue in this location. The Staff found that there most likely was a door in that central bay that accessed commercial space on the interior of the garage. Planner Grahn believed the door was removed in 1976 as part of the Kimball Arts Center renovation.

Planner Grahn stated that the Appellant was also concerned about the Staff allowing the applicant to maintain the glass addition beneath the overhand. This area was originally the pull-up area into the fueling station. She noted that the original walls of the Kimball garage were taken out at some point and the glass addition was put in in 1976. The Staff found that the glass addition itself was not incompatible to the design of the gas station. Planner Grahn remarked that it was largely designed to be transparent, which reflected how open the fueling pump area would have been historically. It was also designed to be behind the wall of the Heber Avenue façade, which helps that overhang cast a shadow and allow it to disappear.

Planner Grahn stated that the Appellant objected to the removal of the steel windows. She pointed out that there are historic windows on this building. One is located on Park Avenue and the remaining are located on the rear addition on the north side of the building. Planner Grahn explained that the Guidelines permit the replacement of windows when the historic windows cannot be made safe and serviceable through repair. Replacement windows must always match exactly the historic windows in size, dimension, glazing pattern, depth, profile and material.

Based on discussions with the applicant and the information he provided, the Staff concluded that the windows were in poor condition and were likely beyond repair. The Staff also allowed the applicant to install one new window on the Park Avenue façade. That area, which was a pull-in to the fueling station, was filled in in 1976 as part of the Kimball Art Center renovations. The area on the other side of the wall is interior space. It is currently covered with corrugated metal and the applicant was proposing to add glass. The Staff felt this was appropriate because it lends itself to transparency beneath the original fueling pump station.

Planner Grahn stated that the Museum would have the opportunity to give a presentation this evening. Tony Tyler and Craig Elliott, representing the applicant, were also prepared to give a presentation.

Sandra Morrison, representing the Park City Historical Society and Museum, stated that the historic Kimball Garage was one of Park City's most prominent and cherished historic buildings. Rehabilitation and the adaptive reuse of this iconic structure needs to demonstrate the best practices of historic preservation, and meet the community's desire to preserve the built environment and to honor Park City's unique history. Ms. Morrison noted that the City Council adopted the Historic Sites Inventory in 2009 to address these concerns. Landmark sites were identified on the Inventory and those sites would be protected by the strictest regulations and not suffer from decisions that are arbitrary or based on personal taste. She pointed out that the Kimball Garage is a Landmark site.

Ms. Morrison stated that the Historic Society actively attempted to participate in the Historic District Design Review process for the Kimball Garage renovation project. They attended the public hearing on February 27th, and submitted written comments during the public hearing on June 7th. Ms. Morrison felt it was important to note that this application has never gone before the Historic Preservation Board.

Ms. Morrison remarked that the Historical Society was notified of the Staff's action approving the project, but they were never given details for the basis of approval. They were informed by Staff that they would have to submit a GRAMA request for that information. Ms. Morrison apologized for a handwritten appeal, and explained that it was hastily written because they were unsure of what had exactly been approved. Their detailed statement was included in the Staff report. Ms. Morrison noted that some of the information in the detailed statement was different from what Planner Grahn represented in her presentation.

Mr. Morrison stated that the approval process occurred behind the scenes, and she appreciated this opportunity to address their concerns. Ms. Morrison thought the biggest issue was that part of the approval ignored the Historic District Design Guidelines and the LMC. The concern is whether that might have started a slippery slope in terms of what could happen in the future.

Ms. Morrison referred to page 66 of the Staff report which contained pages of the Park City Design Guidelines for historic districts and historic sites. She believed there was a tendency in Park City to think that they were nothing more than guidelines and did not need to be followed exactly. Ms. Morrison remarked that it was an untrue perception because the guidelines are part of the LMC and they are mandatory. She read from LMC Section 15-11-11, "The Design Guidelines are incorporated into this Code by reference". Ms. Morrison read from the Design Guidelines, "Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provisions apply".

Ms. Morrison outlined their concerns. The first was the improper removal of half of the roof. She presented a photo from the historic sites inventory showing the two barrel roofs. She noted that page 30 of the Guidelines calls for maintaining

the original roof form. She pointed out that the barrel roofs were the original roof form on the Kimball Garage. Ms. Morrison believed the Staff had erred in allowing the demolition of half the roof. She referred to the Staff report and comments by Planner Grahn indicating that the barrel roof was not a character defining feature. Ms. Morrison noted that the Design Guidelines do not talk about “character defining features”. It is not listed in the glossary and the term is not defined. She felt that discussing character defining features at this point was a red herring. Ms. Morrison referred to Planner Grahn’s comment that the roof was not intended to be seen when it was built; and noted that the Code does not address that issue either. It only says to maintain the original roof form.

Ms. Morrison remarked that the barrel roofs are also features of the building. She referred to the Universal Guideline #3 on page 28 of the Design Guidelines, which states, “Historic exterior features of the building should be retained and preserved”. Ms. Morrison pointed out that the roof was obviously a historic exterior feature, and demolishing one of the two barrel roofs was not retaining the historic feature. She stated that if they ignore the Code now and determine that the roof is not important and half of it could be demolished, she questioned how they could stop demolition of the other half in the future.

Ms. Morrison stated that the next concern was removal rather than restoration of the historic windows. She referred to page 32 of the Historic District Design Guidelines for windows, and read from Guideline B.5.2, “Replacement windows should be allowed only if the historic windows cannot be made safe and serviceable through repair. She presented a slide Silver Star where the windows were damaged and the developer replaced the panes and retained the historic windows.

Ms. Morrison noted that in the Findings of Fact, the Staff did not offer any explanation as to why the historic windows would be replaced. She also noticed that the Code does not identify who should determine that the historic windows are beyond repair. Ms. Morrison thought that an impartial party with expertise in that field should make that decision.

Ms. Morrison noted that the applicant has argued the word serviceable. She looked up the word in the Merriam Webster Dictionary and “serviceable” means “ready to use, or be able to be used”. She did not believe they needed to argue that serviceable was something more complex. On the issue of single-pane, Ms. Morrison stated that a lot of single-pane windows have been preserved in Park City, one being the Museum building. She had Googled repairing historic windows and she had 8,000 hits. The National Trust talks about repairing historic windows being more economically and environmentally friendly. It noted that amount of windows that are destroyed every year and the amount of debris it generates. Ms. Morrison remarked that preserving historic windows is a greener approach than installing a new window; and historic preservation is part of the solution for reducing the carbon footprint, which is another important goal for

Park City. Ms. Morrison presented slides of other historic buildings where the historic windows were preserved.

Ms. Morrison stated that the next concern was the demolition of the historic windows openings to accommodate new doors. She presented a photo of the north façade of the Kimball Garage, and noted that the Staff had approved altering two of the historic window openings to accommodate doors. Ms. Morrison reads from page 31 of the Design Guidelines, B.2.1, “The primary and secondary façade components, such as the window door configurations, should be maintained”. She noted that Finding of Fact #25(g) states that the façade components such as the window/door configurations will be maintained. Ms. Morrison believed that was inaccurate because the applicant has proposed substituting two of the windows and that the openings will be enlarged to accommodate new doors. Ms. Morrison read from page 32 of the Design Guidelines, B.5.1, “Maintain historic window openings and window surrounds”; and B.5.2, “Replacement windows should exactly match the historic window in size, dimension, glazing, pattern, etc.” Ms. Morrison pointed out that Finding of Fact 25(j), stating that the applicant will maintain the historic window and window surrounds was also inaccurate because the window surrounds would be cut to accommodate the two new doors. Ms. Morrison noted that the applicant had agreed that these were historic windows.

Ms. Morrison stated that the next concern was the replication of the non-historic front façade. She presented a photo of the glass lobby. She remarked that the glass entry extends into the two open bays and it is not historic. She showed a picture from 1949. Ms. Morrison stated that the Universal Design Guideline #6 on page 29 of the Design Guidelines states, “Features that do not contribute to the significance of the site or the building and exist prior to the adoption of these guidelines, such as incompatible windows, etc., may be maintained. However, if it is proposed that they be changed, so features must be brought into compliance with these guidelines”. Ms. Morrison explained that the proposal is to have a new double door entering from the front façade off Heber Avenue. She thought the Findings of Fact erred once again because the non-historic addition is being changed. Per the guidelines, it should come into compliance.

Ms. Morrison commented on the replication of the non-historic Park Avenue façade. She referred to the image shown on page 44 of the Staff report, and language indicating that only one bay was open in 1944. However, a blown up version of the 1944 photo shows two open bays from Park Avenue. Another photo showed the Kimball Arts Center with the 1976 remodel. Ms. Morrison believed the bay was most likely filled in in 1976. She noted that the Guidelines state that features that do not contribute to the significance of the building and exist prior to the adoption may be maintained, but if it is proposed to be changed, those features should be brought into compliance with the guidelines. Ms. Morrison stated that Finding of Fact #24(g) was in error because it was allowing a substitution. She presented a slide of the façade, which said “remove and

replace and match existing with typical". Ms. Morrison remarked that if the applicant wanted to remove and replace, the Guidelines need to be applied, and the Guidelines say to bring it into compliance. She read from Universal Guideline #7 on page 29 of the Design Guidelines, —Owner are discouraged from introducing architectural elements or details that visually modify or alter the original building design when there is no evidence that such elements or details exist." Ms. Morrison stated that the documentary evidence is that there was no window and it was an open bay.

Ms. Morrison emphasized that the community relies heavily on the Land Management Code and the Design Guidelines to protect the historic sites for future generations; and every small concession or inconsistent approval is compounded over time. Ms. Morrison stated that remarkably the historic structures have survived from the mining era, and through their stewardship and precaution, they could survive for many more years to come.

Ms. Morrison requested that the Board of Adjustment rescind the approval for the Historic District Design Review, and to direct the Staff to draft new Findings of Fact that are consistent with the Design Guidelines, including no demolition of the historic double-barrel roof form; repair, not replacement of the historic windows; no demolition of the historic window openings to accommodate new doors; removal, not replacement, of the non-historic glass entry on Heber Avenue; removal, not replacement, of the non-historic corrugated iron Park Avenue; and the re-establishment of the historic open bays on Heber and Park Avenues.

Craig Elliott, representing the applicant, stated that he has been working on this project with the Staff and the owners for nearly two years. They have had great dialogue on the project. Mr. Elliott addressed a few comments before discussing the actual project. He noted that they did not go before the HPB because the project was initially filed before that requirement was in place. Mr. Elliott clarified that the applicant has followed the proper process and all of the rules and regulations, and they are working diligently with Staff to protect the historic nature of Park City.

Mr. Elliott stated that the Kimball Garage is an interesting building and the building itself is unique. The ownership of the building understands and respects that; however, it is different than any other structure in the Historic District because it is an industrial building. Its original use was a gas station, a service bay, and associated retail. Mr. Elliott explained that as they looked at the project they looked at how it engages with the Historic District today, and how it brings value and protects the building over the next generation. He emphasized that the new ownership was interested in being good stewards of this building.

Mr. Elliott thought it was important to understand how they addressed this project and how the Historic District Guidelines apply. When starting a project there has

to be an understanding of which approach to take with the Historic District Design Guidelines. He noted that four different approaches are available. Mr. Elliott stated that they chose to move forward with the rehabilitation project, which also encourages preservation. He summarized that the approach they took basically says that if the intent is to stabilize a building or structure, retain most or all of its historic fabric, and to keep it looking as it currently does now; preservation is the first treatment to consider and it emphasizes conservation, maintenance and repair. Mr. Elliott noted that the owners were looking to do all of those things to protect it. He pointed out that they also took a rehabilitation approach because the project is an adaptive reuse. If they were to use the more restrictive restoration and move it back into the use of a garage for car maintenance or automotive retail, they would probably look at a restoration of the building. However, that use is not their intention, nor is it the requirements of the Design Guidelines. Mr. Elliott reiterated that the owners chose to move forward with preservation and rehabilitation. Rehabilitation says that if a building is to be updated for its current or a new use, it will be rehabilitated. The second treatment also emphasizes retention and repair of historic materials, although replacement is allowed because it is assumed that the condition of existing materials is poor. Mr. Elliott noted that this was the framework within which they applied the Historic District Design Guidelines. He believed it was the appropriate approach based on the uses, the historic use, and the existing condition of the Historic District.

Mr. Elliott presented a slide showing the plaque on the building that was awarded in 2000. He noted that the new ownership is proud of the building and they want to maintain it because it adds value to the City and to the building owners.

Mr. Elliott commented on the roof analysis. One of the issues raised by the Appellant was the barrel vaults. He explained that they are referred to as barrel vaults but they are actually bow string trusses that have a burrito shaped roof because it falls away and down to the parapets, which were intended to raise up and hit the roofs. Mr. Elliott stated that there were no examples in the Design Guidelines about analyzing existing building roofs, but there are examples of how to look at additions and how it impacts the existing building. He explained how they looked at it from across the street on the sidewalk and took a view line to see what was visible, what it impacts and how to approach it. Mr. Elliott had taken photos from all the corners on neighboring properties. He reviewed slides to show what was or was not visible from various points.

Mr. Elliott noted that the Appellant had responded about historic preservation based on the Secretary of the Interior Standards on Historic Preservation. He stated that he has been working on historic preservation projects since early in his career. He commented on renovation and rehabilitation projects he had done in New York City in the 1980's and 1990's. All of those projects looked at replacing windows that were unserviceable. He understood that there were preservation briefs on how to approach that. Mr. Elliott stated that this project

falls under two different preservation briefs. They are guidelines that help to analyze and understand things are not specifically addressed in the Code. He noted that a preservation brief for roofing for historic buildings, which talks about the significance of the roof and historic roofing materials. He explained that the significance of the roof is its prominence and whether the form was there and designed to create a visual impact on the exterior appearance of the building. Based on his look at the building, he did not believe that was the case. From the streetscape on all sides it was not intended to be an important element. Mr. Elliott remarked that the second part of the preservation brief is based on materials. He stated that the materials on this roof has never been a material that would be expected to add character to a building. It is currently a built-up roof, and it may have had rolled out asphalt roofing before. However, it is not a material such as wood, clay, slate or other materials that have a decorative element that would add character. After applying the standards, they determined that that was not the intent of the design of the building.

Mr. Elliott stated that the second part of the preservation briefs talks about the reuse of historic gas stations. This particular building falls under the category of a multiple use station because it provided gasoline and additional services. Mr. Elliott noted that a section in the historic preservation brief talks about roofs on historic gas stations. It reads, "While some gas stations were defined in part by historicized roofs, other were characterized by the absence of a pitched roof. Flat roofs or very low sloped roofs concealed behind parapets were common on both articulated contemporary design, such as glass-sheathed Streamline, Moderne, and International Style gas stations, as well as basic utilitarian boxes". Mr. Elliott believed the Kimball garage falls underneath the Moderne and the basic utilitarian box as a building, which was characteristic of multiple use gas station buildings built in that era. Mr. Elliott remarked that the preservation brief talks about it not being an important character defining element. Their approach was to try and understand the expectations.

Mr. Elliott commented on the window analysis and what the existing historic windows entail and what they are made of. He presented a slide showing the windows currently in place, and the detail of the condition of the windows. In looking at the individual performance of the windows and the glazing, Mr. Elliott noted that the windows were industrial windows designed to keep out the wind and the rain, and to provide a lot of light and some ventilation. Mr. Elliott stated that the reality is that windows were upgraded over the years, but their serviceability is very minimal. Mr. Elliott presented examples of other buildings in Park City to show how these types of windows can be replaced. He noted that the owners were proposing a higher standard of care by using a steel window with a thermal break, which more closely matches the windows at the gas station than what occurred at the Library and the Marsac Building in terms of matching the original windows.

Mr. Elliott stated that in his report he had provided an analysis as to why the existing windows were not serviceable. He explained the attributes of using a proposed steel window with a thermal break. Mr. Elliott believed that installing these windows into the building would maintain its historic compatibility and protect the building because it will be a viable and usable structure.

Mr. Elliott had done a model to show what the deck would look like if it was added on top. He noted that the eye line was raised to 8-1/2 feet in order to see the barrel vaults. Another slide showed it from 13 feet off the ground so more of the barrel vault was visible. Mr. Elliott clarified that they had no interest in doing that, but they were asked to show what it would look like. He explained that what they were proposing would not be seen from the street.

Mr. Elliott presented a slide showing the existing windows on the corner. He noted that those windows were installed 40 years ago and most people understand the building from its historic use as the Kimball Arts Center. Mr. Elliott stated that those spaces have been used as an addition and in place for four decades. Nothing in the Historic District Design Guidelines require removing the additions. It talks about ways to approach it and what may be done. Mr. Elliott reiterated that the Guidelines focus more on wood frame small house structures versus industrial buildings.

Mr. Elliott stated that they tried to maintain the existing condition of the additions and use that space; and also upgrade the window system to be more compatible with the existing window systems. Mr. Elliott presented photos showing the glazing on the glass panels in the bay. They believe that bringing those windows up to current standards and matching those with the profiles of the historic windows, it becomes less noticeable and more background to the existing building without harming the historic structure. Another slide showed the door on Heber Avenue. Mr. Elliott anticipated a discussing regarding that door. He was unaware that the Appellant was also concerned about the windows on the back.

Mr. Elliott stated that the building was designed as a street front building; therefore, the two street fronts have finished brick. The two other sides were intended to be sidewalls to what he believed were other buildings that were expected to be built on the street front in those areas.

Mr. Elliott stated that in looking at the overall building, the historic significance of the building, and the two primary uses over time, he thought it was comfortable to leave the existing windows in place. It was not required to be removed, but it has been allowed and encouraged in certain instances. He believed their proposed was consistent with the Guidelines and consistent with representing the Historic District buildings. He pointed to other historic buildings that have seen significant changes and additions that affect both the roof, as well as other additions that are more contemporary, but they were still compatible. It is what keeps the City alive and keeps the activity going. Mr. Elliott thought the purpose of the Design

Guidelines was to protect the history of the buildings; and as they move forward in time and the uses adapt, create ways that protect the historic integrity.

Tony Tyler with Columbus Pacific, the building owners, stated that they were presented with a very unique opportunity on this very spectacular piece of property and spectacular building. Mr. Tyler stated that he was a history major in college and even though he is a developer, he is personally passionate about historic buildings and the Historic Main Street District. Mr. Tyler felt their proposal includes things that would permanently preserve some characteristics of the building that are critical to the reflection of the building as it was built and designed, but also looking to the future and how the building can be utilized.

Mr. Tyler stated that they have worked closely with Anya Grahn and Bruce Erickson. The process was extensive and very well thought out. He remarked that the overall goal was to rehabilitate an existing historic building with an addition that creates a link between upper and lower Main Street that has never existed in a functional way. If done right it can provide something that will become a new keystone for the City by preserving the existing building and adapting it to a new use. They would also be providing additional new space immediately adjacent to it.

Mr. Tyler stated that in terms of the barrel roof form, once a building is rehabbed more than 50%, it is required to be brought up to Seismic Code. He pointed out that the existing building currently does not meet Seismic Code. Mr. Tyler pointed out that even if they wanted to leave the barrel roof trusses as they were originally designed, it would not meet Code. He noted that in working with the City, they elected to move the barrels from the east vault to the west vault and double the trusses to retain as much of the historic character as possible and still meet Seismic Code. They had the opportunity to remove both barrels of the bow string truss, but they did not believe it was the right thing to do. Mr. Tyler emphasized the importance of retaining the historic character of the building.

Mr. Tyler thought the windows were a different issue. He wanted it clear that the only original windows were on the back of the building. The windows are not serviceable and do not meet energy code requirements. As a developer, they were trying to be as prudent as possible to provide for Sustainable Practices. They were proposing to put solar panels on the top of the roof, as well as other things to promote green building design and energy efficiency. Looking the historic windows in place would completely obliterate the possibility of the building being weather tight.

Mr. Tyler stated that Craig Elliott is an expert in all forms and facets of historic renovation, which is why they hired him. He was confident that Mr. Elliott's expertise in dealing with historic structures was very high. Mr. Tyler remarked that the goal is to create a new piece of history with the addition and to preserve a significant piece of the City's past.

Chair Gezelius opened the public hearing.

Jim Tedford, representing the group Preserve Historic Main Street, stated that the group has been involved with this project for nearly four years. He noted that the current rendition was a definite improvement over the 80' log tower that was proposed three or four years ago. However, Mr. Tedford believed some things were in direct conflict with the Historic District Design Guidelines. One is that Finding of Fact #24 states that —the proposal complies with the Universal Design Guidelines for Historic Sites. The Universal Design Guideline states, —the Historic exterior features of a building should be retained and preserved". Mr. Tedford noted that this was obviously an historic exterior feature which can be clearly seen in some of the photos that were shown. He understood that the visibility depends on the angle the photo was taken from. He walked by it this evening and the barrel vaults could definitely be seen. Mr. Tedford stated that according to the proposal, the eastern barrel vault, which is a historic exterior features, would not be retained and preserved. Mr. Tedford read from Finding #24(d), —The proposal complies with Universal Guideline #4, in that the distinctive materials, components, finishes, and example of craftsmanship will be retained and preserved". He assumed the barrel vaults would be considered a component and they were not being preserved. Mr. Tedford noted that the Findings state that the proposal complies with Historic District Design Guidelines b.1.1, roofs as conditioned. —the Planning Department has determined that the original roof form consisting of two barrel vaults running north to south are not character defining features of the historic structure, and thus the applicant will only be required to maintain the western barrel vault". Mr. Tedford remarked that the actual wording in the specific Guideline B.1.1 states that you must maintain the original roof form as well as any functional and decorative elements. Mr. Tedford stated that a lot of words get used in reference to the Lan Management Code and the Historic District Design Guidelines that tend to be gray or ambiguous, such as compatible or subordinate. However, in his opinion, this was absolute black and white. The barrel vaults on the roof maintain the original roof form. It was stated by the Planning Department that the decision to save only one of the barrel vaults was a compromise. Since there is no mention of a compromise in the Historic District Design Guidelines, he believed both barrel vaults must be treated the same. The Guidelines must be strictly adhered to, and therefore, both barrel vaults must be retained and preserved.

Mike Sweeney referred to the photo of the Coalition building. The photo shows that it was Heber Avenue and Park Avenue, but there was no Main Street that went down through that location. It was a railroad yard where the ore left and the coal came for the mining industry. Mr. Sweeney stated that the historic nature they were talking about preserving was basically on the Heber side of this building. There was nothing there, it was just a vacant lot. His family used to own the Coalition building. Mr. Sweeney believed the Staff had taken a great approach in looking at how do this and make it work. Making it work means they

will create an area where lower Main Street and upper Main Street meet and connect, and there will no longer be a lower Main or an Upper Main. It will just be Main Street, and that is a critical component part of making the street function as a district for commercialization in this particular area. Mr. Sweeney stated Sandra Morrison is a very bright person and he understands that she looks at things differently, but in this particular case, he thought it was important to look at the functionality of the building and how it will function in that location to make it better. He agreed that this was a much superior project than what they previously looked at for the Kimball Arts Center itself. Mr. Sweeney supported the Staff.

Ken Martz provided some history since he was Chair of the Historic Preservation Board when the Design Guidelines were developed. Mr. Martz recalled that the HPB spent most of the year developing those guidelines, and most of their time was spent on Main Street type properties, the different types of homes in the Park City area, and the Inventory. Mr. Martz noted that very little time was spent talking about industrial buildings such as the Kimball Garage and the Memorial Building. Mr. Martz referred to a letter in the Staff report from Kirk Huffaker talking about adaptable reuse. Mr. Elliott had also mentioned it. He remarked that the HPB had not talked at all about adaptable reuse. It was not developed in the Guidelines, but he believed there was more space for adaptable reuse, especially in the larger buildings that are more complex than a T-cottage or a Main Street building with one façade. Mr. Martz stated that he has owned historic property in Upper Park Avenue and there have been problems over the years with the Historic Sites Inventory. The biggest problem was that the Kimball Arts Center took a year and a half of time trying to develop something, and the potential of turning the property into a planned unit development which did not utilize the process of the Historic District Guidelines. A lot of time was lost in trying to format the use of that building and it left a bad taste for the process, particularly for the Preserve Historic Main Street group and the Historic Society. In his opinion, it was a process that should have never started because it was totally out of character to consider turning a Landmark structure into a planned unit development. The building has a new owner and Mr. Martz agreed that this proposal was a big improvement. Mr. Martz acknowledged that he was not a purist like Mr. Tedford and Sandra Morrison. He has been in Park City over 50 years and he remembers when it was a gas station. He has seen a lot of changes over the years, and while it is good to be purist, you still have to be flexible. Mr. Martz hoped the Museum, the owner, Mr. Elliott and the Planners could work together to make this the best project possible.

Chair Gezelius closed the public hearing.

Chair Gezelius noted that the Staff report outlined several actions that the Board could take. She requested that the Board members focus on the big picture and understand that there was an application before them that the Staff had carefully reviewed and supported in its current form. Chair Gezelius did not believe it was

necessary to go through each Finding; however, she wanted to discuss the major points of the appeal Ms. Morrison had presented, and then discuss the applicant's perspective. She prefaced their discussion with a comment by Mr. Martz, that if they get too caught up in the detail and do not look at the big picture, they will lose every historic building because they would never come a decision. She pointed out that Park City does not have earthquakes that knock building down, but they do have demolition by neglect. The intent is to prevent that with this application. The hope is to have this building be a viable functioning property in the heart of town. Chair Gezelius believed there was a way to do that and facilitate it without animosity or hard feelings.

Chair Gezelius called for Board comments regarding the roof.

Board Member Wintzer asked for clarification on the timeline for when some of the buildings Mr. Elliott had mentioned were renovated. The Egyptian and the High School were done prior to the 2009 Guidelines and she asked about City Hall. Chair Gezelius believed City Hall was renovated within the last ten years. Ms. Wintzer clarified that they did not have the Guidelines at that time.

Ken Martz noted that the building had gone through two renovations and the last one was when the windows were put in. Chair Gezelius agreed that the last renovation addressed utility considerations, seismic and fire safety. Heating and cooling with the old windows also had to be addressed in order for it to continue to be a functional office building. Ms. Wintzer pointed out that the High School was done before the 2009 Guidelines were in place, and that the old guidelines had much less detail.

Director Erickson reported that the restoration of the Park City Library was completed in 2013/2014. The last renovation of City Hall was done in 2009. Chair Gezelius remarked that the Guidelines have changed and they will be changed again. Ms. Wintzer asked if the Landmark status was affected due to the restoration and renovation of these buildings. Chair Gezelius replied that the Landmark status was maintained.

Sandra Morrison noted that the Landmark status was created after the original renovation of the High School and City Hall. Both buildings are Landmark structures.

Board Member Fuegi asked about the seismic issue with the barrel roof. He wanted to know if the roof could be reinforced and maintained in its original shape and still meet the Seismic Code.

Craig Elliott stated that they will reach the 50% threshold because the entire building was being renovated. For that reason, they have to bring the roof into compliance for snow loads, and they also have to bring the overall building into Seismic compliance. That will be done with concrete elements on the inside.

The steel ties currently visible on the outside of the parapet will be removed. Both are required in order to bring the building into compliance as they rehabilitate it. Mr. Elliott noted that they are able to use the bow string trusses from the eastern side and double them with the existing ones to achieve the increased loads for twice the capacity. It was originally designed for half the capacity of what is now required.

Board Member Wintzer asked if the doubling up would be to take the east barrel and put it on the west. Tony Tyler explained that inside the building there are individual bow string trusses at certain spacing. They would take the ones from the east bay and move them over to the west bay and put them side by side with the original ones on the west bay. In moving those, those two would create enough bearing capacity for gravity load and the required seismic.

Chair Gezelius understood that if they were required to maintain the current roof shape, it would require what Mr. Elliott had said and a new roof on the other side. Mr. Elliott replied that it would require both of the roofs on the interiors to have new structure inside to help support the existing bow string structure. Wood joists will be renovated or replaced because many are rotten and they do not meet the span distances. Those would have to be replaced in either case. Mr. Elliott explained that as they bring the building into compliance, everything has to meet the code.

Board Member Wintzer thought the double barrel shaped roof was distinctive. She agreed with Mr. Tedford because she had also walked and driven from various points and it could be seen from a number of places. Ms. Wintzer stated that as she read the Staff report, it seemed that the logic for removing the east barrel shape was simply because of the deck. If the deck was not needed that unique feature could stay. Ms. Wintzer agreed with Mr. Tedford that the Guidelines do not give wording to talk about compromises on that issue. She thought the double barrel configuration was important, and it is significant for what the building is about. Ms. Wintzer also agreed with Mr. Martz about coming to a meeting of the minds because they were chipping away at some much of the historic district. As a community they need to make the decision on whether to take a stance that puts the owners in compromising positions, or, as Chair Gezelius had said, risk losing the buildings by neglect.

Chair Gezelius understood that Board Member Wintzer felt strongly about keeping the roof shape. Ms. Wintzer replied that she personally felt it was important.

Chair Gezelius found the deck to be the least compatible to the historic use of the building. She understood the need to get in and out due to fire, and adjusting windows and doors for safety, and the earthquake codes. However, she could not see the necessity of modifying this historic building for a roof deck. Chair

Gezelius believed that maintaining the roof shape was part of maintaining the façade.

Ms. Morrison pointed out that Universal Guideline #9 states, —~~ow~~ additions, exterior alterations, or related new construction should not destroy historic materials, features, or relationships that characterize the site or building”.

Board Member Robinson could see a contradiction and he was struggling to consider both sides because of it. On one hand, if the roof is considered a character defining feature, it needs to stay. However, if it is not a character defining feature, then Guideline B.1.1 would apply, which says that the roof shape cannot be changed regardless of whether or not it is character defining. Mr. Robinson thought that would apply to a roof that was highly visible and not one that was intended to be non-existent; but they still have to follow the black and white Guidelines which says that the roof shape cannot be changed.

Ms. Morrison thought that would be a legal question since the Design Guidelines were part of the LMC. She read the language, —.nicorporated into the Code by reference.” Assistant City Attorney McLean stated that the BOA needed to interpret that Guideline the same as they would the LMC in terms of whether maintaining the original roof applies to areas that are non-visible. Ms. McLean pointed out that a question for the Board to determine was whether or not it is non-visible.

Craig Elliott commented on a section in the Design Guidelines, Supplemental Rehabilitation Guidelines, MSHS6, and read, —~~Ro~~oftop additions may be allowed. They should generally not exceed one story and should be set back from the primary façade so they are not visible from the primary public right-of-way”. Mr. Elliott pointed out that those were the things they looked at when they were determining what to do in the rehabilitation. He explained the process they had gone through to reach the project being proposed. They decided to consider a rooftop terrace as a common space because gathering spaces are being asked for throughout Old Town. After meeting with the Staff, they compromised on that element and kept the barrel roof on the corner of Heber and Park Avenue. Mr. Elliott stated that the ability to add to roofs is part of the Supplemental Rehabilitation Guidelines, and for the Main Street National Register Historic District.

Mr. Tyler noted that they went through the process of looking at whether or not they should build on top of the existing Kimball building. Even though it was more profitable, they decided not to do that for the same reasons they decided to maintain the barrel shape on the west side. The intent is to make the building look and feel similar to how it was originally constructed.

Board Member Franklin stated that based on their scope of decision-making this evening, she concurred with Sandra Morrison, the Appellant representing the

Historical Society Museum, regarding the double barrel roofs. It is a historic exterior feature of the building and it is worth keeping at it exists. Ms. Franklin appreciated Mr. Martz comment about the reuse of industrial historic buildings, and she believed the rooftop burrito was indicative of that industrial use of the Kimball garage as it was designed.

Board Member Fuegi asked if the terrace was visible at all from the Heber Avenue level. Mr. Elliott replied that generally it cannot be seen because it is pushed back, and there is a glass railing pushed back from the façade of the building. Mr. Fuegi asked what the applicant's intention was for the terrace. Mr. Elliott explained that the upper level of the addition on the corner of Main and Heber was designed to be an events facility on the second floor. When they first looked at the project they discussed whether to make it residential or another use; and they came back with the idea of supporting the Historic District with an event space on the upper level.

Mr. Tyler stated that from an economic perspective, the event space will not work without the terrace because it is not large enough to act as an event space that had practical use for everyone in the District. The only way to make it functional was to have additional outdoor space that could be utilized as part of the event space.

Board Member Fuegi was not bothered by the terrace as long as it could not be seen from Heber Avenue. However, he was concerned about the need for umbrellas to provide shade, or tents during the winter. At that point, it was questionable whether it would remain invisible on the Heber Avenue side. Mr. Elliott stated that people would be visible; and they had not discussed restrictions for use on the terrace. They were willing to have that discussion. Mr. Tyler agreed with Mr. Fuegi that some events may require umbrellas or tents. However, there would be a limited scope and no permanent impact. Mr. Fuegi did not favor tents or any similar feature for the majority of the year. Mr. Elliott clarified that there were no permanent features designed for that space.

Chair Gezelius asked for the square footage of the deck. Mr. Tyler estimated 2,000 square feet. He noted that it was pulled back from all of the ends to address the visibility issue. Chair Gezelius understood that it would only be accessed from the event space. Mr. Tyler replied that she was correct. Chair Gezelius assumed that Mr. Elliott had addressed snow and drainage issues.

Ms. Morrison address Mr. Fuegi's questions about the potential use of the deck. She noted that the Code on Main Street was recently changed to allow more permanent structures on new decks. She thought the Riverhorse was a great example of building a permanent structure on their deck every winter. She was unsure how this deck would be considered under the new Code, but tents would be acceptable.

Board Member Fuegi noted that restrictions could be put in place as part of an approval. In his opinion, neither the deck nor the roof were big issues. He went to look at the roof earlier that day and he could not see it from Heber Avenue. It could possibly be seen from higher up on Main Street, but he did not believe that would be a problem. His issue was where the majority of the public would see it, and it thought it was clear that it could not be seen from Heber Avenue, which is the most predominant view of the roof.

Chair Gezelius asked if there was agreement to keep at least one barrel? Board Member Wintzer was in agreement with Ms. Franklin that the double vaulted barrels are important for the historic. Chair Gezelius assumed that would eliminate the deck.

Board Member Franklin did not believe their purview was to decide on the deck or the design of the deck. She appreciated the deck and idea of having the deck for business practices. Her other job is to put on events all over the world. She contracts rooftop terraces everywhere and she like them. From a visual perspective, she thought the deck on top of the double barrel roof enhances the historic feature that she mentioned in her comments about looking at the industrial historical feature of this type of modern industrial buildings in Park City. She understood it raises the height, which is a separate issue, but she honors the rooftop terrace. Ms. Franklin clarified that she preferred the term “rooftop terrace” rather than “deck” because of the double barrel rooftop.

Assistant City Attorney McLean clarified that there were two items with the Appeal. One was for the double barrel roof and the other was for the deck. Item 1 of the appeal expressed concerns with the roof and Item 3 were concerns related to the deck. Ms. McLean pointed out that economic benefit is not part of the Board’s purview. Whether or not a decision affects the applicant economically should not be considered.

Director Erickson suggested that the Board discuss whether the two bay bow string arch truss roof system is part of the historic character of the building in keeping with the Design Guidelines. Following that, they should determine whether the rooftop deck complies with the Historic District Design Guidelines, and whether or not the Staff erred in their determination. The next items for discussion should be the doors on the south façade, the windows on the west façade, and the doors on the north façade.

On the issue of whether the bow string arch two bay roof system is part of the historic character of this building consistent with the Design Guidelines, he understood that Board Members Wintzer and Franklin believed it was. Chair Gezelius stated that she thought it was part of the historic character.

Board Member Robinson thought the bow string structured roofs were not intended to be an architectural feature of the building, and that was evidence by

the way they were designed to disappear behind the parapets. He was not opposed to removing one of them in order to accommodate the upper deck. He was also comfortable with the deck because it was pushed back far enough not to be visible from Heber Avenue. He has also walked the area and he agreed with Mr. Fuegi that the most important fact was what the public could see from the street level.

Board Member Fuegi agreed with Mr. Robinson that the reason for the parapet was to hide the roof structure. He did not see it as being character defining for the general view of the public.

Chair Gezelius ask Mr. Fuegi if he was in favor of saving one of the barrel roofs and allowing the deck. Mr. Fuegi replied that he was not bothered by the deck as long as it was not permanently tented and it was restricted with normal regulations.

Chair Gezelius stated that she could be convinced in terms of voting to keep one arch and allowing the rooftop deck.

Assistant City Attorney McLean asked if there was a Guideline that speaks to whether the roof should be visible or not visible. The language in the Guideline is specific that it should not be altered; however, she understood their conversation regarding visibility. Planner Grahn noted that Guideline B1.1 says, "maintain the original roof form as well as any functional or decorative elements". She explained that because the barrel vault is not visible, she did not think it was meant to be a character defining feature. However, it is a historic part of the building. That was one reason why the Staff found it was important to retain one of the barrels.

Planner Grahn stated that the next Guideline was about rooftop additions being allowed on Main Street buildings. She noted that the Guidelines are not specific as to whether the rooftop additions are limited to flat roof buildings only, or any building. The Staff had spent considerable time working through this issue. She explained that one of the reasons they allowed the rooftop terrace or deck addition was because it was so low it was not visible or adding another mass to that structure. It also allowed them to retain one of the barrel vaults. The Staff did not feel as bad about losing the second barrel because it was not visible.

Ms. Morrison noted that Planner Grahn's comments did not address Universal Guideline #9, which says new additions should not destroy historic materials. Planner Grahn asked when an addition does not destroy some historic material in order to be added on. Assistant City Attorney McLean asked if there was language that addressed visibility. Planner Grahn replied that Universal Guideline #4 talks about distinctive materials, components, finishes, and examples of craftsmanship should be retained and preserved. She did not believe it was meant to be a distinctive material and part of this building. In her

opinion, it is not a character defining feature and, therefore, it was not a distinctive feature of the building. The BOA needed to decide whether the Staff erred in that determination.

Ms. Morrison reiterated that B1.1 says to maintain the original roof form. It does not specify visible or not visible, character defining or not character defining. She stated that the Historical Society has taken the position that there are Guidelines and those Guidelines should be used to make it fair for everyone.

Chair Gezelius stated that it would never add up no matter who writes the guidelines or who interprets them. If the guidelines are so restrictive and so onerous, no one will do anything. Chair Gezelius remarked that they do not want to stop progress and they want to save historic buildings. The goal is to get the Kimball garage functional again and integrated back into the community as a useful building.

Mr. Tyler thought it was important to understand that one of the Universal Guidelines is that nothing can be done that facilitates removal from the historic district. In his letter, Kirk Huffaker states that —the Utah Heritage Foundation expresses its support for the proposal to move forward we believe that none of the alterations proposed would precipitate the site being removed from the National Register of Historic Places”. Mr. Tyler believed that was validation that they had done the right thing.

Chair Gezelius summarized that Board Members Fuegi Robinson, and herself supported the Staff’s position. Board Members Wintzer and Franklin did not.

Chair Gezelius asked for comments on the windows. She asked if they thought the Staff’s position was too generous in allowing the applicant to replace the windows, whether it was too restrictive, or whether they supported the Staff’s determination.

Board Member Fuegi thought Mr. Elliott had raised a good point regarding restoration versus rehabilitation. In his opinion, unless windows are tight and functioning properly they are worthless. He is dealing with a set of windows on Main Street that are held together with paint. It is an ongoing maintenance nightmare, it is costly and not efficient. Mr. Fuegi thought replacing the windows was necessary in order for the building to function properly. He had looked at these windows and they were not serviceable.

Chair Gezelius asked if the other Board Members concurred with Board Member Fuegi’s comments that the Staff’s determination regarding replacing the windows is acceptable from the standpoint of maintenance and preservation of the building.

Board Member Robinson thought the key word was —serviceable”. He had also looked at the windows and agreed that they were not serviceable and should be replaced.

Board Member Wintzer stated that in reading Mr. Huffaker’s letter, he said that without further information he could not definitely conclude and agree that wholesale replacement of the steel windows on the west and north facades was the best option. If those windows could be repaired, she questioned why they had not been repaired over the years. Chair Gezelius believed there was evidence of attempts to repair those windows in the form of caulking, etc. Ms. Wintzer agreed with Board Members Fuegi and Robinson that just by looking at the windows they should be replaced.

Chair Gezelius summarized that there was consensus among the Boards to support the Staff’s determination.

Chair Gezelius called for comment on the Staff’s finding that the replacement of windows in certain places is acceptable. She asked about the lower level windows being increased in size, and whether anything in the request related to egress for fire safety. Mr. Elliott stated that there is a condition where that is an issue and it would allow for access and exiting from the lower level. They looked at it as the side of the building that was not intended to be presented to the public. They felt like it was the right location to add those windows and create the exiting needed for the lower level. Chair Gezelius clarified that putting larger windows on the service side of the building would not affect the front façade or anything historical that was visible from the two streets. Mr. Elliott replied that this was correct.

Board Member Wintzer noted that Planner Grahn had written no side light on one of the drawings. Planner Grahn explained that they allowed the applicant to change the windows to doors because it was on the rear elevation where it was not noticeable and would not affect the façade. They also asked that instead of doing side lights that they use shorter side windows to maintain the line across where the original windows were located.

Chair Gezelius asked for comment or ideas about the old service station bay area on the west facade with the corrugated metal area that is proposed to have windows that resemble the rest of the building in the front. Chair Gezelius pointed out that it was currently a blank wall. She thought it would add a great deal of light, visibility and usability to that space.

Board Member Franklin understood that if they concurred with the Staff Report and the Staff Findings that they would also be agreeing with the HDDR, specifically the historic preservation plan. She noted that the proposal is for all windows, yet the physical condition reports indicates that some of the windows are in good condition, some are in poor condition and some are in fair condition.

Mr. Elliott replied that the windows identified as good condition means that the steel has not rusted through. It did not talk about thermal performance or other activity that goes with the building.

Planner Grahn clarified that there were historic windows on this building as well as replacement windows. The replacement windows along the Park Avenue façade are in good condition. Mr. Elliott indicated the addition underneath the bay that were put in 40 years ago, and noted that the windows that were installed on Heber Avenue were in good condition. He stated that they were trying to take that façade closer to its original historic representation versus the change that was made to it. Mr. Tyler noted that the windows replaced in the 1970's do not match what the historic fenestration patterns looked like. They were trying to recreate the historic imagery, but that requires replacing all of the windows.

Board Member Wintzer asked if this was more in line with what the Historical Society would agree with if the window replacement was in accordance with the Historic District Guidelines. Ms. Morrison noted that the Guidelines indicate that the windows could be replaced if they were determined to be not useful or serviceable. She asked if it was appropriate for the applicant to make that determination or whether they should bring in an impartial expert to make that determination. Ms. Morrison stated that the intent of the Code is to keep as much historic material as possible. They want to preserve these structures for future generations. If they start allowing subtle changes they will lose more and more of the historic with each renovation project over the years.

Ms. Wintzer stated that she asked the question for clarification because she thought the Historical Society was saying that absolutely none of the windows could be changed. She was pleased that Ms. Morrison had clarified that they were only asking for an independent person to help make that assessment.

Board Member Franklin concurred with Board Member Wintzer and Ms. Morrison. Her concern was the language in the Staff report stating that all of the window systems would be replaced. Chair Gezelius asked if Ms. Franklin would prefer changing the language to —~~can~~be replaced subject to professional review". Ms. Franklin answered yes. She agreed that the Silver Star did a beautiful job. However, she did not think the windows on City Hall had the same historical feature. Mr. Elliott pointed out that the windows on City Hall were aluminum. They were proposing a steel window that was much closer in profile. Mr. Tyler pointed out that if they left even one historic window that was in reasonably good condition, they would still have the thermal issue. The only way to address that is through replacement; otherwise they would never meet an energy code requirement.

Director Erickson noted that the last item was the Heber Avenue doors. The Staff had determined that the doors were consistent with the design guidelines. The Appellant had determined that those doors were not historic and should not

be installed. He clarified that it was the door on the south façade. Planner Grahn explained that one door was on the actual historic façade, and the other door was a relocation of a door on the 1970's addition.

Board Member Robinson referred to the 1949 photo on page 25 of the Staff report. Figure 1 was circa 1930, which showed a single door on the south façade. He asked if that was the door being discussed. Director Erickson answered yes. Chair Gezelius referred to it as door number one. She understood that it was removed and the applicant wanted to put it back. Ms. Morrison noted that the blow up of that photo she provided shows two open bays on Heber Avenue and two open bays on Park Avenue. Planner Grahn pointed out that they were discussing two separate doors. Chair Gezelius clarified that she was talking about the door on the right. Ms. Morrison stated that the Historical Society did not have an issue with that door.

The Board members did not have any issues and agreed with the Staff determination.

Chair Gezelius asked for comments on the gasoline bays.

Board Member Franklin referred to figure 8 on page 35 of the Staff report and figure 10 on page 37. She thought the depth of the bay enclosure looked different. Figure 8 appears to have a bit of an entryway that is open to the outside. Figure 10 looks like it comes to the sidewalk depth. Mr. Elliott stated that it was shown that way in the 3-D rendering. Figure 10 is a flat 2-dimensional representation which does not show the depth. He pointed out that what was shown in 3-D is how they proposed it on the floor plan.

The Board members were comfortable with the Staff's determination.

Planner Grahn summarized that they had discussed the barrel vault and the roof deck; the additional door opening on Heber Avenue; the retention of the 1976 addition beneath the overhang; the steel windows, as well as making the opening on Park Avenue transparent by going to a window instead of being corrugated metal; and the windows that would become doors in the back.

Planner Grahn asked if the Board wanted to amend the Finding of Fact #20 to state that the BOA finds that the windows are no longer serviceable due to their deteriorated state. She assumed from the discussion that they should add a Conditional of Approval stating that a professional will be asked to look at the windows.

Planner Grahn amended Finding of Fact #20 to say, —The proposal complies with specific Design Guideline B5.2, and that the replacement steel windows will be allowed because the historic windows cannot be made safe and serviceable through repairs. The BOA finds that the windows are no longer serviceable due

to their deteriorated state. Replacement windows will exactly match the historic windows in size, dimension, glazing pattern, depth, profile and material.”

Director Erickson pointed out that the Board of Adjustment was requesting a professional independent review of the historic windows to determine whether or not they are serviceable. The Finding of Fact would be subject to that review by an independent window professional as shown in the condition of approval.

Board Member Franklin preferred to change the language to —~~the~~ windows which are no longer serviceable”. When they talked about this being a much superior plan under the shadow of previous plans, she did not believe that much superior did not mean —superior”. She wanted to clarify language that would allow this project to move forward, but in a state that preserves the accurate historic nature of this building. Chair Gezelius suggested language stating that —~~the~~ BOA questions that certain historic windows are no longer serviceable or may be in a deteriorated state. The BOA will require that an independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement.”

Mr. Tyler asked who would choose the specialist. Chair Gezelius stated that the specialist would have to be acceptable to the Staff. Director Erickson explained The Staff would approve the determination of the independent professional, agree or disagree with the recommendations, and make the changes in the HDDR.

Mr. Tyler asked if the Staff makes the determination that the condition has been satisfied. Director Erickson answered yes.

Planner Grahn amended the Condition of Approval to say, —Anindependent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement to the satisfaction of the Planning Director”.

Assistant City Attorney McLean noted that the Board had talked about placing restrictions on the rooftop deck. Chair Gezelius thought it should be subject to the same review as all other decks in the Historic District. Planner Grahn stated that a private event facility is a conditional use in the HRC zone, and it was scheduled for review by the Planning Commission in November. The Staff could let the Planning Commission know that during the appeal process the BOA was concerned about umbrellas, balcony enclosures, tents and other elements being permanently installed on the deck.

Board Member Wintzer was concerned that it would not be strong enough. She felt they whittled down the Historic District this evening for a number of reasons. Ms. Wintzer thought it was a mockery to talk about umbrellas and tents.

Chair Gezelius suggested that the Board ask the applicant and the Staff to prepare a basic set of ground rule guidelines regarding the deck use to be approved by either the Planning Director or an appropriate body. She did not believe the BOA should micro-manage that element of the deck. Director Erickson stated that the basis of their finding for the deck being in compliance with the Guidelines is that the deck had been moved back and it was not visible from public spaces. Therefore, the direction to the Planning Commission would be that as part of the conditional use process, no uses could occur on that deck which would cause visibility from those locations.

Ms. Wintzer agreed with Director Erickson's suggestion, but she pointed to Ms. Morrison's comment about the addition on the Riverhorse because the whole façade of that building was destroyed. Director Erickson stated that the Planning Commission should consider the discussion of the BOA with respect to the visibility of that deck, but he did not believe they could go more rigorous than that. He reminded everyone that one basis for the Staff to conclude that the deck was appropriate was that it did not include additional space such as a second story above the historic building. More of the historic building form was retained by not creating a second story above the bolstering truss bay, east.

The Finding of Fact is that the BOA finds that the rooftop deck is consistent with the Historic District Guidelines; however, part of the reason is that it is not generally visible from the Heber Avenue, Park Avenue, and Main Street elevations. Mr. Tyler requested that they specify permanent structures because people will be visible, as well as other things. Director Erickson suggested that they take that up with the Planning Commission.

Chair Gezelius asked about guidelines. Director Erickson stated that the Board of Adjustment action would be delivered to the Planning Commission as part of the conditional use permit. Assistant City Attorney McLean suggested that they speak to the Finding and condition it generally. Going to the Planning Commission on the special event issue is a separate impact that is not related to the Historic Guidelines. If the Board has concerns with permanent or temporary elements, and how long those items could be visible from the street are present, this would be the time to add a condition of approval with those restrictions.

Board Member Wintzer pointed out that she had not approved the removal of the double barrel roof in the discussion. She asked how that would affect her voting. Chair Gezelius stated that Ms. Wintzer could vote against the entire motion if she felt strongly about it.

Board Member Franklin asked for a condition of approval stating that in the event that this building is rehabilitated at a later time that it would be restored back to its previous double barrel roof form. Chair Gezelius replied that the BOA could not do that because they cannot tie the hands of future Board members.

MOTION: Board Member Fuegi moved to uphold the Staff Determination for 638 Park Avenue, the Kimball Garage, subject to the Findings of Fact as amended, the Condition of Approval, and the outlined Standard Project Conditions. Board Member Robinson seconded the motion.

VOTE: The motion passed 4-1. Board Members Gezelius, Fuegi, Robinson and Franklin voted in favor of the motion. Board Member Wintzer voted against the motion.

Findings of Fact – Kimball Garage

1. The property is located at 638 Park Avenue.
2. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
3. According to the Historic Sites Form, the historic Kimball Garage was constructed in 1929. The building underwent an extensive renovation that significantly altered the interior and exterior of the structure for use as the Kimball Art Center in 1975-1976. The structure was renovated again in 1999.
4. In 1979, the site was designated as contributory as part of the Park City Main Street Historic District nomination for the National Register of Historic Places.
5. The property is in the Historic Recreation Commercial (HRC) District and Heber Avenue Subzone.
6. On January 20, 2015, LCC Properties Group submitted a Historic District Design Review (HDDR) application for the Landmark property located at 638 Park Avenue.
7. On June 20, 2016, staff approved the Historic District Design Review (HDDR) application for the site.
8. On June 30, 2016, the City received an appeal of a Historic District Design Review (HDDR) application approved by the Planning Department on June 20, 2016 at 638 Park Avenue.
9. This appeal was submitted by Sandra Morrison, representing the Park City Historical Society and Museum.
10. Pursuant to LMC § 15-1-18 (D) Standing to Appeal, the Park City Historical Society and Museum has standing to appeal the HDDR final action because they submitted written comment and testified on the proposal before the Planning Department.

11. The proposal complies with Universal Guideline #3 in that the historic exterior features of a building will be retained and preserved.

12. The proposal complies with Universal Guideline #4 in that distinctive materials, components, finishes, and examples of craftsmanship will be retained and preserved. The owner will reproduce missing historic elements that were original to the building, but have been removed, such as the original entrance along Heber Avenue. Physical or photographic evidence will be used to substantiate the reproduction of missing features.

13. The proposal complies with Universal Guideline #5 in that deteriorated or damaged historic features and elements should be repaired rather than replaced. Where the severity of deterioration or existence of structural or material defects requires replacement, the feature or element should match the original in design, dimension, texture, material, and finish. The applicant must demonstrate the severity of deterioration or existence of defects by showing that the historic materials are no longer safe and/or serviceable and cannot be repaired to a safe and/or serviceable condition. The owner has demonstrated that the historic and early replacement steel frame windows are beyond repair and the owner will be replacing the remaining steel-frame windows along Park Avenue and the rear (north) elevation due to their poor condition.

14. The proposal complies with Universal Guideline #6 in that features that do not contribute to the significance of the site or building and exist prior to the adoption of these guidelines, such as incompatible windows, aluminum soffits, or iron porch supports or railings, may be maintained; however, if it is proposed they be changed, those features must be brought into compliance with these guidelines. The applicant will maintain a non-historic ca. 1976 glass addition beneath the overhang of the original fueling station. Staff finds that this addition was sensitively designed so as not to detract from the historic structure and is compatible with the historic building.

15. The proposal complies with Universal Guideline #10 in that the new additions and related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.

16. The proposal complies with Specific Design Guideline B.1.1 in that the owner will maintain the original roof form, the western barrel vault, as well as any functional and decorative elements.

17. The proposal complies with Specific Design Guideline B.2.1 in that the primary and secondary facade components, such as window/door configuration, wall planes, recesses, bays, and entryways should be maintained in their original location on the façade.

18. The proposal complies with Specific Design Guideline B.4.1 in that the owner will maintain historic door openings, doors, and door surrounds on the Heber and Park Avenue facades.

19. The proposal complies with Specific Design Guideline B.5.1 in that the owner will maintain historic window openings, windows, and window surrounds on the primary facades.

20. The proposal complies with Specific Design Guideline B.5.2 in that the replacement steel windows will be allowed because the historic windows cannot be made safe and serviceable through repair. The BOA questions that certain historic windows are no longer serviceable or may be in a deteriorated state. The BOA will require that an independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement. Replacement windows will exactly match the historic window in size, dimensions, glazing pattern, depth, profile, and material.

21. The proposal complies with Specific Design Guideline MSHS3 in that traditional orientation with the primary entrance on Heber Avenue will be maintained.

22. The proposal complies with Specific Design Guideline MSHS6 in that rooftop additions may be allowed. The proposed rooftop deck does not exceed one story and will be set back from the primary façade so that it is not visible from the primary public right-of-way.

23. The proposed renovation and new addition meet all setbacks and has increased setbacks from the minimum towards the north side yard area.

24. Staff does not find that the proposed plan will substantially diminish the character of the neighborhood nor will it cause the structure to lose its local designation as a Landmark structure or its eligibility for the National Register of Historic Places.

25. The proposal complies with Universal Design Guidelines #9 in that the c.1976 exterior alteration does not destroy historic materials, features, and spatial relationships that characterize the site or building. The divided-light glass entry addition beneath the overhang on the west side of the building is visually subordinate to the historic building when viewed from the primary public right-of-way. The addition does not obscure or contribute significantly to the loss of historic materials.

26. The proposal complies with Specific Design Guidelines B.1. Roofs. The BOA has determined that the original roof form, consisting of two (2) barrel vaults running north-to-south are not character-defining features of the historic structure, and, thus, the applicant will only be required to maintain the western barrel-vault.

27. The proposal complies with Specific Design Guidelines B.5. Windows. The applicant will maintain historic window openings and window surrounds on the Park Avenue and Heber Avenue facades; the remaining historic and non-historic steel window will be replaced with new windows that exactly match the historic in size, dimensions, glazing pattern, depth, profile, and material. No storms are proposed at this time.

28. The proposal complies with Specific Design Guidelines D.1. Protection for Historic Structures and Sites. The addition will be visually subordinate to the historic building when viewed from the primary public rights-of-way of Park and Heber Avenue. The addition will not obscure or contribute significantly to the loss of historic materials as the applicant proposes to retain the west barrel-vaulted roof form.

29. The proposal complies with Supplemental Rehabilitation Guidelines—Main Street National Register Historic District. The proposed project will not cause the building or district to be removed from the National Register of Historic Places. The alignment and setback along Main Street are character-defining features of the district and will be preserved. Traditional orientation with the primary entrances of the new addition on Main Street will be maintained. The rooftop deck addition will not exceed one story in height and will be set back from the primary façade so that it is not visible from the primary public right-of-way. The BOA finds that the rooftop deck is consistent with the Historic District Guidelines as it is not generally visible from the Park Avenue and Heber Avenue rights-of-way.

30. Pursuant to LMC 15-1-18(G), the Board of Adjustment shall act in a quasi-judicial manner. The appellant has the burden of proving that the land use authority erred. The appellant fails to specifically indicate how staff erred.

Conclusion of Law – Kimball Garage

1. The proposal complies with the Park City Design Guidelines for Historic Districts and Historic Sites.
2. The proposal complies with the Land Management Code requirements pursuant to the Historic Recreation Commercial (HRC) District.

Order

1. The appeal is denied and Staff's determination is upheld.

Condition of Approval – Kimball Garage

1. An independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement in satisfaction of the Planning Director.

Chair Gezelius adjourned the meeting at 7:32 p.m.

Approved by _____

Board of Adjustment Meeting
October 18, 2016

Ruth Gezelius, Chair
Board of Adjustment

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existing service, at the main.

6. 638 Park Avenue- Conditional Use Permit for new construction of a 3,785 sf private event facility to be located on the second level of the new addition to the historic Kimball Garage. (Application PL-16-03313)

Planner Anya Grahn reviewed the CUP application for the Historic Kimball garage at 638 Park Avenue. The applicant was requesting the CUP in order to facilitate a private event facility in a new addition.

Planner Grahn reported that the historic building would be rehabbed to create a commercial space on the main and lower levels, and there would be a new addition to the east along Main Street containing commercial space. The private event facility is proposed to be on the top floor of that commercial space. Depending on the grade, sometimes that is the second floor and sometimes it is the third floor of the building.

Planner Grahn stated that the applicant was proposing to remove one of the barrel vaulted roof forms in order to accommodate a new rooftop terrace. She noted that the HDDR approving the removal of this portion of the roof was appealed by the Park City Historical Society and Museum. However, the Board of Adjustment denied the appeal and upheld the Staff determination. The applicant was proposing 3,785 square feet of event space accessing a 477 square foot outdoor balcony, as well as the 2,530 square foot rooftop terrace.

Planner Grahn pointed out that prior the zone change this building was part of the Historic Commercial Business District, and the Kimball had paid into the China Bridge study as most of Main Street has done. It covers their parking up to a Floor Area Ratio of 1.5. However, with the new addition the FAR would only be 1.45, which is below the requirement.

The Staff found that the applicant meets all the criteria for the CUP application with several conditions of approval. One states that should any of the events go beyond what is dictated by the CUP, the applicant will apply for a special events license. Another condition requires the utility plan to be finalized at the time of the building permit to ensure that it is screened and mitigated. Any temporary structures, such as a tent, would require an Administrative CUP. In order to reduce the visibility of the deck, and the basis of the BOA determination, umbrellas, heaters or other items that would rise above the parapet and cause the deck to be visible could not be stored on the deck. They could be up during the time of the event but not stored there permanently. In one year's time, should the Planning Department receive any complaints regarding lighting, glare, traffic, etc., the Staff would

review the complaints, and if necessary, the Planning Commission could re-review the CUP.

Planner Grahn had received public input from the Museum and she had provided copies to the Planning Commission.

Tony Tyler, the applicant, believed the request was straightforward. The Kimball has been used on and off as an event center for the last 40 years, and this proposal would actually reduce the impact of the event space in this particular location. It would also move it off of Main Street to the second floor, which is another benefit. Mr. Tyler stated that they have been working with the Staff to help address conflicts and conditions and he was very comfortable with the conditions of approval as outlined.

Commissioner Campbell was unclear on the mechanism for bringing the CUP back to the Planning Commission based on complaints. When conditions of approval are placed on a project he wanted to know who they were enforced. Director Erickson stated that it was a slight variant on the conditions of approval. If the Planning Department receives complains, the condition of approval affirmatively states that the Staff may bring the CUP back to the Planning Commission. The Planning Commission can review the complaints, conduct another public hearing, and modify the conditions of approval to make sure it is mitigating according to the criteria.

Commissioner Campbell asked City Attorney Harrington if that could be done legally. Mr. Harrington stated that it was legal; however, he preferred to have the review criteria linked to a standard in terms of why it was coming back to the Planning Commission as opposed to a free for all comeback. Otherwise, it is strictly complaint based rather than standard based. Mr. Harrington pointed out that the Planning Commission could not make an applicant tear down a design, but they could add additional conditions to mitigate whatever the reason for the re-review. He stated that a one-year review would not pertain to all conditional use permits. A use is typically allowed as long as the impacts can be mitigated. The purpose of the review is to determine whether additional conditions are necessary to mitigate the impact, but not to take away the use. Design issues would have already been ruled on in the original process and would be part of the re-review.

Vice-Chair Joyce stated that for this particular application they were talking about mitigating noise, not storing items that would project above the roof line, etc. He noted that enforcement in Park City is complaint based and the Planning Commission has had many discussions regarding that issue. Mr. Harrington suggested that they distinguish enforcement from ongoing monitoring. This would impose an ongoing monitoring condition to make sure an issue is mitigated, which is different from compliance.

Commissioner Campbell preferred to leave out conditions rather than add conditions that are never followed-up. Director Erickson pointed out that the condition for this application actually has a one-year follow-up review by Staff. If approved, the Staff would be directing the Staff to follow-up after one year of operation to see if there were any issues. Director Erickson clarified that the condition was put in because this would be a second floor deck instead of the existing ground level deck. The Board of Adjustment found that the deck was not particularly visible from the street level. Based on the condition, in one year the Staff would check back to see if everything went smoothly. If they find any issues they could bring it back to the Planning Commission for additional mitigation.

City Attorney Harrington recommended amending the condition to read, "Will review any sustained complaints regarding noise violations, or unreasonable glare, light and traffic".

Vice-Chair Joyce opened the public hearing.

Sandra Morrison with the Park City Historical Society had sent a letter to the Planning Commission stating that the conditional use permit application should not be approved unless the Planning Commission concludes that the application complies with all the requirements of the Land Management Code. Ms. Morrison pointed out that the Historic District Design Guidelines, which are mandatory, says to maintain the original roof form. The Kimball garage is a Landmark structure in the Historic Sites Inventory and it is one of the most important and distinctive historic buildings in the Historic District. Ms. Morrison encouraged the Planning Commission to make every attempt possible to maintain and preserve the historic buildings. That was the purpose of the Historic Design Guidelines, and why the Guidelines say that Landmark structures should be held to the strictest interpretation. Ms. Morrison could not understand how the Board of Adjustment read, "maintain the original roof form", and still decide that half of the barrel vault could be removed. She pointed out that they were losing half of the historic roof to add 2,500 square feet of rooftop deck for events. In addition, they would be allowed to put up a tent for 70 days. For the entire winter a tent will be sitting on top of the historic Kimball garage and visible from the street and many parts of town.

Ms. Morrison requested that the Planning Commission expand Condition #15 to prohibit having a 2,500 square foot white tent on top of a historic structure after half of the roof is demolished to accommodate it.

Jim Tedford, representing Preserve Historic Main Street, stated that this group has appeared before the Planning Commission many times over the last four years. Mr. Tedford remarked that the current plan for the Kimball garage is the best plan they have seen so far, and he believed it was a good plan overall. However, his objection was the demolition of one barrel vault roof. He thought the words were clear in the Historic District

Design Guideline B1.1 “Maintain the original roof form.” Mr. Tedford thought the direction was black and white. He could not understand how the Planning Department and the Board of Adjustment could interpret it any other way. In his opinion, “Maintain the original roof form” was very, very clear. If that could be interpreted any other way, the Historic District Design Guideline is meaningless. He did not believe it was open for interpretation. Mr. Tedford thought the terrace portion of the CUP should be denied to save the one barrel vault roof because it is clearly against the Historic Design Guideline B1.1.

Hope Melville, a Park Avenue resident, had issues as to whether the requirements of the LMC were being met. She noted that the Section 15-11-5(i) of the Code requires that any material deconstruction of parts of a historic structure must be approved by the Historic Preservation Board. Ms. Melville could find nothing in the Staff report indicating that the HPB had approved destruction of one of the barrel roofs of the Kimball garage to accommodate the proposal for an events space on the outdoor roof deck. Ms. Melville asked if the provision in Section 15-11-5(i) had been met, and whether the HPB had approved the deconstruction.

Planner Grahn replied that the applicant was not required to go through the HPB deconstruction process because they were vested prior to that becoming part of the Land Management Code.

Vice-Chair Joyce clarified that the process of what goes through the HPB and using the BOA as an appeal body had recently changed. Planner Grahn stated that the change was approved by the City Council in December 2015.

Sanford Melville, a Park Avenue resident, stated that he is a full-time resident of Old Town and he lives a few blocks from the Kimball garage. He noted that the Staff report states that the proposed space will accommodate 480 people. Mr. Melville was certain that he and all of his neighbors would be hearing the noise from the events held at this facility, and their right to the quiet enjoyment of their homes will be negatively impacted. He noted that the Staff report indicates that the anticipated hours would be 8:00 a.m. until midnight, and outdoor speakers will be allowed from 11:00 a.m. to 10:00 p.m. The allowed number of days per year was unclear. Mr. Melville remarked that it was impossible to mitigate the impacts of the noise level possible from this deck facility. He pointed out that sound travels uphill. Therefore, it would not only affect those who live near the Kimball, but the noise level would also impact the residents on Rossi Hill, April Mountain, and the Aerie.

Mr. Melville stated that some people would tell him that if he lives in Old Town he should expect noise. However, one reason why he lives in Old Town is to be able to walk outside his house and participate in all of the parades and special events. He is at ground zero for special events, but it is part of the vibrancy of Old Town and he loves being part of it. Mr.

Melville emphasized that the difference with the Kimball is that these will be private events on a roof top, which is very different from an event open to the public. Mr. Melville was concerned that the applicant was asking the residents of the community to sacrifice their quality of life for the exclusive benefit of private individuals. He urged the Planning Commission to closely look at this CUP with that in mind.

Angela Mosceta was struck by the mention of the tented outdoor space. She thought this proposal was in direct conflict with the third critical City Council priority that includes energy conservation, energy and carbon reduction and green building incentives. She noted that during a recent City Council meeting the Mayor made a very concise point that it would be heating the outdoors.

Vice-Chair Joyce closed the public hearing.

Commissioner Campbell noted that if they add a condition of approval about a one-year review and all of the neighbors who expressed valid complaints this evening come back with repeated and sustained complaints, the applicant would have to come back to the Planning Commission. He wanted clarification on the next step if after a review the Planning Commission votes that a particular condition was not met.

City Attorney Harrington replied that these types of re-review conditions are difficult, and he personally disfavors them unless they are quantitative and simple. If the intent is to fully retain the right to revoke the use altogether, they should affirmatively state that intent so the applicant could either contest the condition as written or revisit their decision to move forward knowing that their investment is at risk if the CUP can be revoked. Mr. Harrington stated that if revocation is an option, they would need to revise the standards by which it could occur. The standards should be objective, such as specific of number violations, occupancy violations, health/safety violations, or similar type issues. If the list is long, it goes back to the issue of whether or not the use is compatible. Mr. Harrington pointed out that outdoor areas are difficult to enforce because of the cross-over between the private events and additional event capability. He could find nothing in the conditions that would limit the owner from applying for special public events as well.

Commissioner Campbell asked if the Planning Commission could legislate hours when a party is allowed. Mr. Harrington replied that they could if it was tied to a direct impact. It would be hard to go beyond the standard noise ordinance unless there was a specific reason for doing so. He understood that the proposal reduced the maximum occupancy allowed, but CUP approve would be enabling additional private activities without the public review that the Special Event process would entail. Commissioner Campbell understood that that was the objection of most of the neighbors. Mr.

Harrington stated that the Planning Commission could give direction to the Staff to work with the Event Staff and the applicant to try and refine it to at least be incremental with what they could get through the Special Event process.

Commissioner Campbell asked which approach would be easily defensible; ending the event at 7:00 p.m. or prohibiting the tent completely. Mr. Harrington remarked that when the Mayor made the comment that Ms. Mosceta referred to in the public hearing, many agreed with him but he was overruled by a majority of the Council. Therefore, the City would have an existing tent program for two more years.

Planner Grahn clarified that the applicant would not be eligible to apply for that program. She explained that the enclosed balcony program is only for buildings with restaurants on the second level, they would be enclosing the balcony immediately adjacent and the building is non-historic. In this case the enclosure would be over a historic building and it would not be allowed.

Vice-Chair Joyce pointed out that the enclosed balcony program applied to leaving a tent up all winter. This applicant could still erect a 5' x 14' tent without coming in for a CUP. Mr. Harrington stated that based on the current ineligibility for the program, he suggested revising Condition #8 to further restrict that use in case the enclosed balcony program expands, or they apply through a different mechanism. Mr. Harrington stated that they could word it "only as approved through a Tier 3 public hearing special event process with certain limitations".

Craig Elliott, the project architect, stated that his son was in a rock band for a number of years and he had researched the requirements for sound. He pointed out that Park City has a sound ordinance and it is measurable and quantitative. There is also an ordinance regulating days and times of use. He remarked that the conditions of approval make the applicant responsible to meet those requirements. Mr. Elliott stated that there was a measurable quantitative component as part of the approval by nature of the ordinances in place.

Regarding the tents, Mr. Elliott was unsure where 75 days came from because the temporary use permit for tents is a 14-day maximum. Vice-Chair Joyce agreed. It is five times a year for 14 days. The total number of days the tent can be erected is 70 days. Mr. Elliott did not anticipate any reason why the applicant would leave a tent up for 5 times 14 straight days.

Mr. Tyler felt like they were being unfairly targeted. They had followed the City's process and continue to get comments from members of the public regarding issues that are not part of the Conditional Use Permit. Mr. Tyler commented on a long and

arduous process with the Staff that was very productive. He went through the BOA process and the Board made the decision to uphold the Staff's determination; yet as early as 2:00 this afternoon he received a letter raising the same issues that were addressed with the BOA. Mr. Tyler found it challenging to hear continued attacks on a design that has been approved.

Mr. Tyler stated that the intent is to collectively make a development better, and they designed the project to be a benefit to the greater Park City area. He took issue with the comments regarding private events because the Kimball Arts Center used that space for private events all the time. Individual groups were allowed to use the building and the occupant loads far exceeded what he was proposing. Mr. Tyler was struggling to understand the issues surrounding mitigation of the events in this particular location.

Commissioner Campbell clarified that he was not trying to block Mr. Tyler from moving forward with his proposal because it was a great idea. His issue is placing conditions on a project that are either not followed-up on or cannot be enforced. Commissioner Campbell agreed that the Kimball Arts Center had private parties but they were held inside. This proposal moves the events out on the roof and the noise impact would be greater. As a Commissioner, he thought they should either leave it alone or place a condition that can be verified and has teeth. At that point the applicant would need to prove that they have met that condition, and if it was not met, there should be some consequence. Commissioner Campbell was open to hearing suggestions from Mr. Tyler or Mr. Elliott on ways to address it.

Mr. Tyler pointed out that the Kimball had a large open plaza on Main Street that was used for events all the time. Not all of the events were held inside. Events spilled out onto the deck, which was at the Main Street level and a good distance along Main Street. Mr. Tyler was willing to work with the Planning Commission to find a solution that addresses their concerns. He appreciated the fact that they were trying to make it quantitative so there were certain standards to follow.

Mr. Elliott noted that the largest outdoor gathering event space in Old Town was down the street at the bridge and it was very close to residential neighborhoods. He believed the impacts related to the proposal for the Kimball were minor in comparison. Mr. Harrington remarked that there have been residential conflicts with activities on the bridge.

Mr. Harrington suggested another meeting to get more clarity on the operational parameters and the restrictions.

Commissioner Thimm stated that previously the Planning Commission has spent hours talking about ways to create a condition that is enforceable and would have teeth on the other end. He did not believe they would solve that issue this evening, and he did not think it was consistent with past decisions to impose all of that on this particular project. However, he has a strong desire to figure that out and suggested having that discussion to address the issues and come to a conclusion that could be fairly applied to projects throughout.

With regard to the barrel vault, Commissioner Thimm thought the interior of a barrel vault is very cool. Director Erickson clarified that it was actually a bow-string arch and they were taking the frames of the bow-string arches that would be eliminated and use them to reinforce the section of the bow-string arches that would remain. Commissioner Thimm thought it was important to have respect for historic architecture. If this application had come before the Planning Commission on its own merits with nothing else in place, he would have said they could only consider if it had gone through the Board of Adjustment. He pointed out that it has gone through the Board of Adjustment. Therefore, the only topic before them was a conditional use permit for this event facility. In terms of their purview, the Planning Commission needed to honor the decision of the Board of Adjustment.

Commissioner Band agreed with Commissioner Thimm. This has gone through the BOA process and they were only looking at the conditional use permit. Given what has come before them in the past, she believed this was the best plan. It looks great and she liked the idea of having the event space.

Commissioner Band noted that the Planning Commission had just dealt with a tent for the old Talisker Restaurant and they limited it to 3 days instead of 14 days. She thought they should look at doing something similar for this project. Like everyone else, she did not like the idea of seeing a tent sitting on top of the Kimball for 14 days at a time. Commissioner Band suggested that they address that issue in a condition of approval.

Commissioner Phillips pointed out that for tent at the Talisker Restaurant the applicant had requested three days. It was not a time limit imposed by the Planning Commission. Commissioner Band recalled that the applicant asked for a shorter duration with the ability to have it up more often. She thought it was a completely different situation than a tent on top of one of the most visible historic structures on Main Street.

Commissioner Phillips noted that during that meeting with Talisker he made the comment that he personally wished they would never have tents. However, they do allow tents and everyone needs to be treated fairly. Commissioner Phillips agreed with the comments

made by Commissioner Thimm. In looking within their purview, he agreed with the Staff. Commissioner Phillips thanked the public for their comments. Each person is well respected and cares tremendously about the Historic District. He thanked them for their involvement throughout the entire process.

Commissioner Phillips addressed Ms. Morrison's comments regarding the B1.1 Guideline. He stated that the Guideline says to maintain the original roof form, but the language goes on to say "as well as any functional and decorative elements". He sees the roof as being a low file roof with parapet walls, and he questioned whether it was ever a decorative element. He suggested that the BOA may have had that same thought when they made their determination. Mr. Phillips stated that he was at the BOA meeting as the Planning Commission liaison, and he recalled that Mr. Elliott had said that the existing condition of the roofs did not meet the current Code. Therefore, the applicant would have had to do something and he thought reusing the trusses and the material on site was a good idea.

Vice-Chair Joyce had visited the site and walked around the building. When he stayed close to the building he could only see the edge of the roof and the barrel was not visible. However, as he walked up and down the street and drove in from Deer Valley to Heber Avenue, the barrel roofs were obvious. Vice-Chair Joyce was unsure how the Board of Adjustment made the decision they did.

Vice-Chair Joyce thought the Guidelines were clear. He pointed out that the City makes most people jump impossible hurdles to protect historic buildings. The fact that the roof is not strong enough was not a good enough reason. If the applicant had to spend a considerable amount of money to make it strong enough, that would be an issue between the Building Department and the applicant. He did not think it was relevant to the Planning Commission.

Vice-Chair Joyce had read the minutes from the BOA meeting and the Staff report. He asked for a quick synopsis of where the subjectivity came in and how they reached the conclusion that the roof was not visible from certain spots when the Guideline simply says not to change the roof.

Mr. Elliott stated that the Board of Adjustment had a long discussion and went through each individual item. He and Mr. Tyler presented a description of the project and used the National Park Service, three specific historic preservation briefs, as a reference to how they are used. One was gas stations, one was roofs, and he could not recall the third one. Mr. Elliott noted that Guidelines created by the National Park Service are available to help people make decisions about historic structures. When the information was analyzed, their presentation and the discussion with the Planning Staff showed that the roofs were never intended to be seen. The forms were there as a condition of the need to make a span. Mr.

Elliott reiterated that in general, they just used the standards that are applied from the National Park Service. The Board of Adjustment had a long discussion and agreed with what the applicant had presented.

Planner Grahn stated that the Guideline says that the historic roof form must be maintained. However, the guidelines for Main Street buildings talks about allowing roof top additions. Those guidelines talk about whether or not the roof top addition is seen. Planner Grahn noted that there was a discrepancy in the Code and the Staff spent significant time considering it. The decision was not made overnight. In the end they had talked to SHPO, Utah Heritage Foundation, and the City's preservation consultant. The solution was that keeping one barrel vault allows the roof to keep part of its original form. She pointed out that the rooftop terrace is largely invisible, which is good for an addition. The Staff found that the bolstering trusses were not a character defining feature because they were designed to be hidden behind the parapet so they were not visible. Planner Grahn stated that due to the topography of Park City it can be seen. The one on the west side is the most visible, which is the one they plan to maintain.

Mr. Tyler reported that Kirk Huffaker with the Utah Heritage Society had provided a letter stating that the roof form was not critical to maintaining its Landmark status.

Vice-Chair Joyce clarified that the Staff was confident that this change would not affect its Landmark status. Planner Grahn replied that he was correct. She noted that several people were willing to say that it was still eligible for the National Register despite the loss of the one barrel if they need to defend it.

Commissioner Campbell understood that as part of the CUP the Planning Commission was not supposed to be looking at the roof design or the BOA decision. He stated that if they made every applicant go through an arduous process only to overturn the decision at the last minute, no one would do anything on Main Street. Commissioner Campbell remarked that great projects that add to the vibrancy of the area need to be supported. He thought the Planning Commission should focus on the CUP rather than look at the historic design, which has already been ruled on.

Vice-Chair Joyce agreed with Commissioner Campbell about the historic design. However, his comment about encouraging vibrancy was a City Council and Chamber of Commerce issue. Commissioner Campbell agreed, but if the City Council was trying to encourage it, the Planning Commission should not use their platform to discourage it.

Vice-Chair Joyce explained the difference between the events held at the Kimball Art Center and what would occur with this new use. He pointed out that there would be more outdoor activity, it is in an area that is not as acoustically protected, it will occur more

frequently. He assumed there was likely to be more noise issues than what occurred with the old Kimball. Vice-Chair Joyce stated that he dislikes tents in Old Town, even though they are allowed by Code. He believes tents are an issue and the time period a tent can be up bothers him. It is one thing when tents are tucked between buildings, and something completely different when it is on top of the Kimball Arts building.

Vice-Chair Joyce believed this item would be continued and he requested that the applicant come back with what they would be willing to do to help mitigate the impact of a historic building looking like a campground and being loud.

Planner Grahn requested that the Planning Commission continue this to December 14th to give the Staff and the applicant time to get the conditions right. Mr. Tyler stated that his challenge was trying to start construction, but the use of the event space would have a major impact on his decision to move forward. He had not anticipated issues with the CUP because the site has historically been used as an event center. Mr. Tyler noted that outside of the noise ordinance and limiting the time frame of the tents on the terrace, he was unsure what else they could offer to mitigate the impacts. In his own interest in trying to make a risk assessment for an expensive investment, it was difficult to have this continued to a much later date. Mr. Tyler pointed out that if he has to delay construction, the building would be dark for another winter. He was trying to understand what he could do to accommodate the concerns that were raised. Mr. Tyler was willing to limit the time frame for keeping the tent up on the deck.

Based on their comments, Director Erickson believed they were down two votes with two members missing; and he was certain that either way they would end up with a split vote. He thought the City Attorney had provided good direction on how to craft the conditions and bring the permitting on the outside portion of the deck closer into alignment with a transparent public process and the ability for the public to provide input more frequently. Director Erickson suggested potential restrictions, such as whether or not to allow music on the deck versus only on the inside; and numbers and sizes of the tent. He explained that he and Planner Grahn had crafted the condition with the intention of not having the tent visible on Heber Avenue.

Director Erickson recommended that the Planning Commission continue this item to December 14th when the other two Commissioners would be present.

City Attorney Harrington stated that in an effort to ease the applicant's concern, the Commissioners could indicate in the motion their inclination to approve the CUP with direction to the Staff to refine Conditions of Approval 8 and 15 to address a mitigation plan for the impacts of tents and outdoor event use. Mr. Harrington believed they could craft operational benchmarks that are consistent with the other spaces around this location, and

give the owner the opportunity to exceed those through a public process like everyone else. Mr. Harrington thought that was a better approach than waiting for problems to occur and then regulating backwards.

Commissioner Campbell expressed his frustration with unlimited continuations. He preferred to spend the time crafting the conditions this evening so the applicant could move forward as opposed to putting them off for another month and a half, particularly given the constraints of building this time of year.

Director Erickson stated that part of the operation is occupancy; and the Commissioners could restrict the number of people on the deck. They could also restrict amplified music, or require a Tier 3 special event permit for events in excess of 100 people. They could also restrict the number of days a tent could be up.

Commissioner Band did not favor continuations for the reasons Commissioner Campbell had stated, but she thought there was a benefit to further discussion. Director Erickson had given them great examples and she would like to see a few more.

Vice-Chair Joyce believed the applicant had the support for an event facility. However, some of the Commissioners were a little reluctant about the impact to the neighborhood and the impact to a Landmark building from a historic standpoint. He thought the Planning Commission needed time to work through the issues and the impacts.

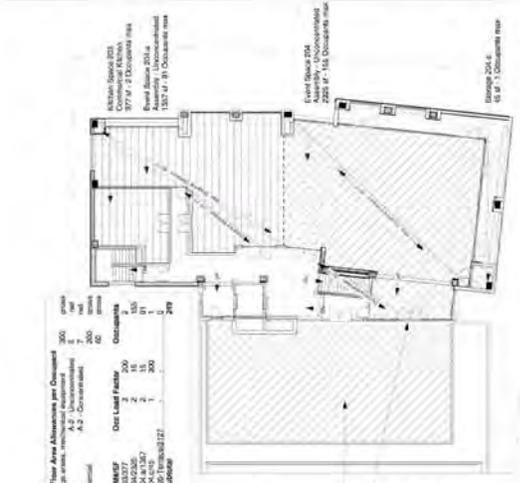
Mr. Tyler was comfortable with a continuation and he appreciated the background and the explanation. His goal is to create a great development and be a good asset to the community.

Commissioner Thimm requested that the Staff look at this as a way to create a model or template for a regulation to be considered at a later date that can be consistent and can be enforced in a fair way. The Commissioners concurred.

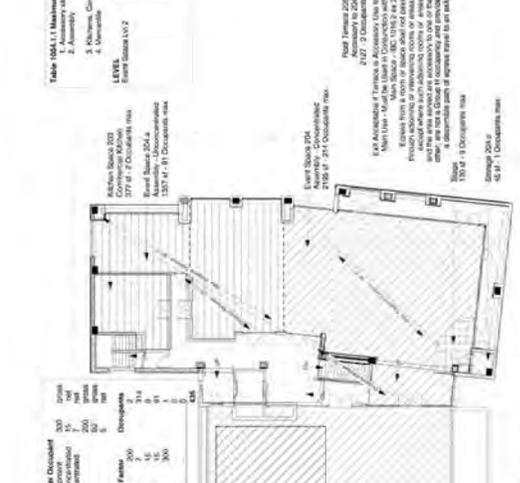
MOTION: Commissioner Band moved to CONTINUE 638 Park Avenue – Conditional Use Permit for new construction of a private event facility to December 14, 2016. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

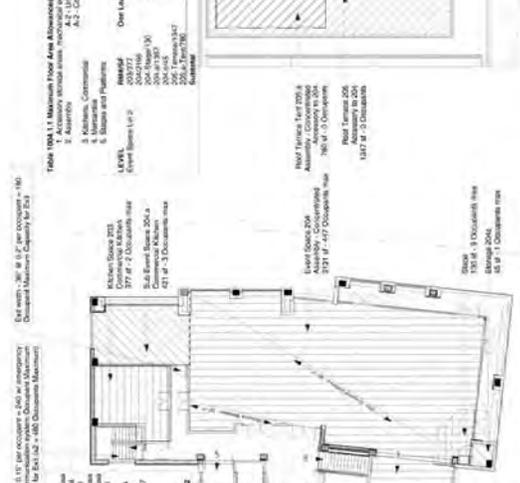
- 7. Tram Tower Plat Amendment – Proposal to combine Lot 2 of the National Garage Subdivision, Lot 19 and a portion of Lot 20, Block 6 of the Park City Survey and a portion of Block 1, Snyder’s Addition to Park City (Parcel PC-102), and Lot 2 of the Coalition West Subdivision also known as 664, 672, and**



2 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 2



4 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 4

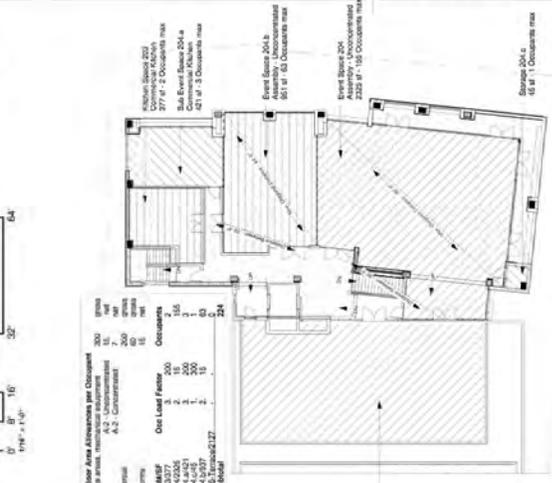


6 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 6

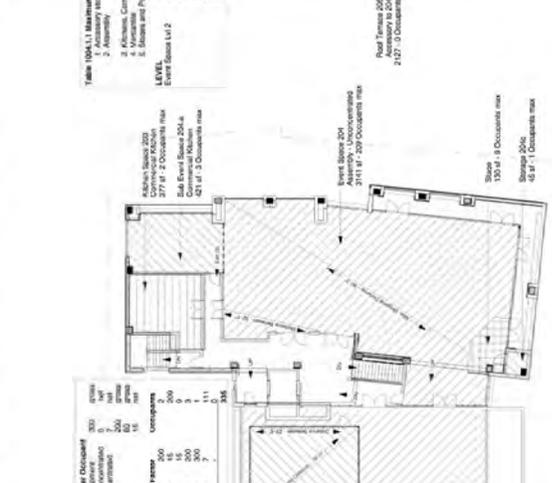
2 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 2

4 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 4

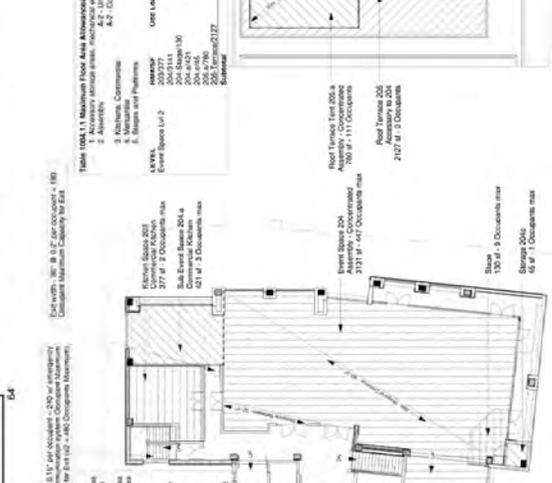
6 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 6



1 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 1



3 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 3

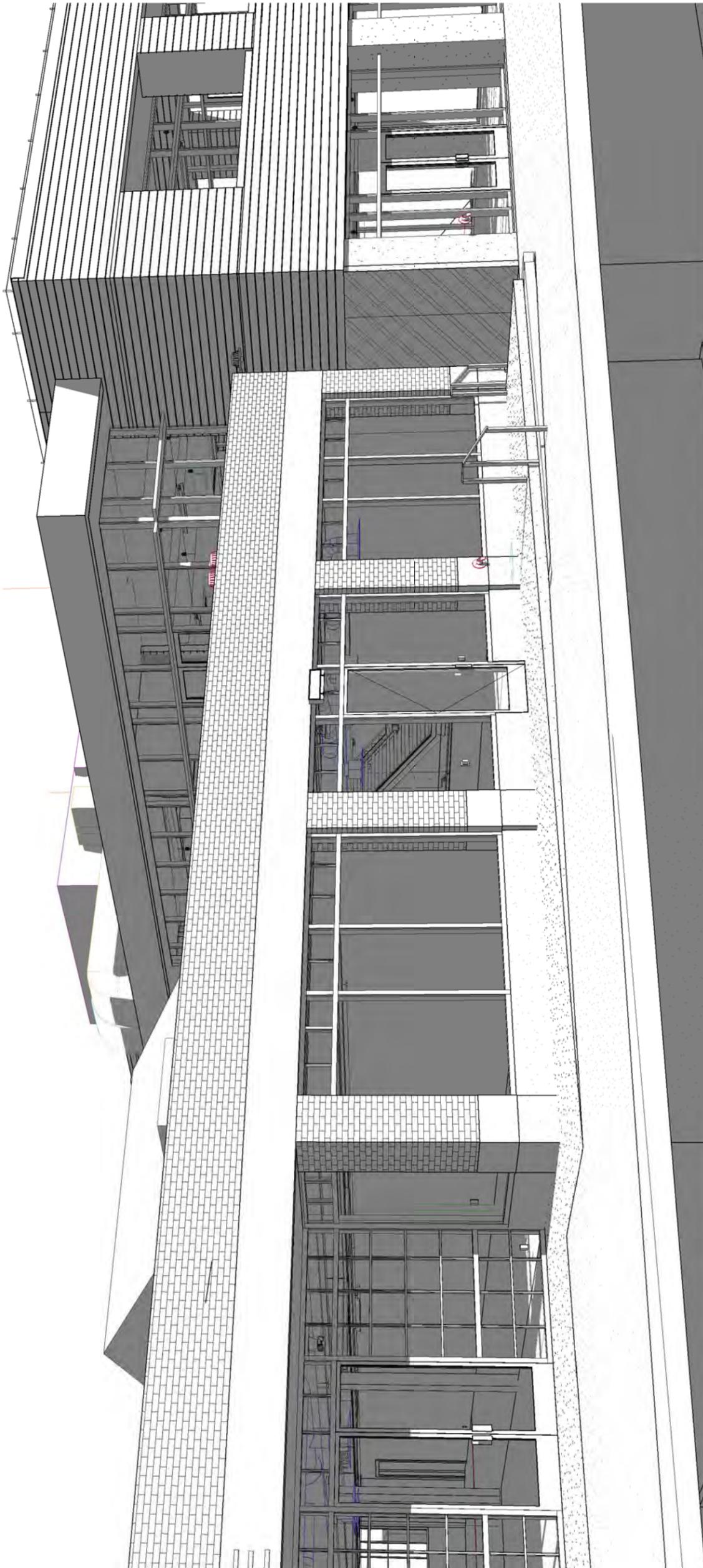


5 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 5

1 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 1

3 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 3

5 EVENT SPACE LEVEL 2 - ASSEMBLY OPTION 5





Submission to the Park City Planning Commission
for hearing on Wednesday November 9, 2016
Conditional Use Permit
Kimball Garage, 638 Park Ave

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Linda McReynolds
Sydney Reed
Randy Scott
Zibby Tozer

Dear Members of the Planning Commission,

The historic Kimball Garage is one of Park City's most prominent and cherished historic buildings. Our community genuinely wants to preserve our historic built environment and honor our unique history so the proposed renovation, addition to, and adaptive reuse of this iconic structure needs to meet the Land Management Code.

This Conditional Use permit application for an event space that includes "a second level 2,530 square foot rooftop terrace over the historic Kimball Garage" does not comply with all the requirements of the Land Management Code.

As stated in the Staff Report the standards for review of Conditional Use permits in the Land Management code 15-1-10 state:

D. **STANDARDS FOR REVIEW.** The City shall not issue a Conditional Use permit unless the Planning Commission concludes that:

1. the Application complies with all requirements of this LMC;
2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;
3. the effects of any differences in Use or scale have been mitigated through careful planning.

The rooftop terrace over the historic Kimball Garage is currently designed to demolish half the historic roof. This double-barrel roof is shown in the photo attached as exhibit A (which is page 7 of the Historic Sites Inventory for the Kimball Garage).

Removal and demolition of half the historic roof fails to meet "all the requirements of the LMC" by failing to comply with Park City's Specific Design Guidelines B.1.1 (see exhibit B)

The Design Guidelines for Historic Districts and Historic Sites are mandatory and part of the Land Management Code, since the Code itself states in LMC 15-11-11 "The Design Guidelines are incorporated into this Code by reference." (exhibit C). Further, as stated in the Guidelines,

528 Main Street, P.O. Box 555, Park City, Utah 84060
435-649-7457

The Park City Historical Society & Museum is a non-profit 501(c)3 corporation. Tax ID# 94-2792051

"Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provision shall apply." (exhibit B, page 28 at paragraph 4)

Staff's Findings of Fact #33 in the Staff Report is in error:

#33. The design complies with the Park City Design Guidelines for Historic Districts and Sites....

The application does not comply with Specific Design Guidelines B.1.1, as demonstrated below.

Specific Guideline: B.1. Roofs

B.1.1 states "**Maintain the original roof form**, as well as any functional and decorative element." (exhibit B, page 30).

In the Staff Report, Finding of Fact #9 is in error in its assertion of the application's compliance with Specific Guideline B.1. Roofs.

#9 "The BOA [Board of Adjustment] found that the rooftop deck addition above the historic Kimball Garage was appropriate as the Design Guidelines permit construction of rooftop additions and the addition would remove one of the two barrel-vaulted roof forms. The addition was permissible because it was generally not visible from the primary public right-of-way along Heber Avenue".

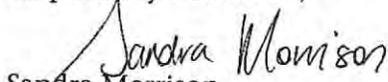
Guideline B.1.1 does not offer any exclusion or unique conditions that would allow demolition of this historic roof. The code does not say "generally not visible from the primary right-of-way", so staff and the Board of Adjustment have erred in their interpretation and application.

Further, the Design Guidelines state "Projects involving Landmark Sites must adhere to the strictest interpretation of the Guidelines..." (exhibit B, page 28, para 2). The Kimball Garage is a Landmark Site. Staff and the BOA have not met the Design Guidelines directive for the strictest interpretation of the code.

The new addition of a rooftop deck requires **destroying** half of the historic double-barrel roof. This historic and unique roof is visible from many Old Town viewpoints. Destroying half the historic double-barrel roof does not "maintain the original roof form."

We ask the Planning Commission to deny this Conditional Permit for the Private Event Facility on the rooftop terrace above the historic Kimball Garage project at 638 Park Ave. We ask the Board to direct staff to write new Findings of Fact consistent with the Land Management code and the Historic District Design Guidelines and the code requirement to "maintain the original roof form" of this Landmark Site.

Respectfully submitted,


Sandra Morrison
Executive Director

528 Main Street, P.O. Box 555, Park City, Utah 84060
435-649-7457

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exhibit A





Design Guidelines

FOR

Historic Districts

AND

Historic Sites



UTAH



June 19, 2009

Prepared

FOR

**Park City
Municipal Corporation**

BY

**Dina Williams-Blaes
Trent Jameson**



DESIGN GUIDELINES FOR HISTORIC SITES

If your structure or lot is located within one of Park City's historic zoning districts—HRL, HR1, HR2, HRM, HRC or HCB—but is not a Historic Site, you should seek guidance in the "Guidelines for New Construction in Historic Districts" section of these guidelines.

These Design Guidelines apply to all Historic Sites in Park City. Because residential, commercial, civic, and institutional buildings are found in all of Park City's six "H" zones, these guidelines are inclusive and may include sections that do not apply to your particular building or project.

The City, through the Planning Department staff, will determine when a project complies with the Design Guidelines. **Projects involving Landmark Sites must adhere to the strictest interpretation of the Guidelines** and must be designed and executed in such a manner as to retain designation as a Landmark Site. Projects involving Significant Sites are also held to a high standard, but because in many cases the sites have been substantially modified in the past, there is greater flexibility when interpreting the Guidelines. However, these projects must be designed and executed in such a manner as to retain designation as a Significant Site.

Compliance with the Design Guidelines is determined when a project meets the Universal Guidelines and Specific Guidelines. Because the scope of one project will differ from another, the City requires each application to meet all of the Universal Guidelines and Specific Guidelines unless the Design Review Team determines certain Specific Guidelines are not applicable.

All proposed projects must also meet the legal requirements of the Land Management Code before a building permit can be issued. Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provision shall apply. As a result, elements such as building height, building pad and/or building footprint may be limited.

UNIVERSAL GUIDELINES

1. A site should be used as it was historically or be given a new use that requires minimal change to the distinctive materials and features.
2. Changes to a site or building that have acquired historic significance in their own right should be retained and preserved.
3. The historic exterior features of a building should be retained and preserved.
4. Distinctive materials, components, finishes, and examples of craftsmanship should be retained and preserved. Owners are encouraged to reproduce missing historic elements that were original to the building, but have been removed. Physical or photographic evidence should be used to substantiate the reproduction of missing features.

5. Deteriorated or damaged historic features and elements should be repaired rather than replaced. Where the severity of deterioration or existence of structural or material defects requires replacement, the feature or element should match the original in design, dimension, texture, material, and finish. The applicant must demonstrate the severity of deterioration or existence of defects by showing that the historic materials are no longer safe and/or serviceable and cannot be repaired to a safe and/or serviceable condition.

6. Features that do not contribute to the significance of the site or building and exist prior to the adoption of these guidelines, such as incompatible windows, aluminum soffits, or iron porch supports or railings, may be maintained; however, if it is proposed they be changed, those features must be brought into compliance with these guidelines.

7. Each site should be recognized as a physical record of its time, place and use. Owners are discouraged from introducing architectural elements or details that visually modify or alter the original building design when no evidence of such elements or details exists.

8. Chemical or physical treatments, if appropriate, should be undertaken using recognized preservation methods. Treatments that cause damage to historic materials should not be used. Treatments that sustain and protect, but do not alter appearance, are encouraged.

9. New additions, exterior alterations, or related new construction should not destroy historic materials, features, and spatial relationships that characterize the site or building.

10. New additions and related new construction should be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.

SPECIFIC GUIDELINES

A. SITE DESIGN

A.1. Building Setbacks & Orientation

A.1.1 Maintain the existing front and side yard setbacks of Historic Sites.

A.1.2 Preserve the original location of the main entry, if extant.

A.1.3 Maintain the original path or steps leading to the main entry, if extant.

A.2. Stone Retaining Walls

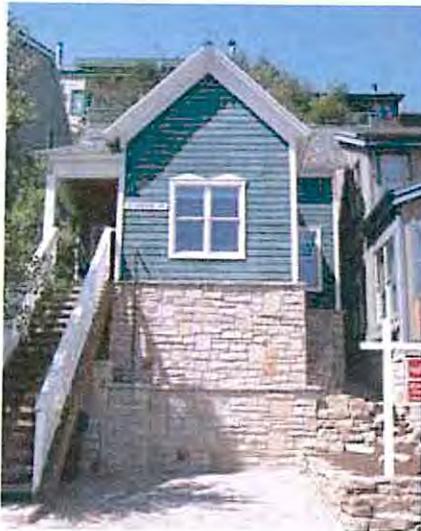
A.2.1 Maintain historic stone retaining walls in their original locations.

A.2.2 Maintain the original dimensions of historic retaining walls.

Front yard setbacks provide a transitional space between the public street and the private building entrance. The pattern along the street created by historic setbacks is critical to defining community character.



Stone retaining walls and fences like these contribute to the character of the districts and help to define the street edge.



Landscaping and site grading, particularly in the front yard setback, are important elements in defining the character of the street. Unlike the example above, original grading in the front yard setback and compatible landscaping should be maintained.

A.3. Fences & Handrails

A.3.1 Maintain historic fences and handrails.

A.3.2 Historic fences and handrails may be reconstructed based on photographic evidence. The reconstruction should match the original in design, color, texture and material.

A.3.3 New fences and handrails should reflect the building's style and period.

A.4. Steps

A.4.1 Maintain historic hillside steps that may be an integral part of the landscape.

A.5. Landscaping & Site Grading

A.5.1 Maintain landscape features that contribute to the character of the site.

A.5.2 Incorporate landscape treatments for driveways, walkways, paths, building and accessory structures in a comprehensive, complimentary and integrated design.

A.5.3 The historic character of the site should not be significantly altered by substantially changing the proportion of built or paved area to open space.

A.5.4 Landscape plans should balance water efficient irrigation methods and drought tolerant and native plant materials with existing plant materials and site features that contribute to the significance of the site.

A.5.5 Landscape plans should allow for snow storage from driveways.

A.5.6 Provide a detailed landscape plan, particularly for the front yard, that respects the manner and materials used traditionally in the districts.

A.5.7 Provide landscaped separations between parking areas, drives, service areas, and public use areas including walkways, plazas, and vehicular access points.

A.5.8 Maintain the original grading of the site when and where feasible.

B. PRIMARY STRUCTURES

B.1. Roofs

B.1.1 Maintain the original roof form, as well as any functional and decorative elements.

B.1.2 New roof features, such as photovoltaic panels (solar panels) and/or skylights should be visually minimized when viewed from the primary public right-of-way. These roof features should be flush mounted to the roof.



These skylights are flush mounted and unobtrusive when viewed from the public right-of-way.

PARK CITY MUNICIPAL CODE - TITLE 15 LMC, Chapter 11 - Historic Preservation

15-11-10

Application does not comply with the criteria set forth in Section 15-11-10(A)(1) or Section 15-11-10(A)(2), the Building (main, attached, detached, or public) Accessory Building, and/or Structure will be removed from the Historic Sties Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

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

(Amended by Ord. Nos. 09-05; 09-23; 15-53)

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

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

(Amended by Ord. No. 09-23)

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

The Planning Department shall review and approve, approve with conditions, or deny, all Historic District/Site design review Applications involving an Allowed Use, a Conditional Use, or any Use associated with a Building Permit, to build, locate, construct, remodel, alter, or modify any Building, accessory Building, or Structure, or Site located within the Park City Historic Districts or Historic Sites, including fences and driveways.

Dear Park City Residents and Members of the Planning Commission,

In just a few days a ruling from the Planning Commission could drastically change the character and culture of our town. One of the great things about living in Park City is that people get involved in the decisions which effect our community. Because I am not able to be there in person for the meeting at 5:30pm on Wednesday, December 14th at the City Council Chambers, I want to voice my deep concerns and strong objections to the following proposal.

Up for consideration is a Conditional Use Permit application for a Private Event Facility at the historic Kimball garage (formerly the Kimball Art Center building) at 638 Park Avenue. The applicant is proposing to rehabilitate the existing

historic building for Retail and other Commercial uses and ADD a new addition to the east, adjacent to Main Street. The upper level of the addition, approximately 3,785 square feet, will be reserved for a rooftop Private Event Facility for parties and events of up to 480 people.

I believe this Private Event Facility as submitted would significantly impact Park City. This proposal has the potential to add traffic, parking problems and serious issues around noise. The location of this property borders on a densely populated residential area which already bears a great deal of the burden that arise as Park City continues to grow.

Not only would this approval disrupt Old Town and Main Street but it could also encroach on other non-profits events in that area that have been a part of our community for a long time. There is also

the potential for event fatigue as well as additional manpower requirements of our police force in order to address potential noise code violations which would likely result with an event space for 480 people and the opportunity for live music nightly until 10 pm.

Old Town residents are already working hard to understand the proposed Treasure Hill project and this new Conditional Use Permit application should be rejected or revised to address the impact in this historic neighborhood area. I urge everyone to learn more about this issue and attend the meeting to voice your concerns.

Mellie Owen

1030 Norfolk Avenue

Planning Commission Staff Report



PLANNING DEPARTMENT

Subject: BD-16-22329 Appeal of Planning
Directors Determination regarding Accessory Building
Square footage at 1376 Mellow Mountain Rd

Application: PL-16-03347

Author: Makena Hawley, City Planner

Date: December 14, 2016

Type of Item: Quasi-Judicial - Appeal of Planning Director's
Determination

Summary Recommendation

Staff requests that the Planning Commission review the appeal of the Planning Director's determination on the square footage calculations at 1376 Mellow Mountain and consider upholding the Planning Director's denial of the Building Permit on grounds that the proposal exceeds the allowable square footage for the lot.

Topic

Appellant(s): David Camarata represented by Joseph Tesch

Location: 1376 Mellow Mountain Road

Zoning: Estate District (E)

Adjacent Land Use: Residential

Reason for review: Appeals of Planning Director determinations are reviewed by Planning Commission

Burden of Proof and Standard of Review

The Planning Commission is acting in a quasi-judicial manner. Therefore, like with a judge, all contact by the parties with the Planning Commission related to the appeal should be at the hearing. No "ex-parte" or one on one contact should occur.

Pursuant to LMC 15-1-18(G), the Planning Commission "shall review the factual matters de novo and it shall determine the correctness of a decision of the [Planning Director] in its interpretation of the application of the land Use ordinance." This means that the Planning Commission will review the evidence presented to the Planning Director anew and will not give any deference to the Planning Director's decisions on how to apply the facts to the law. Planning Commission review of petitions of appeal shall be limited to consideration of only those matters raised by the petition, unless Planning Commission, by motion, enlarges the scope of the appeal to accept information on other matters. The burden is on the appellant to prove that the Planning Director erred.

Background

In 1992 a building permit was approved for a new single-family dwelling to be built at 1376 Mellow Mountain Road. At that time, the house was built and it was approximately 14,100 square feet.

In 1993 the Planning Commission denied a request for a 12 lot subdivision, which was appealed to the City Council, and on June 17, 1993 the Council approved the small scale MPD with a 12 lot subdivision – The Hearthstone Subdivision (also known as The Overlook at Old Town – Please see Exhibit C and E). When the subdivision was being recorded for the 12 lots, one of the property owners, Mr. Korthoff, decided to withdraw his property, which were Lots 11 and 12 of the approved Hearthstone 12 lot subdivision, due to a trail location and other issues surrounding the subdivision. After the MPD was approved, the 12 lot subdivision went back to the Planning Commission for review on September 22, 1993 requesting that the 12 lot subdivision be reduced to 10 lots and was approved at the City Council meeting early 1994 (Please see Exhibit C – Hearthstone Subdivision).

In 1998 Mr. Korthoff re-appeared before the Planning Commission and City Council and requested to be included in the Hearthstone Subdivision with a proposal presenting a solution for a trail easement that worked for the property owner, staff and trails people. This plat amendment was approved and recorded (Please see Exhibit D – First Amendment to Hearthstone Subdivision).

In December 2005 the 1376 Mellow Mountain residents applied for and were granted a building permit for an 800 square foot addition.

On June 2, 2015 the current residents of 1376 Mellow Mountain Road applied for a building permit requesting a swimming pool enclosure (Please see Exhibit J for 2015 building permit). The building permit was approved on July 1, 2015 and on January 5, 2016 the building permit expired due to inactivity. The approval of the building permit was due to staff error using incorrect measurements that are not consistent with the LMC definition of floor area.

On February 16, 2016 the current residents of 1376 Mellow Mountain Road again applied for a building permit requesting a swimming pool enclosure (Please see Exhibit L for 2016 building permit). On April 20, 2016 the Planning Department approved the building permit (due to staff error) and on May 18, 2016 the building permit was denied by the Engineering Department (Please see Exhibit M for denial letter) due to the proposal presenting non-compliance with the First Amendment to Hearthstone Subdivision, plat note #1. The plat note was originally missed by staff in the Planning Department while comparing what was actually built to what was allowed per the plat and the LMC definition of Floor Area.

The First Amended Hearthstone Subdivision, approved in 1999 has one plat note which reads:

“1. The maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.”

In addition, the minutes and findings from the September 22, 1992 Planning Commission meeting where the Hearthstone Subdivision was approved indicated the following change which was adopted:

The house restriction on the Korthoff house was "as built" at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.

The suggested note regarding maximum house size for Lot 11 said:
Maximum house size on Lot 11 is "as built" at 14,100 square feet as measured by the Building Department.

Lots 11 and 12 were removed from the 1992 Subdivision and when the Planning Commission reviewed the application to add these two lots back into the Subdivision in 1998, the conditions of approval state:

2. All conditions of approval of the MPD approved June 17, 1993, still apply

6. . . . The maximum house size for Lot 11 is "as built" at 14,000 square feet (no additions resulting in additional square footage allowed; .

It is unclear why the minutes and the plat notes differ by 100 square feet from the 1992 proposal and the 1999 proposal.

The proposed pool house at the 1376 Mellow Mountain residence (Lot 11) totals 4,617 square feet.

The survey provided by the applicant determined the maximum house size to be 11,892 square feet. Therefore the proposed total square footage would equal 16,509 square feet.

On July 12, 2016 the Planning Director made a final Determination to deny the building permit (Please see Exhibit O).

On July 20, 2016 an appeal of the Planning Director's Determination was submitted (Please see Exhibit P).

Before bringing the appeal report before the Planning Commission the applicant brought up the proposal to consider the pool house as an Accessory Structure that would not be measured as part of the “restricted square footage” by the plat note.

On September 30, 2016 the Planning Director made a final Determination to deny the building permit as an Accessory Structure, due to the staff conviction that any additions of any kind would be inclusive of the plat note restriction on square footage limitations, this notice was sent on October 10, 2016 (Please See Exhibit B).

On October 20, 2016 the original appeal was withdrawn by the applicant.

On October 20, 2016 an appeal of the Planning Directors Determination regarding the accessory structure was submitted (Please See Exhibit B – please note the “delivered date” on the appeal is referring to the Planning Directors delivery date of the determination).

Appeal

The appellants are requesting the Planning Director Determination be appealed and the building permit approved based on the following reasons:

(Summarized from the appellants appeal letter, Exhibit A)

1. *The Planning Director erred in his interpretation of the LMC.*
 - a. *The Plat note does not limit the size of or prohibit construction of an Accessory Building*
 - b. *The LMC Defines “Maximum House Size”*
 - c. *The Pool Cover Building proposed is an Accessory Building and Its square footage is Not included in the Definition of Maximum House Size.*
 - d. *The Planning Director’s interpretation of the Planning Commission’s intent concerning the plat note is irrelevant.*
2. *The Directors determination also relies upon erroneous facts.*
3. *Strict construction of the plat does not prohibit any accessory building.*

Appeal Item #1: *The Planning Director erred in his interpretation of the LMC.*

The issue before the Planning Commission is whether the Planning Director erred in concluding that the Plat Note prohibits the construction of an Accessory Building on the Property. The Planning Director correctly concluded that the pool cover building is an Accessory Building. The Planning Director incorrectly concluded, however, that the square footage of an Accessory Building is considered part of the Maximum House Size or “Floor Area, Gross Residential” where the house and Accessory Building are purportedly connected by a patio and deck.

In particular, the Planning Director erroneously concluded that the pool cover building in this case should be considered part of the “Floor Area, Gross Residential” under the LMC. While the Planning Director correctly observed that the pool cover building is an Accessory Building that is “separate from the principal

Building,” he erred by ultimately concluding that the construction of an Accessory Building would constitute an increase in Maximum House Size that is prohibited by the Plat Note.

Staff Response:

The Planning Director was correct in referring to the Pool House as an Accessory Building (per § 15-15 1.3) as it is on the same lot as the principal building, it is clearly incidental to, and customarily found in connection with such principal building, not a dwelling unit, and it is operated and maintained for the benefit of the principle use.

Below are LMC definitions used to evaluate Maximum House Size:

1.168 **MAXIMUM HOUSE SIZE.** A measurement of Gross Floor Area.

1.107 **FLOOR AREA.**

- A. **Floor Area, Gross Residential.** The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet¹, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

Staff has consistently used the definition of Floor Area to determine the square footages of buildings, and has used it to calculate the square footage of houses when there are LMC maximum regulations or when a plat note has restrictions on it.

Staff refers to the Plat note which states:

“...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.”

Staff believes the pool house to be considered part of the floor area due to the plat note portion, stating *“no additions resulting in additional square footage over 14,000 sq. ft. allowed”*. The plat note does not state specifically whether the word “addition” is considered to mean “addition to the principal house” or an addition of any kind resulting in square footage over 14,000 square feet.

Furthermore, providing proof from past meeting minutes, staff has found that the house size limitations did have intention for the plat notes. From the Planning Commission Meeting minutes from September 22, 1993 (The Original Hearthstone Subdivision, Please see Exhibit G) the following is quoted:

“Hearthstone Subdivision – Final Plat (Aerie Drive and Mellow Mountain Road) – Jack Johnson Co.

The staff recommended approval with changes in the conditions of approval as outlined in the public hearing.

Chairman Bruce Erickson clarified that the changes were:

Two-foot but not wider than four-foot paths.

Revision of the setback on Lot 2 to 35 feet.

The house restriction on the Korthoff house was “as built” at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.”

(Please See Exhibit G for minutes)

During the same meeting the Conditions of Approval were noted and COA #3 reads:

3,500 sq. ft. Lots 4, 5

4,000 sq. ft. Lots 3, 6

5,000 sq. ft. Lots 1, 2, and 9

6,000 sq. ft. Lots 7, 12

6,500 sq. ft. Lots 8, 10

Maximum house size for Lots 11 is “as built” at 14,100 sq. ft. as measured by the building department.

As of 1992, the Building Dept. had already done a square footage calculation which came to a total of 14,122 square feet. (Please see Exhibit F).

The intent from the original documents is not to add anything to the “as built” size therefore staff concludes that the Plat note prohibits the construction of an Accessory Building on the property.

To elaborate, after reading the minutes, staff has found that the intent was that the house on Lot 11 was not to be expanded at all. Nonetheless the actual recorded note only reads that 14,000 square feet is the maximum square footage allowed which the Planning Department would measure per the LMC. Essentially, if the note specified the house stay “as built” as they were referring to in the minutes, Planning staff would conclude no additions of any kind. Since it doesn’t specify the “as built” portion, Planning staff would just restrict the owners to the 14,000 sq. ft. max as defined by the LMC. This allows the owners an additional square footage of up to 2,108 square feet.

Appeal Item #1-A:

*The Plat note only limits the “maximum house size” to 14,000 square feet. There is no prohibition in the Plat Note, or otherwise contained on the Plat, that prohibits the construction of an Accessory Building. Moreover, the LMC does not prohibit the construction of an Accessory Building on the Property. Indeed, as the Planning Director even concluded in his Director’s Determination, “[t]here is no restriction on the number of Accessory Buildings on a Lot.” **Directors***

Determination, attached as Exhibit E (of Appeal). Accordingly, the Planning Director erred when he determined that the Plat Note prohibited the construction of an Accessory Building.

Staff Response:

The LMC does not restrict the number of Accessory Buildings on a lot, however sometimes plats are given stricter regulations to help uphold a certain standard for subdivisions. It is not specified if the “addition” is specifically to the house or in general. Moreover, after further research into past minutes the intent was clear that the house was supposed to stay “as built” therefore the Planning Department is simply holding the Property Owner to plat notes which were agreed upon and recorded when the plat was approved by the City Council and recorded in 1998.

Appeal Item #1-B: Section 15-15-1.168 of the LMC defines “Maximum House Size” as: A measurement of Gross Floor Area. Thus, the Planning Director erroneously concluded that “[t]he LMC does not have a definition of maximum House Size...” ***Director Determination, attached as Exhibit E (of Appeal).***

Staff Response:

Two of the main definitions are as follows:

15-15 Definitions calls 1.168 MAXIMUM HOUSE SIZE. A measurement of Gross Floor Area.

1.109 FLOOR AREA.

- A. *Floor Area, Gross Residential.* The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

Due to the plat note’s restrictions:

“...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.”

As we know the “maximum house size” or “gross residential floor area” is discussing the maximum amount of square footage allowed for the house. The portion of the plat note which reads “...no additions resulting in additional square footage over 14,000 square feet allowed” is the portion which the Planning Department made the determination that the accessory building, connected to the ‘primary building’ or not, would be additional square footage which would result to square footages going over the allotted 14,000 square feet.

Appeal Item #1-C: *The Pool Cover Building proposed is an Accessory Building and its Square Footage is **Not** Included in the Definition of Maximum House Size.*

While the LMC does not define "Gross Floor Area," it does define "Floor Area" including:

"Floor Area, Gross Residential." LMC Section 15-15-1.109. "Floor Area, Gross Residential" is:

The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to maximum Area of 600 square feet, are not considered Floor Area, Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

LMC Section 15-15-1.109 (emphasis added). Thus, "Floor Area, Gross Residential" only includes the area in a single building (i.e., "a Building") that is measured from the "finished surface of the interior of the exterior boundary walls." LMC Section 15-15-1.109.

Notably, the definition of "Floor Area, Gross Residential" does not include either an Accessory Building, or the surface area of the interior of an Accessory Building. Likewise, it does not include Buildings that are connected by decks, patios or any Structure.

Moreover, the definition of "Accessory Building" clearly identifies that it is "[a] building on the same Lot as the principal Building...that is clearly incidental to, and customarily found in connection with such principal Building, such as detached garages, barns, and other similar Structures.. .operated and maintained for the benefit of the principal Use; not a Dwelling Unit...." In other words, an Accessory Building, by definition, is distinct from the main Building or house, and a separate Building. Thus, the very definition of an Accessory Building identifies that it is separate. In contrast, the Planning Director's conclusion suggests that the Gross Residential Floor Area may extend beyond the "finished surface of the interior of the exterior boundary walls." This conclusion simply contradicts the plain definition of "Floor Area, Gross Residential" under the LMC.

The Planning Director also erroneously concluded that the Accessory Building (or pool cover building), while separate from the principal Building, is "connected by a deck and patio which are excluded from the Floor Area definition." This conclusion is not only factually incorrect (as set forth more fully below), but is also an incorrect application of the LMC that erroneously determines that a deck or patio can connect multiple Buildings on a Lot for the purposes of determining the "Floor Area, Gross Residential" or House Size. This interpretation clearly violates the plain definition of "Floor Area, Gross Residential" which limits the measurement to a single Building and to the area between the internal walls of that Building. There is no provision within the definition of "Floor Area, Gross

Residential," or the LMC in general, that includes Accessory Building or Buildings that are connected by a patio or deck. Consequently, the Planning Director erred in his unique application of the definition of "Floor Area, Gross Residential" and "Maximum House Size" and the Planning Commission should reverse and vacate his determination⁴.

Staff Response:

Staff finds the plat note restriction does not specify the specific house size limit, however a maximum square footage for the lot. The uniqueness of this plat note is that unlike the maximum house size restriction for Lot 12, where it simply concluded that the "house size for Lot 12 is 6,000 square feet", the plat note restricting Lot 11 specifies that "with no additions resulting in additional square footage over 14,000 square feet allowed".

Corresponding to appeal item #1, looking further into intent of plat note, it was clear from Planning Commission minutes, giving a positive recommendation to the plat, that the purpose of the plat note was to restrict the house to an "as-built" structure with no more additions to the lot.

Appeal Item #1-D: The Planning Director's Interpretation of the Planning Commission's Intent Concerning the Plat Note is Irrelevant. The Planning Director also incorrectly based his determination on what he interpreted was the "intent of the Planning Commission." In particular, the Planning Director erred when he concluded, "[b]ased on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat." Director Determination, attached as Exhibit E (of Appeal). Most importantly, the unstated "intent" of the Planning Commission is totally irrelevant. How is any owner of property to know what restrictions exist if he/she must first scour Planning Commission minutes to try to glean what their unwritten intent was? That can't be the rule. Rather, the only relevant issue is whether that alleged intent is stated on the plat which was approved by ordinance, not by the Planning Commission, but by the City Council. No intent to exclude Accessory Buildings is expressed anywhere in the approving ordinance enacted in 1998.

Recapping, first, the "intention of the Planning Commission" is irrelevant as the plat notes reflect the final decisions of the City. See generally, LMC 15-1-8, on file with the City; see also Planning Commission Minutes dated November 18, 1998, attached as Exhibit E (of Appeal) (memorializing the Planning Commissions' positive recommendation of the proposed plat amendment to amend the Hearthstone Subdivision to include Lots 11 and 12). Second, the Plat Note makes no reference to nor indicates that construction is limited to the site are "constructed at the time of the Plat." Indeed, the Plat Note only states, "...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed." As a result, the Planning Director erred in his interpretation of the Plat Note as well as basing his

decision on a purported intent gleaned from the Planning Commission Minutes in 1993. Accordingly, the Planning Commission should reverse and vacate the Planning Director's Determination.

Staff Response:

The Planning Department does not expect any property owner to scour minutes from old Planning Commission/City Council minutes. Staff finds that the common interpretation of plat notes suffices for lot restriction clarifications. Conversely, in the occurrence of a disagreement on the interpretation of the plat note the minutes do exist for this exact reason, to help clarify the direction that was intended for the lot or development when it was approved originally.

In addition, the lack of specific restrictions does not mean that anything not mentioned is an allowed use. The plat note clearly states that no additions, resulting in additional square footage are allowed over 14,000 square feet and the Planning Department would hold all property owners to the same level of obligation to fulfill the plat note in which was approved by Ordinance.

To further clarify the specificity of this situation, if the proposed Accessory Structure was proposing a square footage that kept the overall gross floor area square footage under the allotted 14,000 square feet, the Planning Department would have most likely approved the building permit because it fits within the plat note restrictions. There would have been no need to review past minutes or building permits.

Of course, after further review we found the intent of the plat note to keep the house "as built", which, like Mr. Tesch states, is not on the approved Ordinance which staff can agree with. Where staff differs with Mr. Tesch is the fact that Lot 11 is allowed no additional square footage over 14,000 square feet.

Appeal Item #2: *The Director's determination also relies upon erroneous facts. The Planning Director incorrectly concluded that a "deck and patio" connects the house to the proposed pool cover building. In August 2016, Petitioner requested only that the Planning Director determine whether a "redesign [of] the [pool cover] building as an Accessory Building" would be permitted. See Request, attached as Exhibit F (of Appeal). No redesign was attached to the request for decision. Accordingly, the Planning Director's conclusion is without factual basis that the house and pool cover building are connected.*

In addition, the Planning Director's conclusion that an Accessory Building becomes part of the house if it is connected by "a structure" (i.e., a patio or deck) is a unique stretch and interpretation of the LMC. Indeed, under the logic applied by the Planning Director, if a patio constitutes a Structure that connects Buildings with combined "Floor Area, Gross Residential," similarly, a simple sidewalk could be considered a structure that connects Buildings. Is a sidewalk connecting a distant garage sufficient to include the garage as part of the main building? Moreover, under the Planning Director's determination, how do you measure or

define "connected?" If, for instance, the Accessory Building is one inch away from the patio, is it connected? If the redesign is one inch away from the patio, is it "connected" thereby creating an enlarged "Floor Area, Gross Residential?"

Although not before the Planning Director, the beginning of the actual constructed pool measures (although not precise) about 75'-80' from the house. Moreover, at present, if the pool cover building is constructed on the nearest edge of the pool, it is approximately 35 feet from the end of the patio. See Photographs, attached as Exhibits G through J (of Appeal). In short, between 70 and 80 feet separate the edge of the pool and the house with partial hardscape, landscape, a hot tub and raw dirt, between the main building and the pool. Thus, the notion that the pool cover building and the house are in any way connected is without factual support.

Accordingly, the Planning Commission should reverse and vacate the Planning Commission's decision.

Staff Response:

Whether the structures are connected or not by a patio or deck, this does not change the fact that the primary house and the accessory structure would result in an excess of 14,000 square feet measured by Gross Floor Area which staff finds would not comply with the plat note restriction.

Appeal Item #3: *Strict construction of the plat does not prohibit any accessory building. On or about December 10, 1998, after a public hearing before the City Council, Park City Municipal Corporation passed Ordinance 98-48, approving the Amended Plat, and its notes, that amended the original Hearthstone Subdivision. See First Amended Plat, attached as Exhibit D (of Appeal). In general, an ordinance that restricts a property owner's common law right to an unrestricted use of land is strictly construed against prohibition of use of private property. See *Brown v. Sandy City Board of Adjustment*, 957 P.2d 207, 210-11 (Ut. Ct. App. 1998); *Patterson v. Utah County Bd of Adjustment*, 893 P.2d 602, 606 (Ut. Ct. App. 1995). As a result, when reviewing an ordinance a reviewing body first "looks to the plain language., .to guide [its] interpretation." *Brown*, 957 P.2d at 210-211. "Only if the ordinance is ambiguous need we look to legislative history to ascertain legislative intent." *Id.* See also the recently decided case of *Colosimo v. Gateway Community Church*, 2016 UT App 195 (2016).*

In this instance, the plat note concerning "house size" should be strictly construed. The plain language of the plat note only restricts the "house size." There is no restriction prohibiting the construction of an Accessory Building. Accordingly, the Planning Director's reliance on gleaned, but not stated prohibition of Accessory Buildings in Minutes from a Planning Commission Meeting held five years earlier (1993) is erroneous and his determination should be reversed and vacated.

Staff Response:

Staff agrees that reviewing the plain language to guide interpretation is fair and consistent with how the Planning Department regulates plat notes towards restricted lots. The dispute is over whether the plain language is speaking toward limiting “house size” or “square footage”. Staff has found that the limitation, provided by the plat limits the square footage to 14,000 square feet total – no additions resulting in additional square feet allowed. If the proposed Accessory Structure kept the square footage (calculated by the Planning Department according to Gross Floor Area) less than 14,000 square feet this building permit would have likely been approved.

Notice

The property was legally noticed in the Park Record on November 30, 2016 and the property was posted per noticing requirements in LMC 15-1-21 Notice Matrix.

Public Input

Staff has received letters of support from neighbors provided by the applicant (Please see Exhibit P).

Alternatives

- The Planning Commission may affirm the Planning Director’s decision to deny in whole or in part the Building Permit BD-16-22329 as conditioned or amended; or
- The Planning Commission may reverse the Planning Director’s decision and approve t in whole or in part the Building Permit BD-16-22329 as conditioned or amended and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the appeal of the Building Permit BD-16-22329 to a date certain.

Recommendation

Staff recommends the Planning Commission review the appeal and consider affirming the Planning Director’s decision to deny the Building Permit BD-16-22329 according to the findings of fact, conclusions of law and order below.

Findings of Fact

1. The subject property is located at 1376 Mellow Mountain Rd.
2. The subject property is located in the Estate (E) District.
3. A single family dwelling currently exists on the property.
4. A single-family dwelling and Accessory Building and Uses are permitted Uses in the E zone.
5. The approved plat is First Amendment to Hearthstone Subdivision.
6. 1376 Mellow Mountain Road is Lot 11 of the First Amendment to Hearthstone Subdivision. The only plat note on the First Amendment to Hearthstone Subdivision reads “1. *The maximum house size for Lot 12 Is 6,000 square*

feet. The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.”

7. In 1992 a building permit was approved for a new single-family dwelling to be built at 1376 Mellow Mountain Road. At that time, the house was built and it was approximately 14,100 square feet.
8. The current calculation of square footage by the Planning Department per the survey provided by the applicant determined the maximum house size to be 11,892 square feet.
9. The proposed pool house at the 1376 Mellow Mountain residence (Lot 11) totals 4,617 square feet.
10. The survey provided by the applicant determined the maximum house size to be 11,892 square feet. Therefore the proposed total square footage would equal 16,509 square feet.
11. Staff has consistently used the definition of Floor Area to determine the square footages of buildings, and has used it to calculate the square footage of houses when there are LMC maximum regulations or when a plat note has restrictions on it.
12. If the pool house proposed a square footage that equated to less than 14,000 square feet for Lot 11, the building permit could be approved providing it met all other LMC requirements.
13. The LMC definition for Maximum House Size is “A measurement of Gross Floor Area.”
14. The LMC definition of Floor Area, Gross Residential is “The Area of a Building, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet¹, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.”
15. In the Estate zone the LMC does not specify that an Accessory Unit should be included in floor area.
16. The determination was based on the plat note stating “no additions resulting in additional square footage over 14,000 square feet”.
17. The minutes and findings from the September 22, 1992 Planning Commission meeting where the Hearthstone Subdivision was approved indicated the following change which was adopted: ‘The house restriction on the Korthoff house was 11 “as built” at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.’
18. The term “As Built” commonly refers to the plans created after construction of the building is complete.
19. Lots 11 and 12 were removed from the 1992 Subdivision and when the Planning Commission reviewed the application to add these two lots back into the Subdivision in 1998, the conditions of approval stated: (COA #2) All conditions of approval of the MPD approved June 17, 1993, still apply (COA #6) The maximum house size for Lot 11 is “as built” at 14,000 square

- feet (no additions resulting in additional square footage allowed; .
20. From the Planning Commission Meeting minutes from September 22, 1993 (The Original Hearthstone Subdivision, Please see Exhibit G) the following is quoted:

“Hearthstone Subdivision – Final Plat (Aerie Drive and Mellow Mountain Road) – Jack Johnson Co.

The staff recommended approval with changes in the conditions of approval as outlined in the public hearing.

Chairman Bruce Erickson clarified that the changes were:

Two-foot but not wider than four-foot paths.

Revision of the setback on Lot 2 to 35 feet.

The house restriction on the Korthoff house was “as built” at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.”
 21. During the same meeting the Conditions of Approval were noted and COA #3 reads:

| | |
|---------------|------------------|
| 3,500 sq. ft. | Lots 4, 5 |
| 4,000 sq. ft. | Lots 3, 6 |
| 5,000 sq. ft. | Lots 1, 2, and 9 |
| 6,000 sq. ft. | Lots 7, 12 |
| 6,500 sq. ft. | Lots 8, 10 |

Maximum house size for Lots 11 is “as built” at 14,100 sq. ft. as measured by the building department.
 22. Whether the structures are connected or not by a patio or deck, this does not change that the primary house and the accessory structure would result in an excess of 14,000 square feet measured by Gross Floor Area which staff finds would not comply with the plat note restriction.
 23. On June 2, 2015 the current residents of 1376 Mellow Mountain Road applied for a building permit requesting a swimming pool enclosure (BD-15-21224).
 24. The building permit (BD-15-21224) was approved on July 1, 2015 and on January 5, 2016 the building permit expired due to inactivity.
 25. On February 16, 2016 the current residents of 1376 Mellow Mountain Road again applied for a building permit (BD-16-22329) requesting a swimming pool enclosure.
 26. On April 20, 2016 the Planning Department reviewed the building permit (BD-16-22329) and did not find any issues with it; and on May 18, 2016 the building permit was denied by the Engineering Department due to the proposal presenting non-compliance with the First Amendment to Hearthstone Subdivision, plat note #1.
 27. On September 30, 2016 the Planning Director made a final Determination to deny the building permit as an Accessory Structure, due to the staff conviction that any additions of any kind would be inclusive of the plat note restriction on square footage limitations, this notice was sent on October 10, 2016.
 28. Once Building, Planning, and Engineering Departments sign off on a requested building permit application, the building permit is finalized and is issued.

29. The Findings in the Analysis section of this report are incorporated herein.

Conclusions of Law

1. Using the Land Management Code definitions to define floor area to equate to house size (per the plat) the floor area of the existing house at 1376 Mellow Mountain Road equates to 11,892 square feet.
2. If the building permit is to be approved the lot would contain a total square footage of 16,509 square feet.

Order

1. The appeal is denied and the proposed building permit cannot be issued.

Exhibits

Exhibit A - Appeal

Exhibit B - Notice of Planning Director Determination

Exhibit C - Hearthstone Subdivision

Exhibit D - First Amendment to Hearthstone Subdivision

Exhibit E - Amendment to Hearthstone Subdivision name – The Overlook at Old Town

Exhibit F - Building Department Plan Check and Correction Sheet from 1992

Exhibit G - Planning Commission Meeting Minutes from September 22, 1993 – Approving the Hearthstone Subdivision

Exhibit H - Planning Commission Meeting Minutes from November 18, 1998 approving the First Amendment to the Hearthstone Subdivision

Exhibit I - City Council staff Report December 10, 1998

Exhibit J - 2015 Building Permit Plans

Exhibit K - 2016 Building Department Plan Check Sheet for BD-16-22329

Exhibit L - 2016 Building Permit Plans

Exhibit M - Engineering's formal denial of Building Permit BD-16-22329

Exhibit N - Survey plan of 1376 Mellow Mountain Road provided by applicant

Exhibit O – Original Planning Director Determination Letter

Exhibit P – Public Comment support letters from neighbors of 1376 Mellow Mountain Road

Exhibit A - Appeal

Joseph E. Tesch (A3219)
Stephanie K. Matsumura (10370)
TESCH LAW OFFICES, P.C.
314 Main Street, Suite 201
P.O. Box 3390
Park City, Utah 84060-3390
Telephone: (435) 649-0077
Facsimile: (435) 649-2561
joet@teschlaw.com
stephaniem@teschlaw.com

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION**

DAVID CAMARATA,
Petitioner

V.

PARK CITY PLANNING DIRECTOR,
Respondent

**PETITION/ NOTICE OF APPEAL OF
PLANNING DIRECTOR
DETERMINATION OF
SEPTEMBER 30, 2016 (DELIVERED
OCTOBER 10, 2016)**

PROJECT NUMBER: BD-16-22329

Petitioner Information:
David Camarata
1376 Mellow Mountain Road
Park City, Utah 84060
Telephone: 435-615-1591

COMES NOW, Petitioner David Camarata, owner of the residence located at 1376 Mellow Mountain Road, Park City, Utah, by an through his attorney Joseph E. Tesch and Stephanie K. Matsumura of Tesch Law Offices, P.C. and hereby appeals the Notice of Planning Director Determination dated September 30, 2016 (but by stipulation of the Planning Director not delivered until October 10, 2016) ("Director Determination"), concerning the determination of "plat note

regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision,” upon the following grounds and upon such other grounds as may come to light¹:

RELEVANT FACTS

1. Petitioner David Camarata owns the residence located at 1376 Mellow Mountain Road, Park City, Utah (“Property”), also known as Lot 11 of the Hearthstone Subdivision.
2. Planning Director relies upon minutes of a Planning Commission meeting wherein prior to the Petitioner’s ownership, on or about September 22, 1993, the Planning Commission approved, with conditions, the Hearthstone Subdivision, Final Plat that included twelve different lots. *See Minutes of September 22, 1993 Minutes*, attached as Exhibit A.
3. Among the conditions for that approval was a “[m]aximum house size on Lot 11 is ‘as built’ at 14,100 square feet as measured by the Building Department.” *Id.* at Minutes Page 15.
4. On or about June 15, 1994 the Hearthstone Subdivision Plat (“Original Plat”) was recorded and, notably, did not include Lot 11 since a request was made to remove Lots 11 and 12 from the final subdivision plat. *See Original Plat dated June 15, 1994*, attached as Exhibit B.
5. Over four years after the Original Plat was recorded, on or about November 18, 1998, the Planning Commission considered whether to recommend to the City Council approval of a subdivision and plat amendment that would add Lots 11 and 12 to the Hearthstone Subdivision as originally contemplated in 1993. *See Minutes dated November 18, 1998*, attached as Exhibit C.
6. After a public hearing, the Planning Commission made a positive recommendation for the proposed plat amendment with certain conditions. *Id.*

¹ It is noted that the Director Determination concerned two issues. Petitioner is only appealing one of the two determinations concerning the interpretation of the plat note as set forth more fully below (or Paragraph 2 of the Director’s Determination). Petitioner is not appealing the decision contained in Paragraph 1 of the Director’s Determination Letter.

7. One of the conditions of approval was that the amended plat include a note that “[t]he maximum house size for Lot 11 is ‘as built’ at 14,000 square feet (no additions resulting in additional square footage allowed).” *Id.*

8. The First Amendment to the Hearthstone Subdivision Plat was eventually approved by the City Council as an Ordinance and recorded on July 13, 1999 and contained the following plat note:

NOTE

1. ...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.

(“Plat Note”) *See First Amended Plat*, attached as Exhibit D.

9. Notably, nothing on the Amended Plat prohibits accessory buildings or limits the size of an accessory building.

10. By stipulated date, on or about October 10, 2016 the Planning Director issued his Director’s Determination to the Petitioner.

11. The Director’s Determination contains two decisions:

- a. That the “pool cover building” proposed by the Petitioner is considered an “Accessory Building” under the Land Management Code (“LMC”); and
- b. That the applicable plat note restricts “maximum house size” to “14,000 square feet” and that the proposed “pool cover building” would be considered part of the “Floor Area” and, therefore, included in the plat limitation of “Maximum House Size.”

12. With regard to the first determination, the Director reasoned that the “pool cover building” is an “accessory building” because of the location of the “pool cover building” and given the definition of “accessory building” under the LMC. We do not appeal this determination.

13. In particular, the LMC defines “Accessory Building” as:

- 1.3 **Accessory Building.** A building on the same Lot as the principal Building and that is:
- A. clearly incidental to, and customarily found in connection with such principal building, such as detached garages, barns, and other similar Structures that require a Building Permit;
 - B. operated and maintained for the benefit of the principal Use;
 - C. not a Dwelling Unit; and
 - D. also includes Structures that do not require a Building Permit, such as sheds, outbuildings, or similar Ancillary Structures.

*See Land Management Code Section 15-15-1.3, on file with the City.*²

14. The Planning Director also observed that there is “no restriction on the number of Accessory Buildings on a Lot” and concluded that, “a Pool Building at the referenced location meets the criteria for an Accessory Building.” *See Director Determination Letter dated September 30, 2016, attached as Exhibit E.*

15. Therefore, the Planning Director concluded the “pool cover building,” as proposed by the Petitioner, is an Accessory Building under the LMC.

16. In other words, the Planning Director determined that the “pool cover building” is a separate building “on the same Lot as the principal Building.” *See LMC Section 15-15-1.3.*

17. It is noted that the LMC recognizes different types of buildings, including:

- A. **Building, Attached.** A Building connected on one (1) or more sides to an adjacent Building by common Party Wall with a separate exterior entrance for each Building.
- B. **Building, Detached.** Any Building separated from another Building on the same Lot or Parcel.
- C. **Building, Main.** The principal Building, or one of the principal Buildings on a Lot that is used primarily for the principal Use.

LMC Section 15-15-1.35, on file with the City.

18. With regard to the Planning Director’s second determination concerning whether an Accessory Building is controlled by a plat note, the Planning Director made the following observations:

² Notably, “Accessory Use” is defined under the LMC as “[a] land Use that is customarily incidental and subordinate to the primary Use located on the same Lot.” *LMC Section 15-15-1.4, on file with the City.*

- a. That “[t]he LMC does not have a definition of maximum House Size, nor does the specific approval of this subdivision... [but that] [t]he Planning Department uses the LMC definition of Floor Area, gross residential[;]”
- b. That the LMC defines “Floor Area, gross residential...[as] all areas of the Building including all enclosed Areas and excludes decks patios, and Balconies[;]”
- c. That it “could be argued that the Pool Building Enclosure is an enclosed Area and therefore subject to the Floor Area, Gross Residential[;]”
- d. That the “Pool Building Enclosure is separate from the principal Building, connected by a deck and patio which are excluded from the Floor Area definition[;]”
- e. That the “decks and patios are considered a Structure as the deck and patio are connected to the ground and impose an impervious material on the ground[;]” and
- f. That the prior Planning Commission minutes suggest an “intent of the Planning [C]ommission was to limit the construction on this site to the area constructed at the time of the Plat.”

19. Based on his foregoing observations, the Director concluded that, “a Pool Building at the referenced location is part of the Floor Area, Gross Residential and included in the plat limitation of Maximum House Size.” *See Director’s Determination*, attached as Exhibit E.

20. Contrary to the Director’s observation otherwise, the LMC defines “Maximum House Size” as “[a] measurement of Gross Floor Area.” *See LMC Section 15-15-1.168*.

21. “Floor Area,” and more specifically, “Floor Area, Gross Residential” is defined as follows:

The Area of **a Building**, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. **Floor Area is measured from the finished surface of the interior of the exterior boundary walls.**

LMC Section 15-15-1.109(A), on file with the City (emphasis added).

22. In other words, under the LMC, the Floor Area, Gross Residential consists of a single “Building” and is measured by the interior boundary walls. *Id.*

23. The Planning Director’s conclusion that the proposed Accessory Building is “connected by a deck and patio to the house” is unfounded for several reasons, including but not limited to:

- a. Petitioner’s request for a ruling from the Planning Director only states “One solution to our dilemma would be to redesign the building as an Accessory Building. See *Request*, attached as Exhibit F. As no redesign was attached, the Planning Director’s conclusion is without factual basis in determining that it is connected.
- b. The Planning Director’s conclusion that an Accessory Building is part of the main building if it is connected by “a structure” is a unique stretch of interpretation/logic not supported by any provision in the Land Management Code. For instance, if a patio is a sufficient structure so would any other impervious structure such as a simple sidewalk. Moreover, how do you measure or define “connected”. If, for instance, the Accessory Building is one inch away from the patio, is it connected? Is one foot enough separation. If the redesign is one inch away from the patio, is it not “connected?” Again, there is no provision in the LMC which supports this conclusion.³
- c. The measurement (although not precise) shows that the beginning of the actual pool is about 75’-80’ from the house. Moreover, at present if built on the nearest edge of the

³ We have done a thorough search of case law decisions and we could not find any court decisions supporting the Planning Director’s conclusion. Indeed, his conclusion appears to be so out of the blue that we could find no case decisions addressing the issue at all.

pool, it's about 35' from the end of the patio. See *Photographs*, attached as Exhibits G through J.

24. LMC Section 15-1-18 permits a party to appeal any decision of either the Planning Director or Planning Staff.

25. Based on the foregoing, the Petitioner now appeals the Director's Determination and requests that the Planning Commission reviews the facts *de novo* and determine the correct of the Director's Determination in his interpretation and application of the land use ordinance as permitted under the LMC. See *LMC Section 15-1-18*, on file with the City.

26. Petitioner reserves the right to further supplement the record and their reasons and basis for the appeal as may be discovered hereafter.

STATEMENT OF REASONS FOR THE APPEAL

Standard of Review

Under Section 15-1-18 of the LMC, the Planning Commission acts in a quasi-judicial manner. The appellant or petitioner "shall review factual matters *de novo* and it shall determine the correctness of the decision of the land use authority in its interpretation and application of the land use ordinance." *LMC Section 15-1-18*, on file with the City.

I. THE PLANNING DIRECTOR ERRED IN HIS INTERPRETATION OF THE LMC.

The issue before the Planning Commission is whether the Planning Director erred in concluding that the Plat Note prohibits the construction of an Accessory Building on the Property. The Planning Director correctly concluded that the pool cover building is an Accessory Building. The Planning Director incorrectly concluded, however, that the square footage of an Accessory Building is considered part of the Maximum House Size or "Floor Area, Gross Residential" where the house and Accessory Building are purportedly connected by a patio and deck.

In particular, the Planning Director erroneously concluded that the pool cover building in this case should be considered part of the “Floor Area, Gross Residential” under the LMC. While the Planning Director correctly observed that the pool cover building is an Accessory Building that is “separate from the principal Building,” he erred by ultimately concluding that the construction of an Accessory Building would constitute an increase in Maximum House Size that is prohibited by the Plat Note.

A. The Plat Note Does Not Limit the Size of or Prohibit Construction of an Accessory Building.

The Plat Note only limits the “maximum house size” to 14,000 square feet. There is no prohibition in the Plat Note, or otherwise contained on the Plat, that prohibits the construction of an Accessory Building. Moreover, the LMC does not prohibit the construction of an Accessory Building on the Property. Indeed, as the Planning Director even concluded in his Director’s Determination, “[t]here is no restriction on the number of Accessory Buildings on a Lot.” *Director’s Determination*, attached as Exhibit E. Accordingly, the Planning Director erred when he determined that the Plat Note prohibited the construction of an Accessory Building.

B. The LMC Defines “Maximum House Size.”

Section 15-15-1.168 of the LMC defines “Maximum House Size” as:

A measurement of Gross Floor Area.

Thus, the Planning Director erroneously concluded that “[t]he LMC does not have a definition of maximum House Size...” *Director Determination*, attached as Exhibit E.

C. The Pool Cover Building proposed is an Accessory Building and Its Square Footage is Not Included in the Definition of Maximum House Size.

While the LMC does not define “Gross Floor Area,” it does define “Floor Area” including “Floor Area, Gross Residential.” *LMC Section 15-15-1.109*. “Floor Area, Gross Residential” is:

The Area of **a Building**, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross

Residential Floor Area. Garages, up to maximum Area of 600 square feet, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. **Floor Area is measured from the finished surface of the interior of the exterior boundary walls.**

LMC Section 15-15-1.109 (emphasis added). Thus, “Floor Area, Gross Residential” only includes the area in a single building (i.e., “a Building”) that is measured from the “finished surface of the interior of the exterior boundary walls.” *LMC Section 15-15-1.109*.

Notably, the definition of “Floor Area, Gross Residential” does not include either an Accessory Building, or the surface area of the interior of an Accessory Building. Likewise, it does not include Buildings that are connected by decks, patios or any Structure.

Moreover, the definition of “Accessory Building” clearly identifies that it is “[a] building on the same Lot as the principal Building...that is clearly incidental to, and customarily found in connection with such principal Building, such as detached garages, barns, and other similar Structures...operated and maintained for the benefit of the principal Use; not a Dwelling Unit...” In other words, an Accessory Building, by definition, is distinct from the main Building or house, and a separate Building. Thus, the very definition of an Accessory Building identifies that it is separate. In contrast, the Planning Director’s conclusion suggests that the Gross Residential Floor Area may extend beyond the “finished surface of the interior of the exterior boundary walls.” This conclusion simply contradicts the plain definition of “Floor Area, Gross Residential” under the LMC.

The Planning Director also erroneously concluded that the Accessory Building (or pool cover building), while separate from the principal Building, is “connected by a deck and patio which are excluded from the Floor Area definition.” This conclusion is not only factually incorrect (as set forth more fully below), but is also an incorrect application of the LMC that erroneously determines that a deck or patio can connect multiple Buildings on a Lot for the purposes of determining the “Floor Area, Gross Residential” or House Size. This interpretation

clearly violates the plain definition of “Floor Area, Gross Residential” which limits the measurement to a single Building and to the area between the internal walls of that Building. There is no provision within the definition of “Floor Area, Gross Residential,” or the LMC in general, that includes Accessory Building or Buildings that are connected by a patio or deck. Consequently, the Planning Director erred in his unique application of the definition of “Floor Area, Gross Residential” and “Maximum House Size” and the Planning Commission should reverse and vacate his determination.⁴

D. The Planning Director’s Interpretation of the Planning Commission’s Intent Concerning the Plat Note is Irrelevant.

The Planning Director also incorrectly based his determination on what he interpreted was the “intent of the Planning Commission.” In particular, the Planning Director erred when he concluded, “[b]ased on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat.” *Director Determination*, attached as Exhibit E. Most importantly, the unstated “intent” of the Planning Commission is totally irrelevant. How is any owner of property to know what restrictions exist if he/she must first scour Planning Commission minutes to try to glean what their unwritten intent was? That can’t be the rule. Rather, the only relevant issue is whether that alleged intent is stated on the plat which was approved by ordinance, not by the Planning Commission, but by the City Council. No intent to exclude Accessory Buildings is expressed anywhere in the approving ordinance enacted in 1998.

Recapping, first, the “intention of the Planning Commission” is irrelevant as the plat notes reflect the final decisions of the City. *See generally, LMC 15-1-8*, on file with the City; *see*

⁴ It is further noted that the Planning Director’s conclusion that a deck or patio is considered a “Structure” does not alter the foregoing analysis and is irrelevant to the issue before the Planning Commission. Indeed, there is no provision in the LMC that a Structure that connects more than one Building results in expanded “Floor Area, Residential Gross” (i.e., that the Floor Area of both Buildings are considered part of the “Floor Area, Residential Gross”).

also Planning Commission Minutes dated November 18, 1998, attached as Exhibit E (memorializing the Planning Commissions' positive recommendation of the proposed plat amendment to amend the Hearthstone Subdivision to include Lots 11 and 12). Second, the Plat Note makes no reference to nor indicates that construction is limited to the site are "constructed at the time of the Plat." Indeed, the Plat Note only states, "...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed." As a result, the Planning Director erred in his interpretation of the Plat Note as well as basing his decision on a purported intent gleaned from the Planning Commission Minutes in 1993. Accordingly, the Planning Commission should reverse and vacate the Planning Director's Determination.

II. THE DIRECTOR'S DETERMINATION ALSO RELIES UPON ERRONEOUS FACTS.

The Planning Director incorrectly concluded that a "deck and patio" connects the house to the proposed pool cover building. In August 2016, Petitioner requested only that the Planning Director determine whether a "redesign [of] the [pool cover] building as an Accessory Building" would be permitted. See *Request*, attached as Exhibit F. No redesign was attached to the request for decision. Accordingly, the Planning Director's conclusion is without factual basis that the house and pool cover building are connected.

In addition, the Planning Director's conclusion that an Accessory Building becomes part of the house if it is connected by "a structure" (i.e., a patio or deck) is a unique stretch and interpretation of the LMC. Indeed, under the logic applied by the Planning Director, if a patio constitutes a Structure that connects Buildings with combined "Floor Area, Gross Residential," similarly, a simple sidewalk could be considered a structure that connects Buildings. Is a sidewalk connecting a distant garage sufficient to include the garage as part of the main building? Moreover, under the Planning Director's determination, how do you measure or define "connected?" If, for instance, the Accessory

Building is one inch away from the patio, is it connected? If the redesign is one inch away from the patio, is it “connected” thereby creating an enlarged “Floor Area, Gross Residential?”

Although not before the Planning Director, the beginning of the actual constructed pool measures (although not precise) about 75'-80' from the house. Moreover, at present, if the pool cover building is constructed on the nearest edge of the pool, it is approximately 35 feet from the end of the patio. See *Photographs*, attached as Exhibits G through J.

In short, between 70 and 80 feet separate the edge of the pool and the house with partial hardscape, landscape, a hot tub and raw dirt, between the main building and the pool. Thus, the notion that the pool cover building and the house are in any way connected is without factual support. Accordingly, the Planning Commission should reverse and vacate the Planning Commission’s decision.

III. STRICT CONSTRUCTION OF THE PLAT DOES NOT PROHIBIT ANY ACCESSORY BUILDING

On or about December 10, 1998, after a public hearing before the City Council, Park City Municipal Corporation passed Ordinance 98-48, approving the Amended Plat, and its notes, that amended the original Hearthstone Subdivision. See *First Amended Plat*, attached as Exhibit D. In general, an ordinance that restricts a property owner’s common law right to an unrestricted use of land is strictly construed against prohibition of use of private property. See *Brown v. Sandy City Board of Adjustment*, 957 P.2d 207, 210-11 (Ut. Ct. App. 1998); *Patterson v. Utah County Bd of Adjustment*, 893 P.2d 602, 606 (Ut. Ct. App. 1995). As a result, when reviewing an ordinance a reviewing body first “looks to the plain language...to guide [its] interpretation.” *Brown*, 957 P.2d at 210-211. “Only if the ordinance is ambiguous need we look to legislative history to ascertain legislative intent.” *Id.* See also the recently decided case of *Colosimo v. Gateway Community Church*, 2016 UT App 195 (2016).

In this instance, the plat note concerning “house size” should be strictly construed. The plain language of the plat note only restricts the “house size.” There is no restriction prohibiting the construction of an Accessory Building. Accordingly, the Planning Director’s reliance on gleaned, but not stated prohibition of Accessory Buildings in Minutes from a Planning Commission Meeting held five years earlier (1993) is erroneous and his determination should be reversed and vacated.

CONCLUSION

Based on the foregoing, the Planning Commission should reverse and vacate the Planning Director’s Determination that the Plat Note prohibits the construction of the Accessory Building (i.e., a pool cover building).

Respectfully submitted this 20th day of October, 2016.

TESCH LAW OFFICES, P.C.


Joseph E. Tesch
Stephanie K. Matsumura

EXHIBIT A

Commission did not feel the war had been lost and that open space was extremely important in and around Park City.

V. PUBLIC HEARING

1. Hearthstone Subdivision, Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

Planner Susan Lykes reviewed changes in the Staff's recommendations.

Condition 2 was changed to add:

The trails shall be at least two feet wide but no more than four feet.

Condition 3 was changed to read:

The maximum house size on Lot 11 was "as built."

Condition 4 was corrected to read:

The front setbacks for Lot 2 shall be 35 feet; . . .

The Staff recommended approval of the final plat with the changes to the conditions.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

2. Town Lift Phase I Condominium Plat (738 Main Street) - Marriott Ownership Resorts.

Planning Director Nora Seltenrich reported that the application was for a condominium plat for Building A2, consisting of 20 residential units with 8,000 square feet of commercial space currently under construction. The Staff recommended approval with two conditions of approval.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

decision and hoped that was reflected in the motion and comments to the City Council.

Commissioner Fred Jones was concerned that the process was not working. Where the process ended was with the City Council, and the Planning Commission had not done anything. He felt this circumvented the appropriate process because the decision would be made at the City Council level with input which the Planning Commission had not actually received. He was inclined to postpone the decision. Chairman Bruce Erickson stated that wood roof prohibitions, fire safe roofs, and wildland fires were not uncommon issues in other jurisdictions.

Commissioner Dean Berrett stated that he had heard opposing comments mostly phrased on the concept of "Big Brother." Means of communicating issues to the public could be improved, but it was not possible to drag people to Planning Commission meetings and force them to participate. He felt it was frustrating and disappointing, but did not necessitate postponing a decision. The item had been adequately noticed and the reasons for the prohibition were compelling enough that he would vote for the motion and encourage citizens to express further concerns to the City Council.

VOTE: The motion carried 4 to 2, with Commissioners Dean Berrett, Chris Erickson, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioners Alison Child and Fred Jones voting against the motion.

IX. NEW BUSINESS

1. Hearthstone Subdivision - Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

The Staff recommended approval with changes in the conditions of approval as outlined in the public hearing.

Chairman Bruce Erickson clarified that the changes were:

Two-foot but not wider than four-foot paths.

Revision of the setback on Lot 2 to 35 feet.

The house restriction on the Korthoff house was "as built" at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.

Commissioner Joe Tesch stated that, because the Planning Commission had received instructions from the City Council that there was sufficient conflict of law with matters possibly raised in the bankruptcy court, he intended to vote for the project. He felt the project was as good as it could be within the parameters they had to work with.

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the Hearthstone Subdivision as outlined in the report with the modifications to the staff recommendations. Commissioner Dean Berrett seconded the motion.

VOTE: The motion carried 5 to 1 with Commissioners Dean Berrett, Chris Erickson, Fred Jones, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioner Alison Child voting against the motion.

Conditions of Approval

1. The portion of Mellow Mountain Road traversing this property shall be dedicated to and accepted by the City prior to plat recordation.
2. A six-foot easement for all trails crossing individual lots shall be reflected on the plat. Trails shall be constructed prior to September 22, 1994. The trails shall be at least two feet wide but no more than four feet wide.
3. Maximum house sizes shall be as follows:
3,500 square feet for Lots 4 and 5,
4,000 square feet for Lots 3 and 6,
5,000 square feet for Lots 1,2, and 9,
6,000 square feet for Lots 7 and 12
6,500 square feet for Lots 8 and 10, and
Maximum house size on Lot 11 is "as built" at 14,100 square feet as measured by the Building Department.

A note shall be placed on the plat outlining the maximum square footage.

4. The front setbacks for Lot 2 shall be 35 feet; for Lot 4, 35 feet; and for Lot 6, 45 feet. A note shall be placed on the plat regarding these setbacks.
5. The developer shall be required to install two "stop ahead" signs placed on Aerie Drive 200 and 750 feet above the Aerie Drive/Deer Valley Drive intersection. The developer shall also install a streetlight at the same intersection.

6. The City Council shall accept dedication of the open space parcels prior to plat recordation.
7. A security shall be posted for all public improvements, including trails and the Aerie Drive improvements, prior to plat recordation.
2. Town Lift Phase I, Condominium Plat (738 Main Street) - Marriott Ownership Resorts

The Staff recommended approval with conditions as outlined in the Staff report.

MOTION: Commissioner Alison Child moved to APPROVE the final plat for Town Lift Phase I with conditions as outlined in the Staff report. Commissioner Dean Berrett seconded the motion.

VOTE: The motion passed unanimously.

Conditions of Approval

1. The City Attorney shall review and approve the Declaration and Covenants.
2. The City Engineer shall review and approve the plat.
3. Prospector Square, Final Plat to Rearrange Parking and 15 Building Parcels (State Hwy 248, Bonanza Drive and Prospector Avenue) - Jack Johnson Co.

The Staff recommended this item be continued at the applicant's request.

MOTION: Commissioner Alison Child moved to CONTINUE the decision regarding the Prospector Square Plat amendment. Commissioner Chuck Klingenstein seconded the motion.

Commissioner Dean Berrett declared he would be abstaining from discussion and voting on this matter due to a conflict of interest.

VOTE: The motion passed unanimously, with Commissioner Dean Berrett abstaining from the vote.

4. Snow Creek Commercial MPD (Northeast corner of Hwy 248 and 224)

Chairman Bruce Erickson stated that he would be abstaining from the discussion and vote on this matter and turned the meeting over to Vice-Chair Alison Child.

EXHIBIT B

EXHIBIT C

NOV 27 09 10L 0100 THE SECRETARIAL SERVICE
Planning Commission Meeting
Minutes of November 18, 1993
Page 10

- ~~9. This approval shall expire one year from the date of City Council approval unless this plat amendment is recorded prior to that date.~~
- ~~10. All Standard Project Conditions shall apply (Please see Exhibit D - Standard Project Conditions).~~
5. 1376 Mellow Mountain Road, Hearthstone Subdivision - Plat Amendment

Due to a conflict of interest, Commissioner O'Hara abstained from discussing and voting on this matter.

Planner LoPiccolo reported that the applicants, Herb and Barbara Korthoff, are requesting that Lot 11 be subdivided into two lots. The proposed subdivision is located at 1376 Mellow Mountain Road and is adjacent to the Hearthstone Subdivision. He reviewed an exhibit to better explain where the parcel is located. He noted that in 1993 the Planning Commission denied a request by the Korthoffs for a small-scale MPD, which was appealed to the City Council, and the Council approved a 12-lot subdivision. Once the subdivision was approved, Mr. Korthoff withdrew the two lots, which were lots 11 and 12 of the approved Hearthstone 12-lot subdivision, due to a trail location and other issues surrounding the subdivision. Mr. Korthoff is appearing with the same request and now wants to be included in the Hearthstone subdivision. When this application was reviewed by the Planning Commission in October,

Planning Commission Meeting
Minutes of November 18, 1998
Page 11

trails were an issue for discussion. The applicant has agreed to the location of the trail, and an exhibit in the staff report shows the proposed trail location compared to the trail location originally requested by the Korthoffs. Planner LoPiccolo explained that the parcel is located in the Estate Zone, but it does not meet the three-acre minimum. In the original approval, the applicants dedicated Lots 3 and 4 to the City as open space. If that open space were dispersed among the 12 lots, it would meet the three-acre minimum. This subdivision will create a 1.5-acre lot. Mr. Korthoff contends that he dedicated 1.5 acres to the City with the Hearthstone MPD and wishes to use that acreage to meet the three-acre minimum or at least explain that the lack of three acres is due to the dedication. Planner LoPiccolo noted that including this property into the Hearthstone Subdivision would add only one house.

Commissioner Erickson asked if the trail location as shown is what the applicant proposes. Planner LoPiccolo replied that the trail shown on the exhibit is correct and has been agreed to by the applicant, the Staff, and the trails people.

Commissioner Erickson remarked that he noted the letter in the staff report from a resident at The Aerie with respect to the subdivision.

Chair Larson opened the public hearing.

Bruce Manka, a resident in The Aerie subdivision, expressed concern about developers changing terms that were agreed to in the past. Mr. Manka wanted to see the three-acre minimum stand since this is Estate zoning. He noted that Mr. Korthoff made a decision to withdraw from Hearthstone because he did not want to live with the trail, but now he wants to change his mind and request a variance to the Estate Zone. Mr. Manka commented on the amount of development and density occurring and felt it would be nice if they could hold their ground at some point.

Kent Holland, representing Herb Korthoff, wished to make it clear that the 1.45 acres which was initially on the west side of Mellow Mountain Road was the property which made Lot 12 three acres to fit the Estate Zone requirement. Since the property was across the road, it was dedicated the City. The problem which resulted at that time was that the bicycle path was within three feet of the back of the houses. This became a problem in building his house and caused Mr. Korthoff to withdraw from the original subdivision. Mr. Holland did not feel that the applicant was asking for a variance to build on a small piece of property because the property originally consisted of three acres. He did not believe the Planning Commission would be setting a precedent in granting this request for one single lot.

Chair Larson closed the public hearing.

Planning Commission Meeting
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Page 13

Commissioner Zimney asked if the property would have been sufficient for the Estate Zone if Mr. Korthoff had not dedicated 1.5 acres to the City. Planner LoPiccolo replied that Hearthstone Subdivision is in the Estate Zone, and the 1.5 acres plus the acreage in the current application would have comprised three acres which is sufficient to meet the Estate Zone requirement. This situation is different because Mellow Mountain Road runs through the property, and Mr. Korthoff's dedication was used for open space.

Commissioner Hays asked if Hearthstone would meet the open space requirement without the 1.5 acres. Planner LoPiccolo replied that it would because it goes back to the original MPD. Assistant City Attorney Mark Harrington explained that the City originally took the position that even though the acreage may have been sufficient without the dedication, the Hearthstone plat could not be recorded without the dedication of that open space because it was part of the original MPD approval. This is important to Mr. Korthoff because he did not dedicate it; the bankruptcy trustee did. The property was in holding at the time, and Mr. Korthoff objected to the dedication because he wanted to retain it for a future subdivision.

MOTION: Commissioner Hier moved to forward a POSITIVE recommendation for the proposed plat amendment application to amend the Hearthstone Subdivision based on the findings of fact,

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Planning Commission Meeting
Minutes of November 18, 1998
Page 14

conclusions of law, and conditions of approval outlined in the staff report. Commissioner Zimney seconded the motion.

VOTE: The motion passed by a vote of 3 to 2, with Commissioners Larson, Zimney, and Hier voting in favor of the motion and Commissioners Erickson and Hays voting against the motion. Commissioner O'Hara abstained from the vote.

Findings of Fact - 1376 Mellow Mountain Road

1. The property is zoned Estate and was approved for two lots in the Hearthstone MPD on June 17, 1993.
2. The proposed plat amendment will amend the Hearthstone Subdivision to include lots 11 and 12 as originally approved.
3. Proposed Lot 11 has an existing house built on it.
4. The applicant agrees to grant the City an easement for the trail as outlined in Exhibit A.
5. The applicant contributed in excess of six acres to the original MPD.

Conclusions of Law - 1376 Mellow Mountain Road

1. There is good cause for the amendment.

NOT BY OR FOR THE CITY OF PARK CITY
THE SECRETARY OF THE BOARD
THE CITY OF PARK CITY, UTAH

Planning Commission Meeting
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Page 15

2. Neither the public nor any person will be materially injured by the proposed amendment.
3. The proposal is consistent with Park City LMC Chapter 15 and the MPD approved June 17, 1993.

Conditions of Approval - 1376 Mellow Mountain Road

1. The trail easement as shown on Exhibit A shall be dedicated to the City on the plat. The easement shall be six feet wide.
2. All conditions of approval of the MPD approved June 17, 1993, still apply.
3. The City Engineer and City Attorney's review and approval of the plat for compliance with State Law and these conditions of approval is a condition precedent to plat recordation.
4. This approval shall expire one year from the date of City Council approval unless the plat has been recorded with Summit County.
5. All Standard Project Conditions shall apply.
6. The maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is "as built" at 14,000 square

Planning Commission Meeting
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feet (no additions resulting in additional square footage allowed). These restrictions shall be noted on the plat.

7. A 10-foot, non-exclusive snow storage and utility easement shall be dedicated on the plat to the City along Mellow Mountain Road.
8. The applicant shall quit claim to the City in a form approved by the City Attorney all interest in the open space parcel dedicated to the City as part of the original Hearthstone Subdivision.

The Park City Planning Commission Meeting adjourned at 7:25 p.m.

Approved by Planning Commission _____

EXHIBIT D

FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION

LOCATED IN SECTIONS 15 & 10, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SURVEYORS CERTIFICATE

I, DENNIS L. BAILEY DECLARE I AM A REGISTERED LAND SURVEYOR AS PRESCRIBED BY UTAH STATE LAW AND THAT I HOLD LICENSE # 175754 I FURTHER SAY THAT A LAND SURVEY WAS MADE OF THE PROPERTY DESCRIBED BELOW, AND THE FINDINGS OF THAT SURVEY ARE AS SHOWN HEREON.

DATE: July 27, 1999



UTAH SURVEYS
Licensed Professional Land Surveying and Consulting
Dennis L. Bailey, RLS
123 West Main St.
P.O. Box 100
Park City, Utah
86401
Phone: 801-767-8584
Home: 801-768-7755



LEGAL DESCRIPTION

BEGINNING AT A POINT 609.12 FEET SOUTH AND 216.59 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE N00°00'00"W, 609.12 FEET; THENCE S20°00'46"E, 515.34 FEET; THENCE N20°00'46"W, CHORD BRG = N03°41'37"E, 243.04 FEET, CENTRAL ANGLE = 47°36'46", RADIUS 303.05 FEET; THENCE S19°31'16"W, 131.67 FEET; THENCE S03°30'00"W, 131.67 FEET; THENCE S82°20'31"W, 245.41 FEET; THENCE S82°20'31"W, 142.12 FEET TO THE POINT OF BEGINNING CONTAINING 4.724 ACRES.

PUBLIC TRAIL EASEMENT
CONTAINED WITHIN THE FOLLOWING DESCRIBED 100 FT. PROPERTY CORRIDOR WHICH IS LOCATED IN LOT #12 OF THE HEARTHSTONE SUBDIVISION WILL BE A DEDICATED 8 FT. PUBLIC TRAIL EASEMENT.

BEGINNING AT A POINT 124.90 FEET SOUTH AND 40.23 FEET EAST OF THE NORTHWEST CORNER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE S70°43'05"E, 124.89 FEET; THENCE S19°24'08"E, 128.11 FEET; THENCE N70°43'05"W, 124.87 FEET; THENCE N20°00'46"W, 129.22 FEET TO THE POINT OF BEGINNING.

OWNER'S DEDICATION & CONSENT TO RECORD
KNOW ALL MEN BY THESE PRESENT THAT HERBERT W. KORTHOFF AND BARBARA L. KORTHOFF, THE OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND TO BE KNOWN HEREIN AFTER AS "THE LOT 12 PUBLIC TRAIL" AN 8 FT EASEMENT DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTH WESTERLY CORNER OF LOT 12 AND RUNNING THENCE S 20°00'46"E 460 FEET; THENCE MEANDERING NORTH EASTERLY 220 FEET; THENCE N19°30'00"W 428.49 FEET; THENCE N 12°29'49"E 48.40 FEET; THENCE DEPARTING LOT 12 IN A NORTH EASTERLY DIRECTION HAVING CAUSED THIS PLAT AMENDMENT TO BE MADE, HEREBY CONSENT TO THIS EASTERLY DIRECTION HAVING CAUSED THIS PLAT AMENDMENT TO BE MADE DOES HEREBY CONSENT TO THIS RECORD OF SURVEY MAP IN THE COUNTY RECORDER OF SUMMIT COUNTY, UTAH IN ACCORDANCE WITH UTAH LAW.

FURTHER, HERBERT W. KORTHOFF AND BARBARA L. KORTHOFF, AS THE BENEFICIARIES OF THE STIPULATION FOR DISMISSAL IN THE CASE OF KORTHOFF V. PARK CITY MUNICIPAL CORPORATION ET AL, CIVIL NO. 93-CV-2924, HEREBY CONSENT TO THE RECREATION OF THAT TRACT OF LAND CONVEYED TO THE KORTHOFF'S BY SAID REFERRED TO AS "TRACT OF LAND" IS DEFINED AS THE 1.49 ACRES OF THE ELWOOD AND LYNN NIELSEN ESTATE PARCEL CONVEYED BY SAID STIPULATION TO THE KORTHOFF'S RUNNING PARALLEL TO, AND DIRECTLY WEST OF MELLOW MOUNTAIN ROAD.

ALSO, THE OWNERS HEREBY IRREVOCABLY OFFERS FOR DEDICATION TO THE CITY OF PARK CITY, THE LOT 12 PUBLIC TRAIL, THE SNOW STORAGE EASEMENT SHOWN ON THE PLAT AND THE TRACT OF LAND FOR ANY AND ALL GOVERNMENT USES OR EASEMENTS PERTAINING TO A PUBLIC TRAIL AND AN OPEN SPACE AS SHOWN ON THE PLAT IN ACCORDANCE WITH SAID IRREVOCABLE DEDICATION. CONTAINED WITHIN THE FOLLOWING DESCRIBED 100 FT. PROPERTY CORRIDOR WHICH IS LOCATED IN LOT #12 OF THE HEARTHSTONE SUBDIVISION WILL BE A DEDICATED 8 FT. DIVE PATH EASEMENT.

IN WITNESS WHEREOF, THE UNDERSIGNED SET HIS HAND THIS 26th DAY OF July, 1999.

[Signature]
J. KENT HOLLAND, THE ATTORNEY IN FACT FOR HERBERT W. AND BARBARA L. KORTHOFF

ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF SALT LAKE
ON THE 27th DAY OF July, A.D. 1999 PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, AND FOR SAID STATE AND COUNTY J. KENT HOLLAND, BEING DULY SWORN, ACKNOWLEDGED TO ME THAT ABOVE OWNERS' DEDICATION, IN NUMBER WHO DULY ACKNOWLEDGED TO ME THAT HE IS THE ATTORNEY IN FACT FOR HERBERT W. AND BARBARA L. KORTHOFF AND THAT HE SIGNED THE ABOVE OWNERS' DEDICATION AND CONSENT TO RECORD, FREELY AND VOLUNTARILY FOR THE USE AND PURPOSES STATED THEREIN.

MY COMMISSION EXPIRES May 11, 2001
NOTARY PUBLIC *[Signature]*
RESIDING IN Salt Lake COUNTY, STATE OF UTAH

FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION
LOCATED IN SECTION 15 & 10
T. 2 S., R. 4 E., S.L.B. & M.
PARK CITY, SUMMIT COUNTY, UTAH

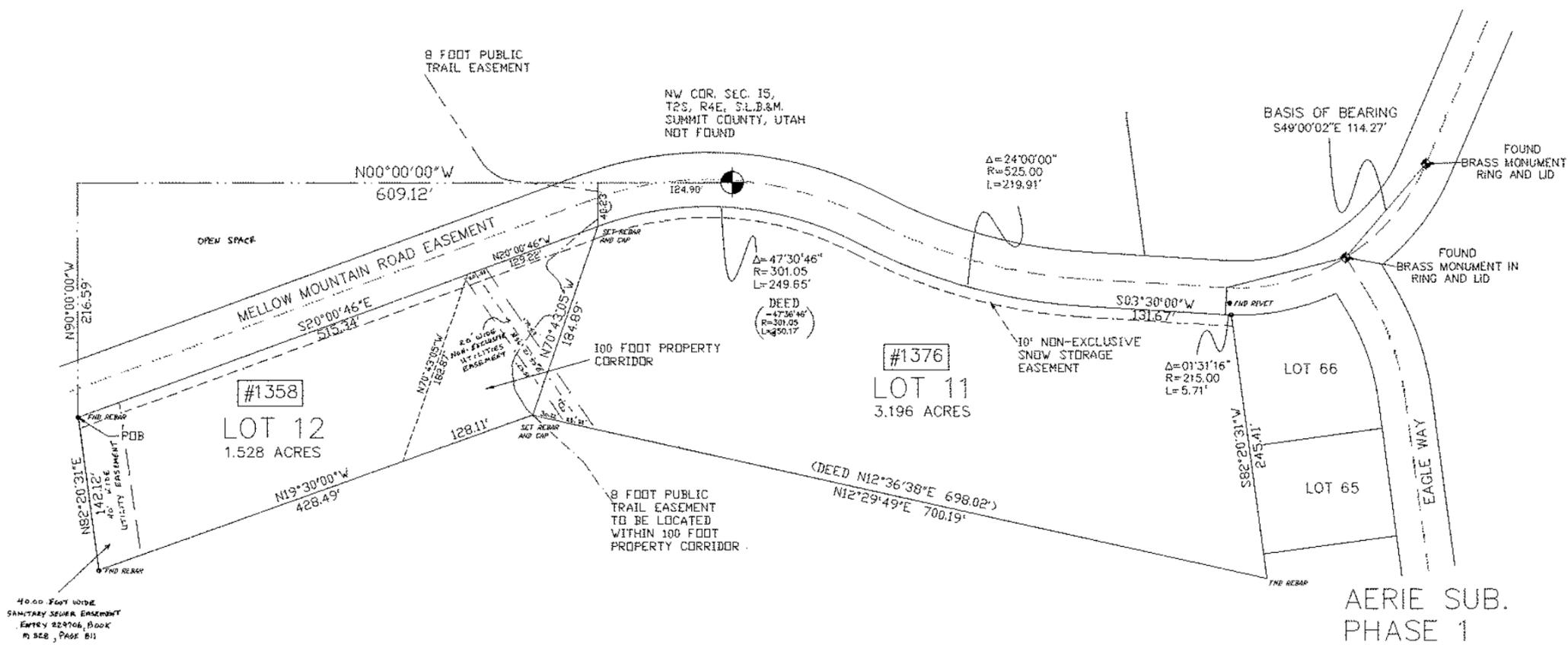
RECORDED # 543829
STATE OF UTAH, COUNTY OF SUMMIT, RECORDED AND FILED AT THE REQUEST OF COAGILIAN TITLE
DATE 7-23-99 TIME 11:20AM BOOK 32 PAGE 1
FEE 32 SUMMIT COUNTY RECORDER

HEARTHSTONE SUBDIVISION
PARK CITY, UTAH

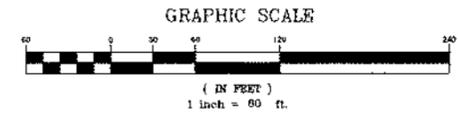
| REVISIONS | DATE | BY |
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| | |
|--------|-----------------------|
| DESIGN | Dennis L. Bailey, RLS |
| DRAWN | Blaine L. Johnson |
| CHECK | Dennis L. Bailey, RLS |
| CHECK | Blaine L. Johnson |
| SCALE | 1" = 60' |

DATE PLOTTED
May 25, 1999
Sheet
1 of 1



NOTE
1. The maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.



ADDRESSES:
#1358 MELLOW MOUNTAIN ROAD

| | | | | | | |
|---|--|---|---|---|---|--|
| CITY PLANNING COMMISSION APPROVED AS TO FORM THIS <u>2nd</u> DAY OF <u>July</u> , 1999 A.D. BY <i>[Signature]</i> PARK CITY PLANNING COMM. | SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS <u>24th</u> DAY OF <u>June</u> , 1999 A.D. BY <i>[Signature]</i> S.B.S.M. | ENGINEERS CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS <u>SECOND</u> OF <u>JULY</u> , 1999 A.D. BY <i>[Signature]</i> PARK CITY ENGINEER | APPROVAL AS TO FORM APPROVED AS TO FORM THIS <u>26th</u> DAY OF <u>July</u> , 1999 A.D. BY <i>[Signature]</i> PARK CITY ATTORNEY | CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS <u>10th</u> DAY OF <u>December</u> , 1998 A.D. BY <i>[Signature]</i> PARK CITY RECORDER | PARK CITY COUNCIL APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS <u>10th</u> DAY OF <u>December</u> , 1998 A.D. BY <i>[Signature]</i> MAYOR | RECORDED # 543829 STATE OF UTAH, COUNTY OF SUMMIT, RECORDED AND FILED AT THE REQUEST OF <u>COAGILIAN TITLE</u> DATE <u>7-23-99</u> TIME <u>11:20AM</u> BOOK <u>32</u> PAGE <u>1</u> FEE <u>32</u> SUMMIT COUNTY RECORDER |
|---|--|---|---|---|---|--|

EXHIBIT E



September 30, 2016

1376 Mellow Mountain Road
Park City, UT 84060

NOTICE OF PLANNING DIRECTOR DETERMINATION:

Project Address: 1376 Mellow Mountain Road
Zoning: Estate (E) zone
Project Description: Planning Director Determination of plat note regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision
Project Number(s): BD-16-22329
Date of Action: September 30, 2016

ACTION TAKEN BY PLANNING DIRECTOR:

Regarding the request to consider the proposed pool house as an Accessory Building under the Land Management Code (Main level 6,693 square feet, plus Upper level 1,933 square feet, plus the Lower level above Final grade 3,266 square feet- total square footage equals 11,892 square feet as noted on the referenced survey). The proposed 4,617 square foot pool house would effectively put Lot 11 over the 14,000 square feet allowable by the plat, therefore may not be approved by the Planning Department. This determination is based on the following:

1) Is a "Pool Cover building" considered as an Accessory Building under LMC?

Accessory Buildings and uses are an Allowed use in the Estate (E) zone¹. Accessory buildings are defined² as: a Building, on the same lot as the principal building and that is clearly incidental to and customarily found in connection with principal building such as detached garages, barns and other similar Structures that require a Building Permit. It must be operated for the benefit of the principal Use and not a Dwelling Unit.

If the Accessory Building is outside of the Setback areas, height is the same as the principal building. There is no restriction on the number of Accessory Buildings on a Lot.

The Planning Director determines that a Pool Building at the referenced location meets the criteria for an Accessory Building.

2) Are Accessory Buildings controlled by a plat note when no other limitations are present (i.e. setbacks, Limits of Disturbance, etc.)?

The recorded Plat for this lot contains a note regarding Maximum House Size (14,000 Square feet, with no additions). Refer to the appeal report for Planning Commission commentary on this. The LMC does not have a

¹ LMC section 15-2.10-2(11)

² LMC section 15-15-1.3

definition of maximum House Size, nor does the specific approval of this subdivision. The Planning Department uses the LMC definition of Floor Area, gross residential³. This definition includes all areas of the Building including all enclosed Areas and excludes decks, patios, and Balconies. It could be argued that the Pool Building Enclosure is an enclosed Area and therefore subject to the Floor Area, Gross Residential. The Pool Building Enclosure is separate from the principal Building, connected by a deck and patio which are excluded from the Floor Area definition. However, the decks and patios are considered a Structure⁴ as the deck and patio are connected to the ground and impose an impervious material on the ground. Based on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat.

The Planning Director determines that a Pool Building at the referenced location is part of the Floor Area, Gross Residential and included in the plat limitation of Maximum House Size.

If you have any questions regarding this determination, please don't hesitate to contact the Planning Department at 435-615-5060.

Sincerely,

A handwritten signature in black ink, appearing to read 'BE', is positioned below the word 'Sincerely,'.

Bruce Erickson, AICP
Planning Director

CC: Makena Hawley, Planner

³ LMC section 15-15-1.105

⁴ LMC section 15-15-1.257

EXHIBIT F

From: Joe Tesch
Sent: Monday, August 15, 2016 1:56 PM
To: Bruce Erickson
Cc: Polly Samuels McLean; David Camarata; Makena Hawley; Lisa Loomis; Stephanie Matsumura
Subject: Camarata House

Bruce,

One solution to our dilemma would be to redesign the pool building as an Accessory Building meeting all of the requirements of such a building in the Estate Zone.

Since an Accessory Building is not part of the house, it does not implicate the plat note which states that "The maximum house size... for Lot 11 is 14,000 square feet with no additions resulting in additional square footage over 14,000 square feet allowed."

An Accessory Building seems to be outside of the plain reading of that note. If you propose a construction of that sentence which leads to a different result, please let me know.

Joe

TESCH LAW OFFICES, P.C.

314 Main Street, Suite 200
PO Box 3390
Park City, Utah 84060
Telephone: (435) 649-0077
Facsimile: (435) 649-2561

"Straight Talk. Sound Advice. Proven Results."

To learn more about Tesch Law Offices, PC [<http://www.teschlaw.com/>](http://www.teschlaw.com/)

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A portion of our practice involves the collection of debt and any information you provide will be used for that purpose if we are attempting to collect a debt from you.

EXHIBIT G

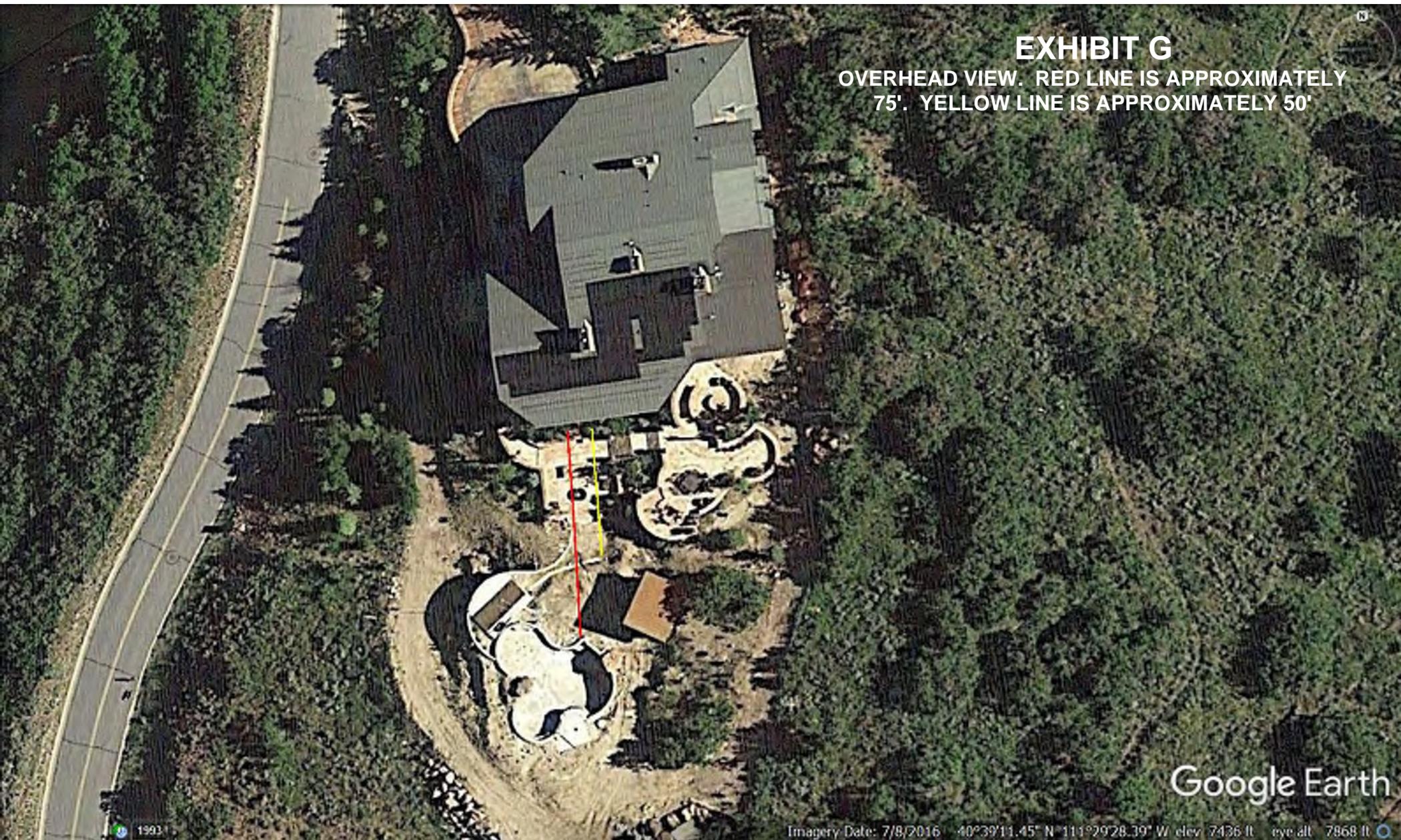


EXHIBIT G
OVERHEAD VIEW. RED LINE IS APPROXIMATELY
75'. YELLOW LINE IS APPROXIMATELY 50'

Google Earth

Imagery Date: 7/8/2016 40°39'11.45" N 111°29'28.39" W elev 7436 ft eye alt 7868 ft

EXHIBIT H

EXHIBIT H
PHOTO FROM END OF PATIO TO POOL



EXHIBIT I

EXHIBIT I

PHOTO SHOWING LANDSCAPE BETWEEN PATIO AND POOL



EXHIBIT J

EXHIBIT J
VIEW FROM POOL TO HOUSE





September 30, 2016

1376 Mellow Mountain Road
Park City, UT 84060

NOTICE OF PLANNING DIRECTOR DETERMINATION:

Project Address: 1376 Mellow Mountain Road
Zoning: Estate (E) zone
Project Description: Planning Director Determination of plat note regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision
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ACTION TAKEN BY PLANNING DIRECTOR:

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1) Is a "Pool Cover building" considered as an Accessory Building under LMC?

Accessory Buildings and uses are an Allowed use in the Estate (E) zone¹. Accessory buildings are defined² as: a Building, on the same lot as the principal building and that is clearly incidental to and customarily found in connection with principal building such as detached garages, barns and other similar Structures that require a Building Permit. It must be operated for the benefit of the principal Use and not a Dwelling Unit.

If the Accessory Building is outside of the Setback areas, height is the same as the principal building. There is no restriction on the number of Accessory Buildings on a Lot.

The Planning Director determines that a Pool Building at the referenced location meets the criteria for an Accessory Building.

2) Are Accessory Buildings controlled by a plat note when no other limitations are present (i.e. setbacks, Limits of Disturbance, etc.)?

The recorded Plat for this lot contains a note regarding Maximum House Size (14,000 Square feet, with no additions). Refer to the appeal report for Planning Commission commentary on this. The LMC does not have a

¹ LMC section 15-2.10-2(11)

² LMC section 15-15-1.3

definition of maximum House Size, nor does the specific approval of this subdivision. The Planning Department uses the LMC definition of Floor Area, gross residential³. This definition includes all areas of the Building including all enclosed Areas and excludes decks, patios, and Balconies. It could be argued that the Pool Building Enclosure is an enclosed Area and therefore subject to the Floor Area, Gross Residential. The Pool Building Enclosure is separate from the principal Building, connected by a deck and patio which are excluded from the Floor Area definition. However, the decks and patios are considered a Structure⁴ as the deck and patio are connected to the ground and impose an impervious material on the ground. Based on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat.

The Planning Director determines that a Pool Building at the referenced location is part of the Floor Area, Gross Residential and included in the plat limitation of Maximum House Size.

If you have any questions regarding this determination, please don't hesitate to contact the Planning Department at 435-615-5060.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Erickson", written in a cursive style.

Bruce Erickson, AICP
Planning Director

CC: Makena Hawley, Planner

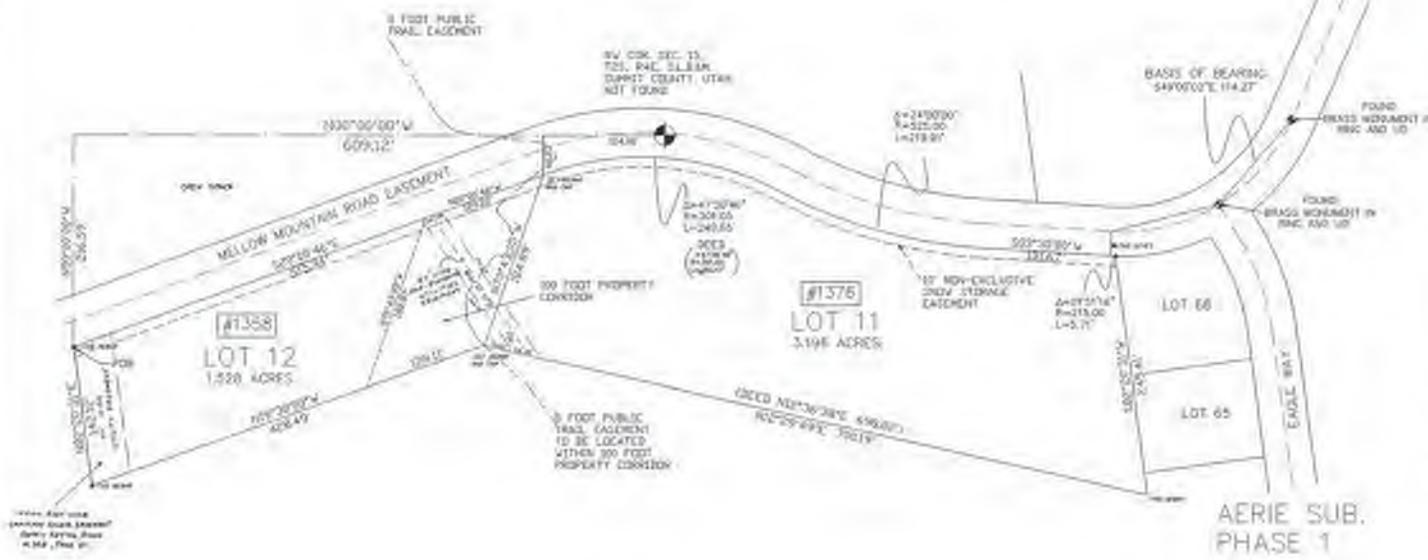
³ LMC section 15-15-1.105

⁴ LMC section 15-15-1.257

Exhibit D - First Amendment to Hearthstone Subdivision

FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION

LOCATED IN SECTIONS 15 & 10, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH



IN WITNESS WHEREOF, I have hereunto set my hand and the seal of my office at Park City, Utah, this 14th day of December, 2016.



DEED RECORDING
 THIS DEED RECORDING IS SUBJECT TO THE FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION, AS AMENDED BY DEED RECORDING NO. 12345, DATED 12/15/16, AND ALL SUBSEQUENT AMENDMENTS AND SUPPLEMENTS. THIS DEED RECORDING IS SUBJECT TO THE FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION, AS AMENDED BY DEED RECORDING NO. 12345, DATED 12/15/16, AND ALL SUBSEQUENT AMENDMENTS AND SUPPLEMENTS.

PUBLIC TRAIL EASEMENT
 CONTAINED WITHIN THE FOLLOWING ACRES OF LOT 11 PROPERTY CORNER CORNER TO THE EAST LINE OF THE HEARTHSTONE SUBDIVISION, SHALL BE A RESERVED 8 FT. PUBLIC TRAIL EASEMENT.

OWNER'S REPRESENTATION & WARRANTY TO RECORD
 I, ROBERT V. AND BARBARA L. KENNEDY, AS THE OWNER AND GRANTOR OF THE HEARTHSTONE SUBDIVISION, DO HEREBY REPRESENT AND WARRANT THAT THE INFORMATION CONTAINED IN THIS DEED RECORDING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

ACKNOWLEDGMENT
 I, ROBERT V. AND BARBARA L. KENNEDY, AS THE GRANTOR, DO HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE CONTENTS OF THIS DEED RECORDING AND THAT I HAVE VOLUNTARILY AND WITHOUT COERCION, FRAUD, OR UNLAWFUL INFLUENCE EXECUTED THIS DEED RECORDING.

ACKNOWLEDGMENT
 I, ROBERT V. AND BARBARA L. KENNEDY, AS THE GRANTOR, DO HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE CONTENTS OF THIS DEED RECORDING AND THAT I HAVE VOLUNTARILY AND WITHOUT COERCION, FRAUD, OR UNLAWFUL INFLUENCE EXECUTED THIS DEED RECORDING.

ACKNOWLEDGMENT
 I, ROBERT V. AND BARBARA L. KENNEDY, AS THE GRANTOR, DO HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE CONTENTS OF THIS DEED RECORDING AND THAT I HAVE VOLUNTARILY AND WITHOUT COERCION, FRAUD, OR UNLAWFUL INFLUENCE EXECUTED THIS DEED RECORDING.

FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION
 LOCATED IN SECTION 15 & 10, T 2 S., R 4 E., S 1 B. & M, PARK CITY, SUMMIT COUNTY, UTAH

| | | | | | | |
|--|---|---|---|--|--|--|
| CITY PLANNING COMMISSION APPROVED AS TO FORM THIS 14 TH DAY OF December, 2016. BY: <i>[Signature]</i> PARK CITY PLANNING COM. | SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT STANDARDS ON THIS 14 TH DAY OF December, 2016. BY: <i>[Signature]</i> DISTRICT | ENGINEERS CERTIFICATE I FIND THIS PLAN TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 14 TH DAY OF December, 2016. BY: <i>[Signature]</i> PARK CITY ENGINEER | APPROVAL AS TO FORM APPROVED AS TO FORM THIS 14 TH DAY OF December, 2016. BY: <i>[Signature]</i> PARK CITY CLERK | CERTIFICATE OF ATTEST I COPY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 14 TH DAY OF December, 2016. BY: <i>[Signature]</i> PARK CITY CLERK | PARK CITY COUNCIL APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 14 TH DAY OF December, 2016. BY: <i>[Signature]</i> PARK CITY CLERK | RECORDED STATE OF UTAH, COUNTY OF SUMMIT, RECORDED AND FILED AT THE REQUEST OF <i>[Signature]</i> THIS 14 TH DAY OF December, 2016. BY: <i>[Signature]</i> SUMMIT COUNTY RECORDER |
|--|---|---|---|--|--|--|

UTAH SURVEYS
 Licensed Professional Land Surveyor and Consulting Engineer
 111 West 100th Street, Suite 200, Salt Lake City, UT 84114
 Phone: 801-488-1111

HEARTHSTONE SUBDIVISION
 PARK CITY, UTAH

DATE PLANNED: May 23, 1999
 SHEET: 1-1

Exhibit E- Amendment to Hearthstone Subdivision name - The Overlook
at Old Town

*NOTE:
HEARTHSTONE SUBDIVISION # 406518 NAME WAS CHANGED BY
AMENDMENT OF DECLARATION # 454355 BOOK 964 PAGE 703-707
HEARTHSTONE SUBDIVISION # 406518*

IS NOW KNOWN AS
THE OVERLOOK AT OLD TOWN

SEE HEARTHSTONE SUBDIVISION FOR OWNERSHIP

HEARTHSTONE

1/92

PLAN CHECK AND CORRECTION SHEET

NOTE: This check list is compiled for plan checking purposes for use by the Division of Building Inspection. The information contained herein will also provide condensed construction information for design and job use. This check list is not intended to indicate any change in any building code or ordinance by inference or omission. A circle around a check list number indicates an incorrect detail, or insufficient information. Please make the corrections on the plan indicated by the number in the circle of the check list before the permit is issued. Any indicated correction not made or construction detail not shown will be assumed to be installed in accordance with the applicable codes. In the event you desire to use alternate materials or methods of construction after the permit is issued, please bring your copy of the approved plans to the Department of Building Inspection and have the changes made thereon together with the copy of plans on file with that department.

LOG NUMBER: 94

BUILDING ADDRESS: 1376 Mellor Mon Rd

OWNER'S NAME: KORTHOFF RESIDENCE

BUILDING FEE SCHEDULE

11832

| | | | |
|-------------------------|-------------|------------------|-----------|
| Square Feet of Building | <u>6487</u> | Type of Building | <u>IN</u> |
| Rough Basement | _____ | Occupancy Group | <u>R3</u> |
| Finished Basement | <u>3345</u> | No. of Stories | <u>3</u> |
| Garage | <u>2890</u> | No. of Levels | <u>3</u> |
| Deck/balcony | <u>1680</u> | Other | _____ |

Evaluation _____ Total Fees _____

Elevation _____ Ground Snow Load _____ Exposure Coefficient _____

Plan Check by J.H. 1991 UNIFORM BUILDING CODE

1. Place correct construction street address, owner's name, designer's name and stamp or engineer's name and stamp on plans.

Submit two complete sets of plans showing:

- A. Plot Plan
- B. Floor Plan
- C. Foundation Plan
- D. Elevations
- E. Specifications
- F. Construction Details
- G. Heat Loss Calculations
- H. Structural Calculations

3. Provide a grading plan showing the relative elevation of the foundation as it relates to the curb and gutter and

US 1500 PSF Soil
US 105 PSF snow

Commission did not feel the war had been lost and that open space was extremely important in and around Park City.

V. PUBLIC HEARING

1. Hearthstone Subdivision, Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

Planner Susan Lykes reviewed changes in the Staff's recommendations.

Condition 2 was changed to add:

The trails shall be at least two feet wide but no more than four feet.

Condition 3 was changed to read:

The maximum house size on Lot 11 was "as built."

Condition 4 was corrected to read:

The front setbacks for Lot 2 shall be 35 feet; . . .

The Staff recommended approval of the final plat with the changes to the conditions.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

2. Town Lift Phase I Condominium Plat (738 Main Street) - Marriott Ownership Resorts.

Planning Director Nora Seltenrich reported that the application was for a condominium plat for Building A2, consisting of 20 residential units with 8,000 square feet of commercial space currently under construction. The Staff recommended approval with two conditions of approval.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

decision and hoped that was reflected in the motion and comments to the City Council.

Commissioner Fred Jones was concerned that the process was not working. Where the process ended was with the City Council, and the Planning Commission had not done anything. He felt this circumvented the appropriate process because the decision would be made at the City Council level with input which the Planning Commission had not actually received. He was inclined to postpone the decision. Chairman Bruce Erickson stated that wood roof prohibitions, fire safe roofs, and wildland fires were not uncommon issues in other jurisdictions.

Commissioner Dean Berrett stated that he had heard opposing comments mostly phrased on the concept of "Big Brother." Means of communicating issues to the public could be improved, but it was not possible to drag people to Planning Commission meetings and force them to participate. He felt it was frustrating and disappointing, but did not necessitate postponing a decision. The item had been adequately noticed and the reasons for the prohibition were compelling enough that he would vote for the motion and encourage citizens to express further concerns to the City Council.

VOTE: The motion carried 4 to 2, with Commissioners Dean Berrett, Chris Erickson, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioners Alison Child and Fred Jones voting against the motion.

IX. NEW BUSINESS

1. Hearthstone Subdivision - Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

The Staff recommended approval with changes in the conditions of approval as outlined in the public hearing.

Chairman Bruce Erickson clarified that the changes were:

Two-foot but not wider than four-foot paths.

Revision of the setback on Lot 2 to 35 feet.

The house restriction on the Korthoff house was "as built" at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.

Commissioner Joe Tesch stated that, because the Planning Commission had received instructions from the City Council that there was sufficient conflict of law with matters possibly raised in the bankruptcy court, he intended to vote for the project. He felt the project was as good as it could be within the parameters they had to work with.

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the Hearthstone Subdivision as outlined in the report with the modifications to the staff recommendations. Commissioner Dean Berrett seconded the motion.

VOTE: The motion carried 5 to 1 with Commissioners Dean Berrett, Chris Erickson, Fred Jones, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioner Alison Child voting against the motion.

Conditions of Approval

1. The portion of Mellow Mountain Road traversing this property shall be dedicated to and accepted by the City prior to plat recordation.
2. A six-foot easement for all trails crossing individual lots shall be reflected on the plat. Trails shall be constructed prior to September 22, 1994. The trails shall be at least two feet wide but no more than four feet wide.
3. Maximum house sizes shall be as follows:
3,500 square feet for Lots 4 and 5,
4,000 square feet for Lots 3 and 6,
5,000 square feet for Lots 1,2, and 9,
6,000 square feet for Lots 7 and 12
6,500 square feet for Lots 8 and 10, and
Maximum house size on Lot 11 is "as built" at 14,100 square feet as measured by the Building Department.

A note shall be placed on the plat outlining the maximum square footage.

4. The front setbacks for Lot 2 shall be 35 feet; for Lot 4, 35 feet; and for Lot 6, 45 feet. A note shall be placed on the plat regarding these setbacks.
5. The developer shall be required to install two "stop ahead" signs placed on Aerie Drive 200 and 750 feet above the Aerie Drive/Deer Valley Drive intersection. The developer shall also install a streetlight at the same intersection.

6. The City Council shall accept dedication of the open space parcels prior to plat recordation.
7. A security shall be posted for all public improvements, including trails and the Aerie Drive improvements, prior to plat recordation.
2. Town Lift Phase I, Condominium Plat (738 Main Street) - Marriott Ownership Resorts

The Staff recommended approval with conditions as outlined in the Staff report.

MOTION: Commissioner Alison Child moved to APPROVE the final plat for Town Lift Phase I with conditions as outlined in the Staff report. Commissioner Dean Berrett seconded the motion.

VOTE: The motion passed unanimously.

Conditions of Approval

1. The City Attorney shall review and approve the Declaration and Covenants.
2. The City Engineer shall review and approve the plat.
3. Prospector Square, Final Plat to Rearrange Parking and 15 Building Parcels (State Hwy 248, Bonanza Drive and Prospector Avenue) - Jack Johnson Co.

The Staff recommended this item be continued at the applicant's request.

MOTION: Commissioner Alison Child moved to CONTINUE the decision regarding the Prospector Square Plat amendment. Commissioner Chuck Klingenstein seconded the motion.

Commissioner Dean Berrett declared he would be abstaining from discussion and voting on this matter due to a conflict of interest.

VOTE: The motion passed unanimously, with Commissioner Dean Berrett abstaining from the vote.

4. Snow Creek Commercial MPD (Northeast corner of Hwy 248 and 224)

Chairman Bruce Erickson stated that he would be abstaining from the discussion and vote on this matter and turned the meeting over to Vice-Chair Alison Child.

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Planning Commission Meeting
Minutes of November 18, 1993
Page 10

9. ~~This approval shall expire one year from the date of City Council approval unless this plat amendment is recorded prior to that date.~~
10. ~~All Standard Project Conditions shall apply (Please see Exhibit D - Standard Project Conditions).~~
5. 1376 Mellow Mountain Road, Hearthstone Subdivision - Plat Amendment

Due to a conflict of interest, Commissioner O'Hara abstained from discussing and voting on this matter.

Planner LoPiccolo reported that the applicants, Herb and Barbara Korthoff, are requesting that Lot 11 be subdivided into two lots. The proposed subdivision is located at 1376 Mellow Mountain Road and is adjacent to the Hearthstone Subdivision. He reviewed an exhibit to better explain where the parcel is located. He noted that in 1993 the Planning Commission denied a request by the Korthoffs for a small-scale MPD, which was appealed to the City Council, and the Council approved a 12-lot subdivision. Once the subdivision was approved, Mr. Korthoff withdrew the two lots, which were lots 11 and 12 of the approved Hearthstone 12-lot subdivision, due to a trail location and other issues surrounding the subdivision. Mr. Korthoff is appearing with the same request and now wants to be included in the Hearthstone subdivision. When this application was reviewed by the Planning Commission in October,

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Minutes of November 18, 1998
Page 11

trails were an issue for discussion. The applicant has agreed to the location of the trail, and an exhibit in the staff report shows the proposed trail location compared to the trail location originally requested by the Korthoffs. Planner LoPiccolo explained that the parcel is located in the Estate Zone, but it does not meet the three-acre minimum. In the original approval, the applicants dedicated Lots 3 and 4 to the City as open space. If that open space were dispersed among the 12 lots, it would meet the three-acre minimum. This subdivision will create a 1.5-acre lot. Mr. Korthoff contends that he dedicated 1.5 acres to the City with the Hearthstone MPD and wishes to use that acreage to meet the three-acre minimum or at least explain that the lack of three acres is due to the dedication. Planner LoPiccolo noted that including this property into the Hearthstone Subdivision would add only one house.

Commissioner Erickson asked if the trail location as shown is what the applicant proposes. Planner LoPiccolo replied that the trail shown on the exhibit is correct and has been agreed to by the applicant, the Staff, and the trails people.

Commissioner Erickson remarked that he noted the letter in the staff report from a resident at The Aerie with respect to the subdivision.

Chair Larson opened the public hearing.

Bruce Manka, a resident in The Aerie subdivision, expressed concern about developers changing terms that were agreed to in the past. Mr. Manka wanted to see the three-acre minimum stand since this is Estate zoning. He noted that Mr. Korthoff made a decision to withdraw from Hearthstone because he did not want to live with the trail, but now he wants to change his mind and request a variance to the Estate Zone. Mr. Manka commented on the amount of development and density occurring and felt it would be nice if they could hold their ground at some point.

Kent Holland, representing Herb Korthoff, wished to make it clear that the 1.45 acres which was initially on the west side of Mellow Mountain Road was the property which made Lot 12 three acres to fit the Estate Zone requirement. Since the property was across the road, it was dedicated the City. The problem which resulted at that time was that the bicycle path was within three feet of the back of the houses. This became a problem in building his house and caused Mr. Korthoff to withdraw from the original subdivision. Mr. Holland did not feel that the applicant was asking for a variance to build on a small piece of property because the property originally consisted of three acres. He did not believe the Planning Commission would be setting a precedent in granting this request for one single lot.

Chair Larson closed the public hearing.

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Page 13

Commissioner Zimney asked if the property would have been sufficient for the Estate Zone if Mr. Korthoff had not dedicated 1.5 acres to the City. Planner LoPiccolo replied that Hearthstone Subdivision is in the Estate Zone, and the 1.5 acres plus the acreage in the current application would have comprised three acres which is sufficient to meet the Estate Zone requirement. This situation is different because Mellow Mountain Road runs through the property, and Mr. Korthoff's dedication was used for open space.

Commissioner Hays asked if Hearthstone would meet the open space requirement without the 1.5 acres. Planner LoPiccolo replied that it would because it goes back to the original MPD. Assistant City Attorney Mark Harrington explained that the City originally took the position that even though the acreage may have been sufficient without the dedication, the Hearthstone plat could not be recorded without the dedication of that open space because it was part of the original MPD approval. This is important to Mr. Korthoff because he did not dedicate it; the bankruptcy trustee did. The property was in holding at the time, and Mr. Korthoff objected to the dedication because he wanted to retain it for a future subdivision.

MOTION: Commissioner Hier moved to forward a POSITIVE recommendation for the proposed plat amendment application to amend the Hearthstone Subdivision based on the findings of fact.

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THE REGISTRATION SERVICE

Planning Commission Meeting
Minutes of November 18, 1998
Page 14

conclusions of law, and conditions of approval outlined in the staff report. Commissioner Zimney seconded the motion.

VOTE: The motion passed by a vote of 3 to 2, with Commissioners Larson, Zimney, and Hier voting in favor of the motion and Commissioners Erickson and Hays voting against the motion. Commissioner O'Hara abstained from the vote.

Findings of Fact - 1376 Mellow Mountain Road

1. The property is zoned Estate and was approved for two lots in the Hearthstone MPD on June 17, 1993.
2. The proposed plat amendment will amend the Hearthstone Subdivision to include lots 11 and 12 as originally approved.
3. Proposed Lot 11 has an existing house built on it.
4. The applicant agrees to grant the City an easement for the trail as outlined in Exhibit A.
5. The applicant contributed in excess of six acres to the original MPD.

Conclusions of Law - 1376 Mellow Mountain Road

1. There is good cause for the amendment.

NOT AT ALL TO BE CHANGED THE SECRETARIAL RECORD THE NOT AT ALL TO BE CHANGED
11 11
Planning Commission Meeting
Minutes of November 18, 1998
Page 15

2. Neither the public nor any person will be materially injured by the proposed amendment.
3. The proposal is consistent with Park City LMC Chapter 15 and the MPD approved June 17, 1993.

Conditions of Approval - 1376 Mellow Mountain Road

1. The trail easement as shown on Exhibit A shall be dedicated to the City on the plat. The easement shall be six feet wide.
- ② All conditions of approval of the MPD approved June 17, 1993, still apply.
3. The City Engineer and City Attorney's review and approval of the plat for compliance with State Law and these conditions of approval is a condition precedent to plat recordation.
4. This approval shall expire one year from the date of City Council approval unless the plat has been recorded with Summit County.
5. All Standard Project Conditions shall apply.
6. The maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is "as built" at 14,000 square

Planning Commission Meeting
Minutes of November 18, 1998
Page 16

feet (no additions resulting in additional square footage allowed). These restrictions shall be noted on the plat.

7. A 10-foot, non-exclusive snow storage and utility easement shall be dedicated on the plat to the City along Mellow Mountain Road.
8. The applicant shall quit claim to the City in a form approved by the City Attorney all interest in the open space parcel dedicated to the City as part of the original Hearthstone Subdivision.

The Park City Planning Commission Meeting adjourned at 7:25 p.m.

Approved by Planning Commission _____



CITY COUNCIL STAFF REPORT

Date: December 10, 1998
Department: Planning Department
Title: 1376 Mellow Mountain Road
Type of Item: Consent

Summary Recommendations

Conduct a public hearing and consider adopting the attached Ordinance approving a plat amendment as conditioned to amend the Hearthstone Subdivision.

A. Topic

Applicant: Herb & Barbara Korthoff - Ed Klarich, Representative
Location: 1376 Mellow Mountain Road
Proposal: Plat & Subdivision Amendment
Zoning: Estate
Project Planner: Kevin LoPiccolo
Adjacent Land Uses: Single-Family, Open Space

B. Background

On November 18, 1998, the Planning Commission voted to forward to City Council a positive recommendation to approve the plat amendment to the original Hearthstone subdivision to allow the applicant to rejoin Hearthstone subdivision, as originally approved in 1993.

Hearthstone Subdivision was denied by the Planning Commission on May 26, 1993. The overlying factor in the denial was that the proposed application did not comply with the Sensitive Lands Ordinance. The applicants appealed the Commission's decision and the City Council approved the MPD on June 17, 1993. The Council's decision was based on the Legal's Department position on having the Sensitive Lands Ordinance reviewed in bankruptcy court where the difficulties in enforcing land use regulations is much more difficult rather than general law where land use would be discussed. The Council granted the appeal and approved 12 lots, deleting lot 7 that was considered highly visible and was contrary to Chapter 10 Master Planned Development criteria.

The applicant, Herb Korthoff, during the 1993 subdivision approval had an existing home on a parcel that was proposed to be lots 11 & 12 of the Hearthstone Subdivision. As part of the 12 lot subdivision, Korthoff's parcel was to be subdivided. Mr. Korthoff in 1994 requested that his

property be withdrawn from the subdivision approval of the 12 lot subdivision due to opposition of the proposed trail location approved as part of the original subdivision and part of the Master Trail Plan.

That request withdrew lots 11 and 12 from the final plat approval, but the property still has the benefit of the 1993 MPD approval.

C. Analysis

The applicant is requesting an amendment to the original Hearthstone subdivision to allow Mr. Korthoff to rejoin the Hearthstone subdivision, as originally approved in 1993.

The parcel is 4.724 acres and currently has a single family home built on it. The applicant is proposing that the subdivided parcel be 1.528 acres. Under the original MPD the subdivision was required to provide 60% open space, but was not mandated under the MPD to reflect 3 acre lots for the 12 lot subdivision. The open space dedication of Blocks 2 & 4 dispersed among the lots exceeds the 3 acre minimum per lot. Mr. Korthoff is asserting that when the subdivision was recorded, 1 ½ acres of his property which falls within Block 4 was dedicated to the city. Mr. Korthoff is requesting that the 1 ½ acres of open space dedication be considered in the evaluation of the proposal to subdivide.

Trails

This issue has been resolved. The approved trails plan from the original Hearthstone Subdivision did show a trail connection from the west side of Mellow Mountain Road, across the road and across a portion of what is proposed lot 11 to an existing dirt trail which heads to the east. When the original amendment was modified in 1994 to reduce the 12 lots to a 10 lot subdivision, the trail was eliminated and the connection never occurred.

The applicant proposes to provide a public trail that adheres to the original Hearthstone Subdivision and the City's Master Trail Plan. The proposed trail is shown on Exhibit "A".

D. Public input

This project was noticed to property owners within 300' of the affected property and all property owners within the affected subdivision plat on September 22, 1998. A letter was received on September 28, 1998 opposing the proposed change. Letter is attached as Exhibit "C". Mr. Elwood Nielson, who still asserts an ownership interest in Mellow Mountain Road, contends that the applicant does have access to the road. The City views this as a private dispute to be addressed by the parties outside of the platting process.

Alternatives

- A. Approve the proposed plat amendment creating two lots, one 3.196 acres for lot 11 and 1.528 acres for lot 12.
- B. Deny the plat amendment & Subdivision and retain the original form of the property.

C. Continue the item and request further evaluation from the staff.

Significant Impacts

Approval of the plat amendment & Subdivision will allow the property owner to sell of 1.528 acres of his existing lot for development of one dwelling on lot 12. Approval of this request would be consistent with the original MPD that was approved for a 12 lot subdivision in 1993. The amendment & subdivision gives the city an opportunity to get a public trail connection that was lost when the applicant originally withdrew from Hearthstone Subdivision in 1994.

Consequences of not taking the recommended action

Denial of this application would prohibit the property owner from subdividing his property into two lots of record. The City would not get the final trail connection and the applicant would probably seek to reinstate the litigation against the City.

Recommendation

The Community Development Department recommends approval of the proposed Plat Amendment application to amend the Hearthstone Subdivision, based upon the following findings, conclusions and conditions of approval:

Findings of Fact:

1. The property is zoned Estate and was approved for two lots in the Hearthstone MPD on June 17, 1993.
2. The proposed plat amendment will amend the Hearthstone Subdivision to include lots 11 and 12 as originally approved.
3. Proposed lot 11 has an existing house built on it.
4. The applicant agrees to grant the City an easement for the trail as outlined in Exhibit A.
5. The applicant contributed in excess of six acres to the original MPD.

Conclusions of Law:

1. There is good cause for the amendment.
2. Neither the public nor any person will be materially injured by the proposed amendment.
3. The proposal is consistent with Park City LMC Chapter 15 and the MPD approved June 17, 1993.

Conditions of Approval:

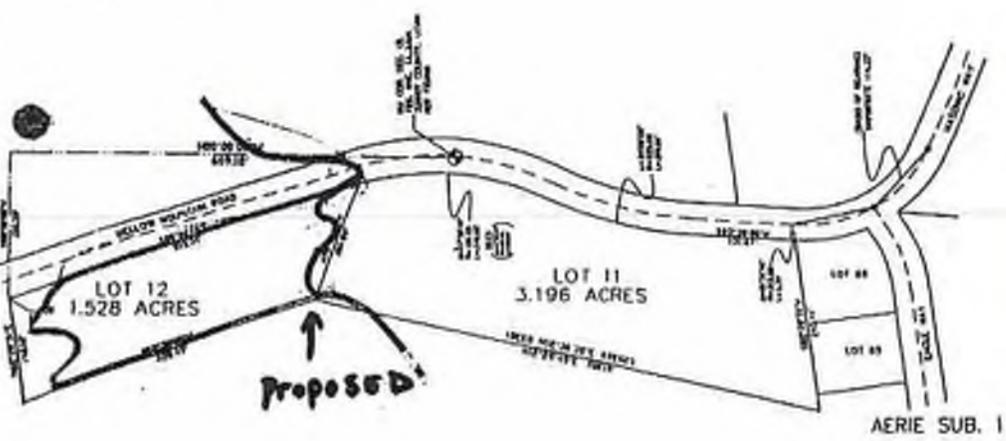
1. The trail easement as shown on Exhibit A shall be dedicated to the City on the plat. The easement shall be six feet wide.
2. All conditions of approval of the MPD approved June 17, 1993 still apply.
3. The City Engineer and City Attorney's review and approval of the plat for compliance with State Law and these conditions of approval is a condition precedent to plat recordation.
4. This approval shall expire one year from the date of City Council approval unless the plat has been recorded with Summit County.
5. All Standard Project Conditions shall apply.
6. The maximum house size for lot 12 is 6,000 square feet. The maximum house size for lot 11 is "as built" at 14,000 square feet (no additions resulting in additional square footage allowed). These restrictions shall be noted on the plat.
7. A ten-foot non-exclusive snow storage and utility easement shall be dedicated on the plat to the City along Mellow Mountain Road.
8. The applicant shall quit claim to the City in a form approved by the City Attorney all interest in the open space parcel dedicated to the City as part of the original Hearthstone Subdivision.

Exhibits

- A. Plat Amendment & proposed trail location
- B. Vicinity Map Original
- C. Letter from property owner
- D. Minutes from November 18, 1998 Planning Commission
- E. Standard Project Conditions
- F. Proposed Ordinance

HEARTHSTONE SUBDIVISION

LOCATED IN SECTIONS 15 & 16, TOWNSHIP 3 SOUTH,
RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH



AERIE SUB. I

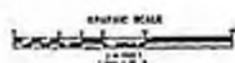


EXHIBIT A - PLAT AMENDMENT & PROPOSED TRAIL CONNECTION

BEFORE ME, the undersigned authority, on this _____ day of _____, 2016, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of my office at Park City, Utah, this _____ day of _____, 2016.

NOTARY PUBLIC FOR THE STATE OF UTAH
My Commission Expires _____

HEARTHSTONE SUBDIVISION
LOCATED IN SECTION 15 & 16
T. 3 S., R. 4 E., S.L. 2 & 3 N.
PARK CITY, SUMMIT COUNTY, UTAH

DATE OF SALE
BY AND FOR THE SELLER
BY AND FOR THE BUYER

HEARTHSTONE SUBDIVISION
LOCATED IN SECTION 15 & 16
T. 3 S., R. 4 E., S.L. 2 & 3 N.
PARK CITY, SUMMIT COUNTY, UTAH

UTAH SURVEYS

PLAT NO. _____

DATE OF PLAT _____

SECTION _____

TOWNSHIP _____

RANGE _____

PLAT AMENDMENT

1-1

| | | | | | | |
|--|---|--|--|---|---|--|
| <p>CITY PLANNING COMMISSION</p> <p>APPROVED AS TO FORM AND CONTENT</p> <p>DATE _____</p> <p>FOR THE PLANNING COMMISSION</p> | <p>SPRINGVILLE WATER UTILITY</p> <p>APPROVED AS TO FORM AND CONTENT</p> <p>DATE _____</p> <p>FOR THE WATER UTILITY</p> | <p>ENGINEER'S CERTIFICATE</p> <p>I HEREBY CERTIFY THAT THE PLAT AND PROPOSED TRAIL CONNECTION SHOWN ON THIS PLAT ARE ACCORDING TO THE RECORDS OF THE PLANNING COMMISSION AND THE WATER UTILITY.</p> <p>DATE _____</p> <p>FOR THE ENGINEER</p> | <p>ATTORNEY AT LAW</p> <p>APPROVED AS TO FORM AND CONTENT</p> <p>DATE _____</p> <p>FOR THE ATTORNEY</p> | <p>CERTIFICATE OF AFFIDAVIT</p> <p>I HEREBY AFFIRM THAT I AM THE OWNER OF THE LAND SHOWN ON THIS PLAT AND THAT I HAVE NOT BEEN CONVICTED OF A CRIME INVOLVING FRAUD OR PERJURY.</p> <p>DATE _____</p> <p>FOR THE AFFIDAVIT</p> | <p>PARTY DEVELOPER</p> <p>APPROVED AS TO FORM AND CONTENT</p> <p>DATE _____</p> <p>FOR THE DEVELOPER</p> | <p>RECORDED</p> <p>DATE OF RECORDING _____</p> <p>BY _____</p> <p>RECORDS SECTION</p> |
|--|---|--|--|---|---|--|

1376 Mellow Mountain Rd.

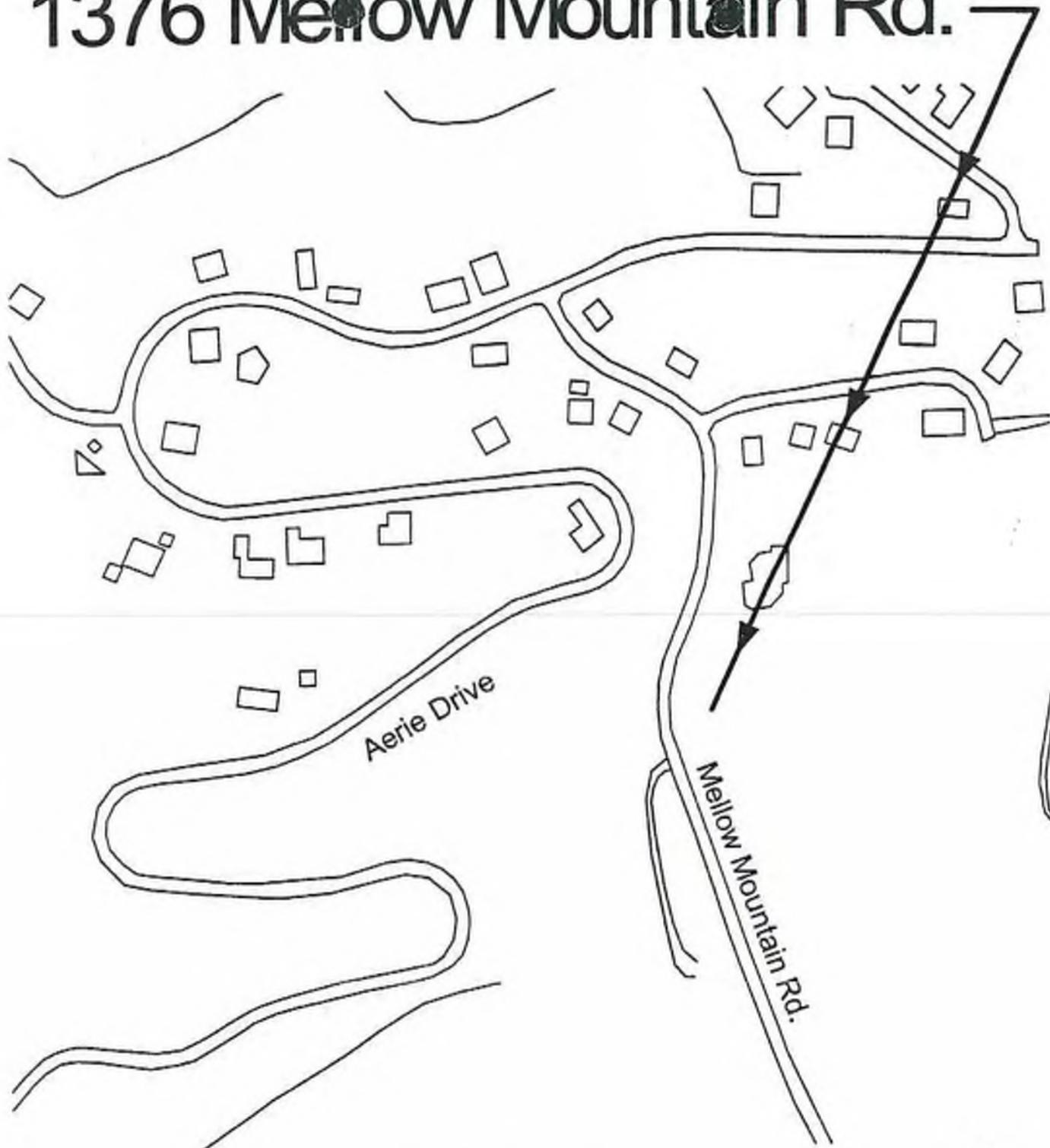


EXHIBIT B

Vicinity Map



9-28-98

Park City Planning Dept.
Park City, UT 84060

Dear Planning Commission:

This letter is in response to the notice I received with regard to the 1376 Mellow Mountain Road, Hearthstone Subdivision.

I was my understanding when I purchased property in the Aerie Subdivision that the lots were already determined and that the size and number of homes per size of the lot was set.

I have lived in the Aerie for eight years and it has always been a battle to try and prevent the Planning dept from changing the already established size of the land parcels. It is my understanding that what had been zoned would remain so. I would not have purchased property if I was told that the established size and building limitations could be changed whenever anyone with enough money could persuade the commission to do just that.

The value of the property we own in the Aerie would change dramatically should you change the one home per three acre as set forth in the Estate Zone plans which have previously been adopted.

Should the City continue to act without regard to the open space and the wishes of the residents, with their reckless policies of do whatever the developers want, I myself feel that the Aerie Homeowners Association should file suit against the City for damages as a result of over building where specific guidelines prohibit. The Estate Zone was in place long before some developer decided to try to change our neighborhood. The developer was aware when they purchased the property what the zoning was, and now they should be forced to live with those guidelines. It is about time that the city took a stand. If you approve one change in the zoning, then everyone in the rest of the Aerie will want to have changes made.

Please vote against any changes to the established zoning laws currently in place in the Aerie.

EXHIBIT C - LETTER FROM AERIE PROPERTY OWNER

RECEIVED

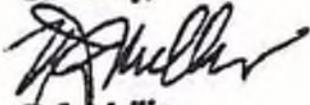
SEP 28 1998

PARK CITY
PLANNING DEPT.

SIGNATURE MORTGAGE FAX: 801-434-2342 SEP 28 1998 20:27 P.01

Thank you for your time.

Sincerely,



R.J. Mullin

Sep 28 '98 20:28 P.02

SIGNATURE MORTGAGE Fax: 801-484-2341

BD-15-21224



Building Department
Approved

CDO OF PLANS EXAMINER

7/2/15
DATE

Validity of Permit: The issuance of a permit or approval of plans, specifications and computations shall not be a permit for, or an approval or any violation to any of the provisions of the Building Code, Fire Code or any of the City's Ordinances. Violators violating to give authority to violate or cause the provisions of these Codes and Ordinances of the Park City Municipal Corporation shall not be valid. All plans approved are subject to field inspection and interpretation.

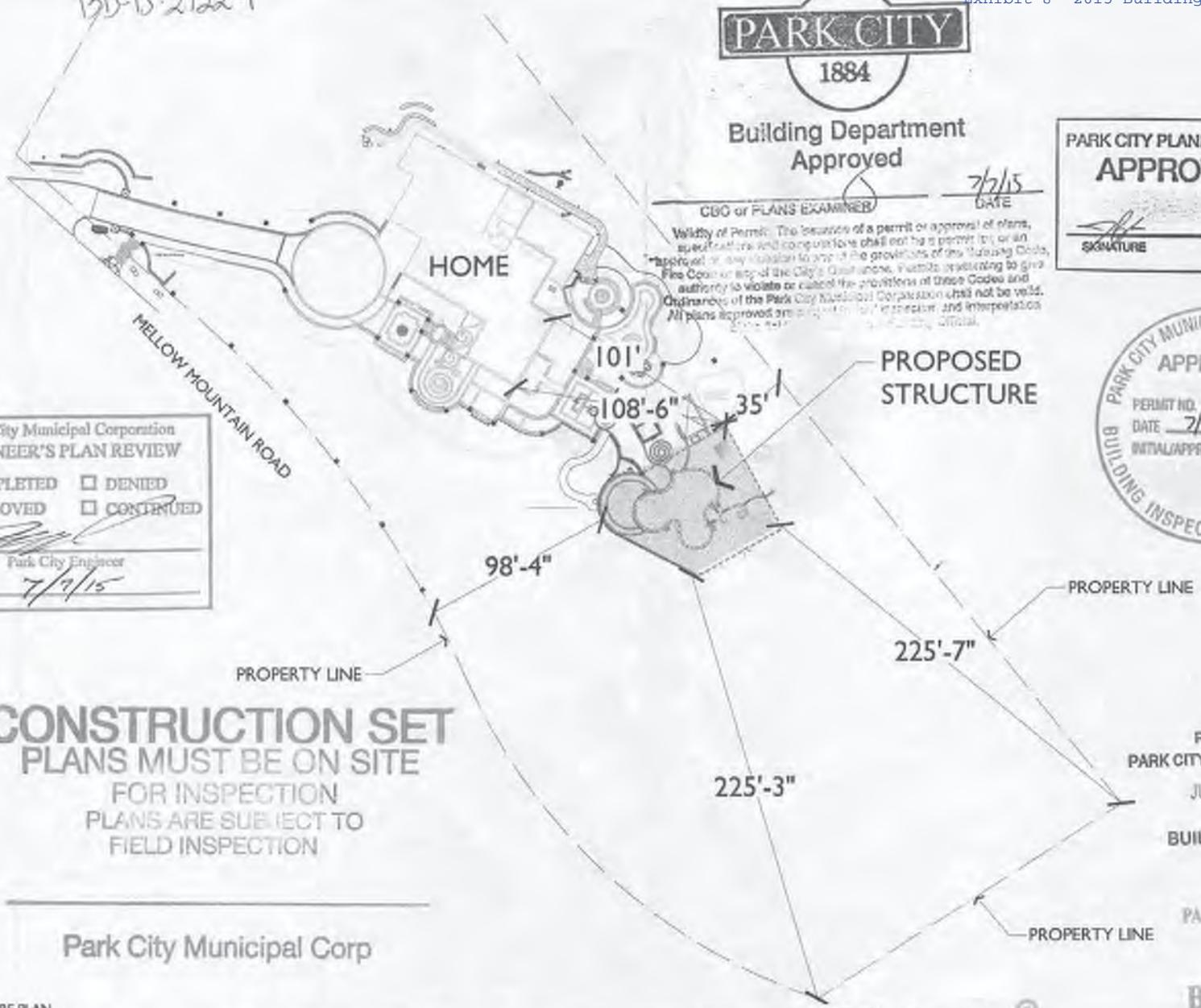


Park City Municipal Corporation
ENGINEER'S PLAN REVIEW

COMPLETED DENIED
 APPROVED CONTINUED

BY: *[Signature]*
 Park City Engineer

DATE: 7/9/15



**CONSTRUCTION SET
PLANS MUST BE ON SITE
FOR INSPECTION
PLANS ARE SUBJECT TO
FIELD INSPECTION**

Park City Municipal Corp

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JUN 02 2015
BUILDING DEPT

APPROVED
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JUL 02 2015
BUILDING DEPT

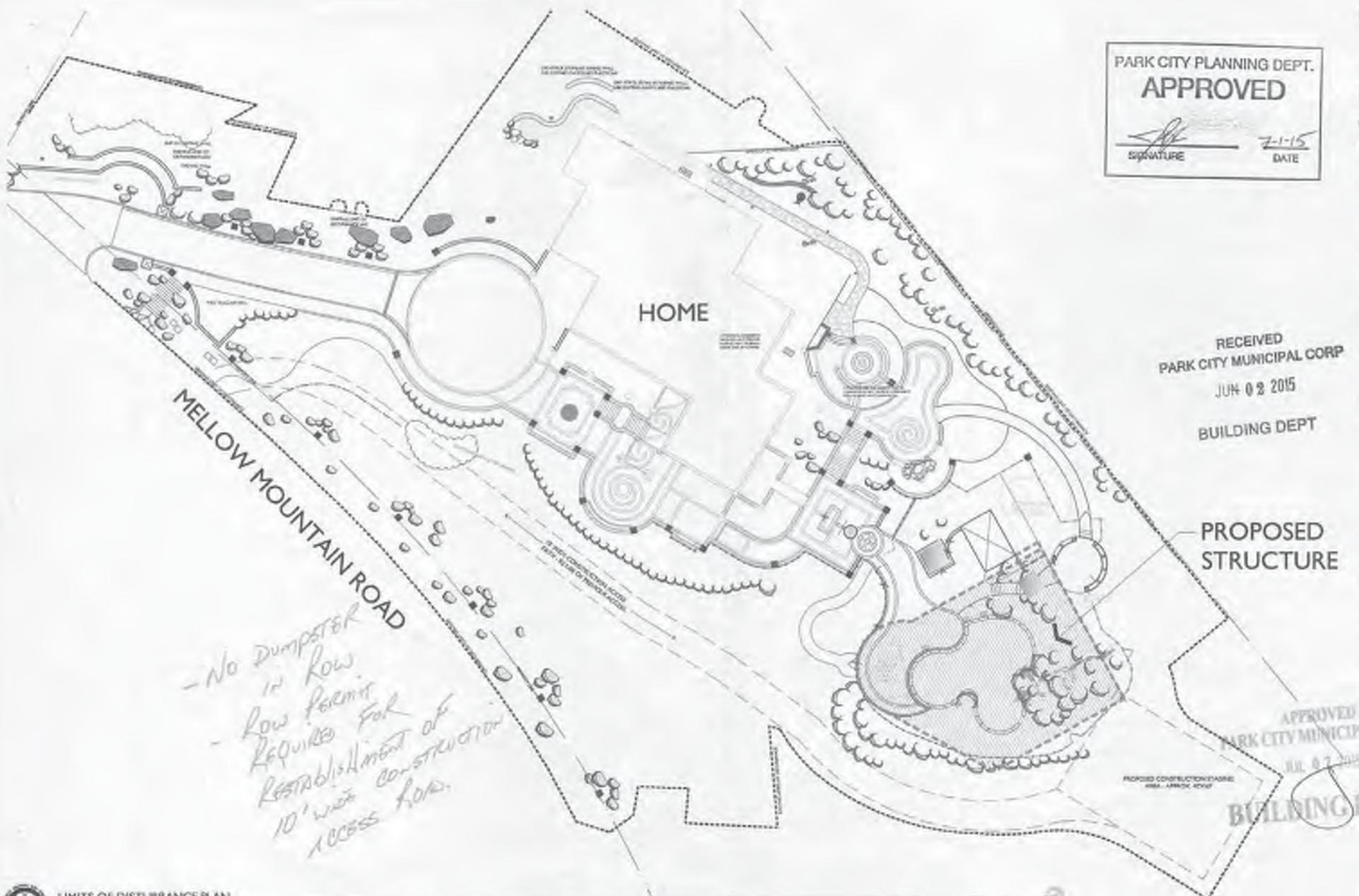
northland DESIGN GROUP
 1201 MELLOW MOUNTAIN ROAD, PARK CITY, UTAH
 CAMARATA RESIDENCE
 SITE



POOL STRUCTURE PLAN

THIS PLAN IS THE PROPERTY OF THE DESIGNER AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER. THE DESIGNER ASSUMES NO LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS PLAN. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS PLAN. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS PLAN.





PARK CITY PLANNING DEPT.
APPROVED
 SIGNATURE: [Signature]
 DATE: 7-1-15

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PROPOSED STRUCTURE

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 BUILDING DEPT.

*- No DUMPSTER
 in ROW
 - Row Permit
 Required For
 Reestablishment of
 10' wide construction
 access road.*



LIMITS OF DISTURBANCE PLAN

APPROVED FOR CONSTRUCTION BY THE CITY OF PARK CITY, UTAH, ON JULY 1, 2015. THIS PLAN IS THE PROPERTY OF THE CITY OF PARK CITY, UTAH. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY OTHER USE OF THIS PLAN WITHOUT THE WRITTEN PERMISSION OF THE CITY OF PARK CITY, UTAH, IS STRICTLY PROHIBITED. THE CITY OF PARK CITY, UTAH, DOES NOT WARRANT THE ACCURACY OF THIS PLAN OR THE RESULTS OF ANY CONSTRUCTION WORK DONE IN ACCORDANCE WITH THIS PLAN. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY CAUSED BY ANY CONSTRUCTION WORK DONE IN ACCORDANCE WITH THIS PLAN.

SCALE: 1" = 30'-0" (30:1)
 NORTH

northland
 P.E.S. | G.N. | G.R.O.U.P.
 landscape architecture | landscape design
 225 W. Calaveras Avenue, Suite 100, Aspen, CO 81602
 970.926.9199

CAMARATA RESIDENCE
 1375 MELLOW MOUNTAIN ROAD, PARK CITY, UTAH

SITE

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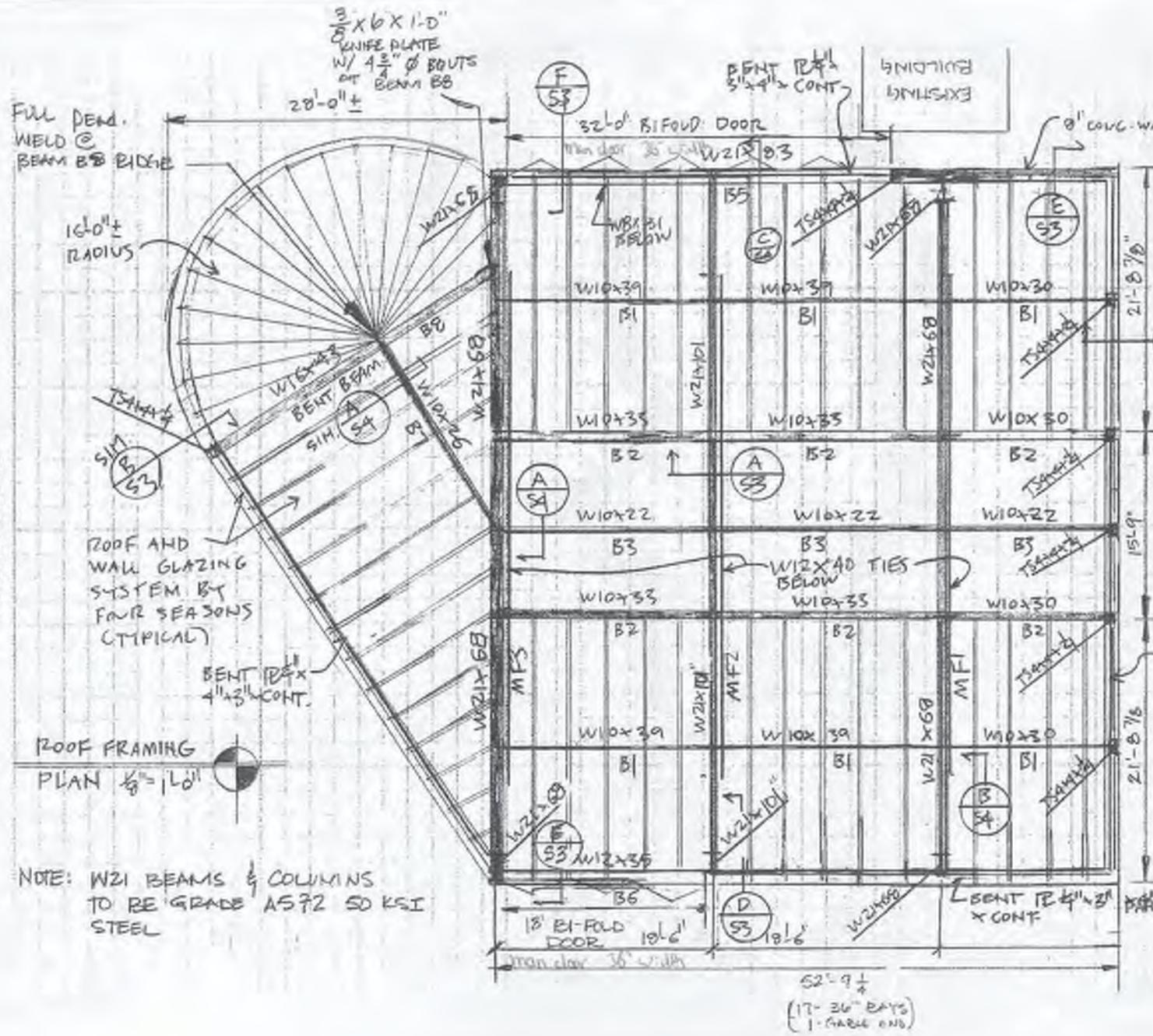
Sunrooms • Windows • Room Additions

More Reasons for Four Seasons



| | | | |
|-------------|-----------------------|--|----------------|
| Home Owner: | DALE & TERI CARVAJATA | Project: | POOL ENCLOSURE |
| Address: | 1376 MELLOW MNT ROAD | Drawn By: | PJT |
| City: | PARK CITY, UT 84060 | Scale: | 1/8" = 1'-0" |
| Phone: | 619-409-9900 | Solar Design Contractors License Number: | 274722-5507 |

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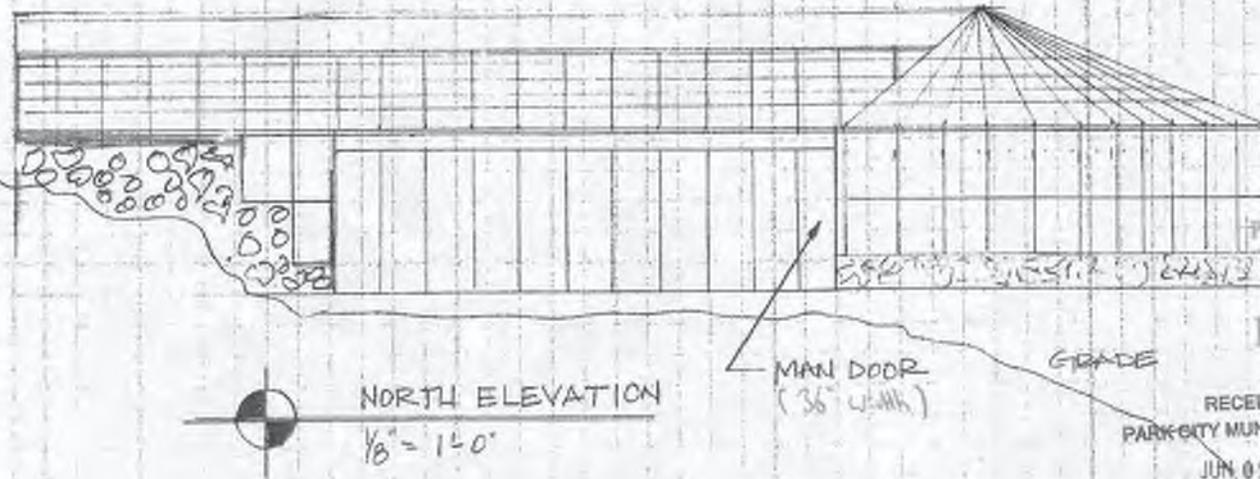
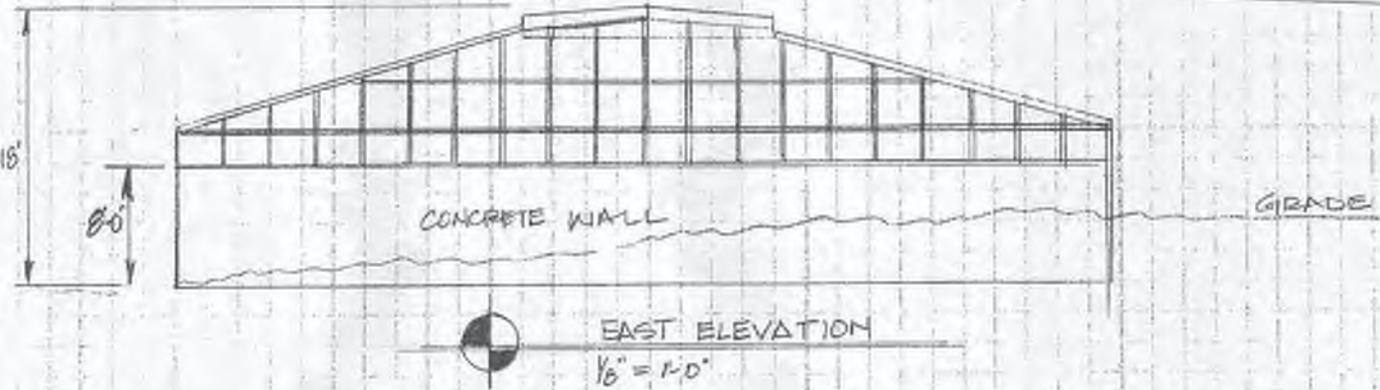
More Reasons for Four Seasons

Sunrooms • Windows • Room Additions

| | | | |
|-------------------|----------------------|--|----------------|
| Home Owner: | SAMARATA RESIDENCE | Project: | POOL ENCLOSURE |
| Address: | 1376 MELLOW MNT ROAD | Drawn By: | RAT |
| City, State, Zip: | PARK CITY UT 84060 | Scale: | |
| Home Phone: | | Solar Design Contractors License number: 274722-5501 | |

Architectural Drawings

Field verify all measurements



PARK CITY PLANNING DEPT.
APPROVED
 SIGNATURE: [Signature]
 DATE: 2-1-15

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 www.sunroomart.com

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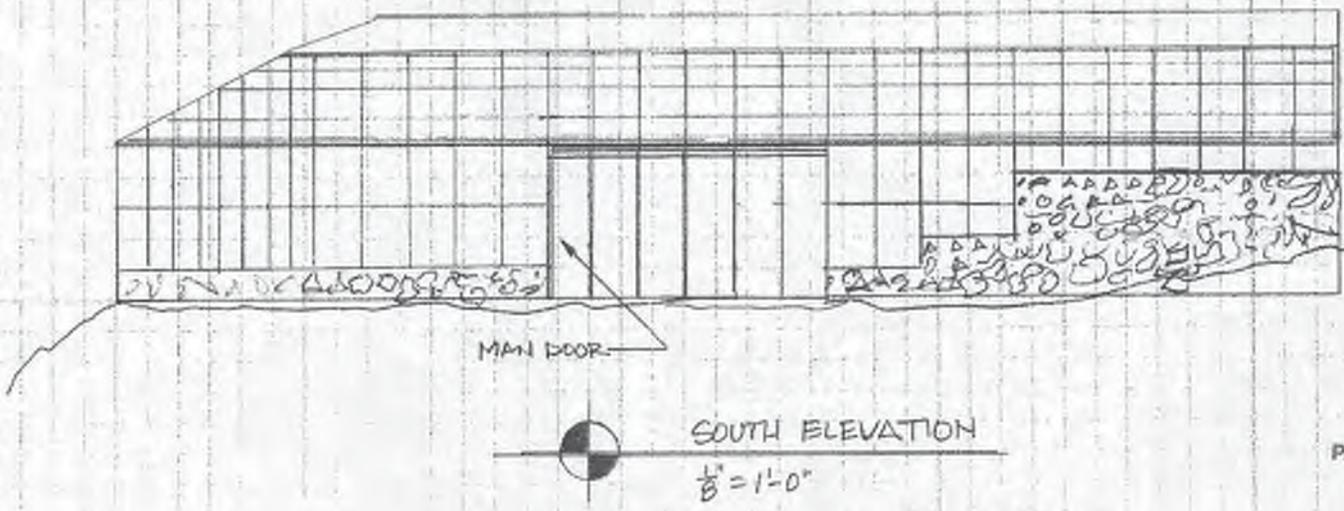
More Reasons for Four Seasons

Sunrooms • Windows • Room Additions

| | | | |
|-------------------|--------------------|--|----------------|
| Home Owner: | CAMARATA RESIDENCE | Project: | POOL ENCLOSURE |
| Address: | PC UT 84060 | Drawn By: | RAH |
| City, State, Zip: | PC UT 84060 | Scale: | 1/8" = 1'-0" |
| Home Phone: | | Solar Design Contractors License Number: | 274722-5501 |

Architectural Drawings

Field verify all measurements



PARK CITY PLANNING DEPT.
APPROVED
SIGNATURE: [Signature] DATE: 7-1-15

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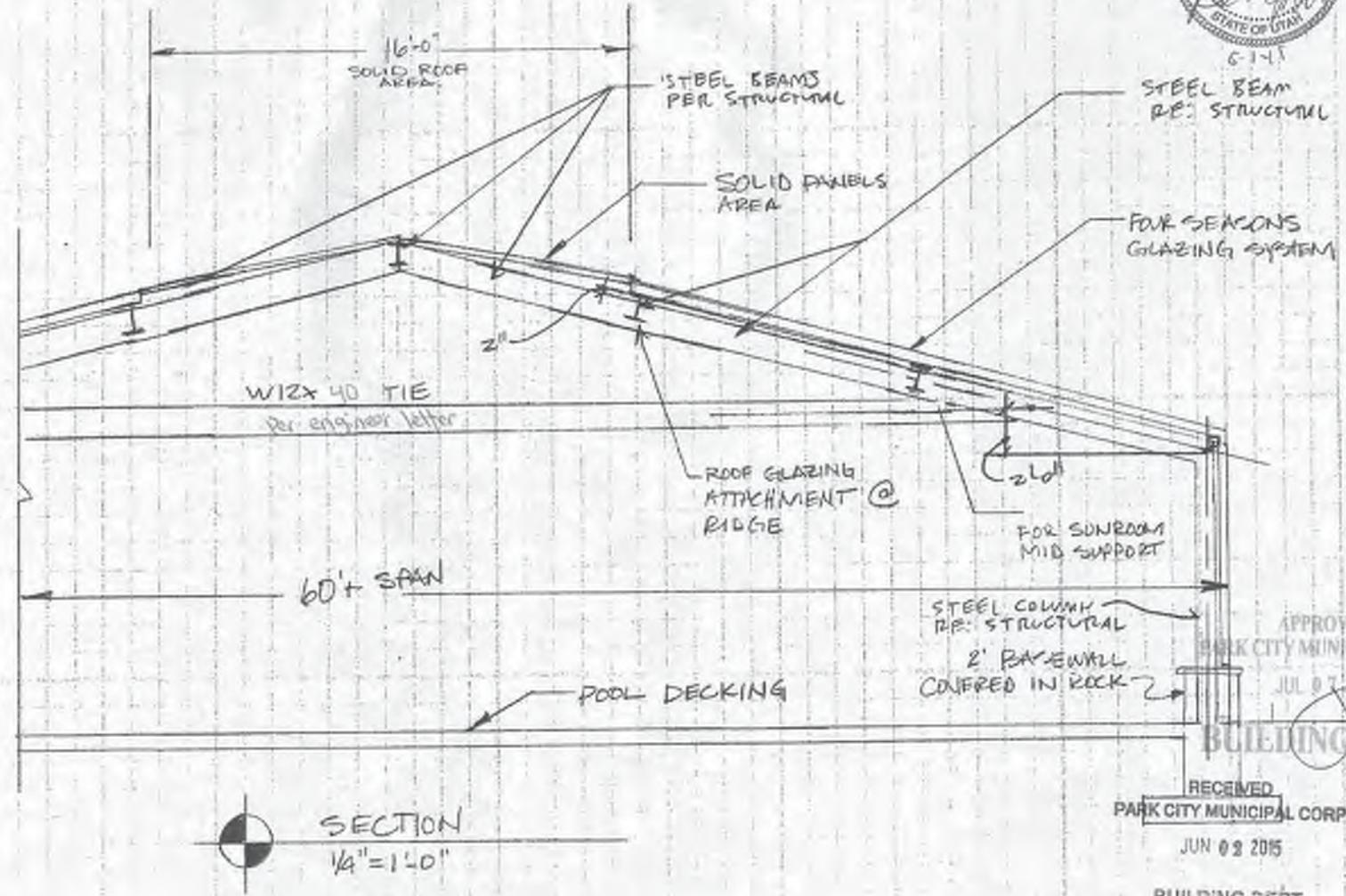
More Reasons for Four Seasons

Sunrooms • Windows • Room Additions

| | |
|-------------------|--|
| Home Owner: | Project: |
| Address: | Drawn By: |
| City, State, Zip: | Scale: |
| Home Phone: | Solar Design Contractors License Number: 274722-5501 |

Field verify all measurements

Architectural Drawings



APPROVED
 PARK CITY MUNICIPAL CORP
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445 Marsac Avenue, P.O. Box 1480, Park City, UT 84060
Tel 435.615.5100 fax 435.615.4900 www.parkcity.org

BUILDING PERMIT NO: BD-16-22329
ADDRESS: 1376 Mellow Mountain Road
ARCHITECT: JZW Architects
DATE: June 15, 2016
PLAN REVIEWER: Jim Hardy

These plans were checked to the 2012 Ed.

The above building permit application has been reviewed for code compliance. The following are the necessary items, comments and/or corrections needed for building permit approval:

1. The plat states that a maximum of 14,000 square feet can be constructed on the lot. It appears that you will exceed the allowable square footage.
2. Please provide a site plan.
3. Please show all construction mitigation on the site plan.
4. This pool house requires a fire sprinkler system.
5. Please add deferred submittals to the cover sheet.
6. Please show an LOD on the site plan.
7. Please provide the square footage of the LOD.
8. Please provide a certified topography plan.
9. Please show proper drainage from the building on the site plan.
10. You will need to note the use of the smaller room on the floor plan.
11. Note all door/window types on the floor plan.
12. Note all tempered glass as needed on the door/window schedules.
13. You will need to note all requirements for electrical around and above a pool on the electrical plans.
14. Please provide a power plan.
15. You will need double underlayment for roof pitch less than 4:12.
16. Please provide an unvented attic detail.
17. Note three on the section view states "storage". Please correct this note.
18. Frost protection for the footings will need to be 40" minimum.
19. Please show proper insulation for the slab on grade.

20. Please provide a special inspection agreement.
21. Note the top of footing elevation on the elevation/section pages.
22. ID all trellis framing. All exterior framing will need to be PPT.
23. Please note the square footage of the building.
24. Please provide a paid receipt from Snyderville Basin Water Reclamation District.
25. Please provide a paid receipt from Park City Fire District.
26. Please add a 6mil vapor barrier under the slab.
27. Please show the location of the ufer ground.
28. Please show the location of the sub-panel.

PROJECT NUMBER
15106

ISSUE DATE:
MAY 15, 2016

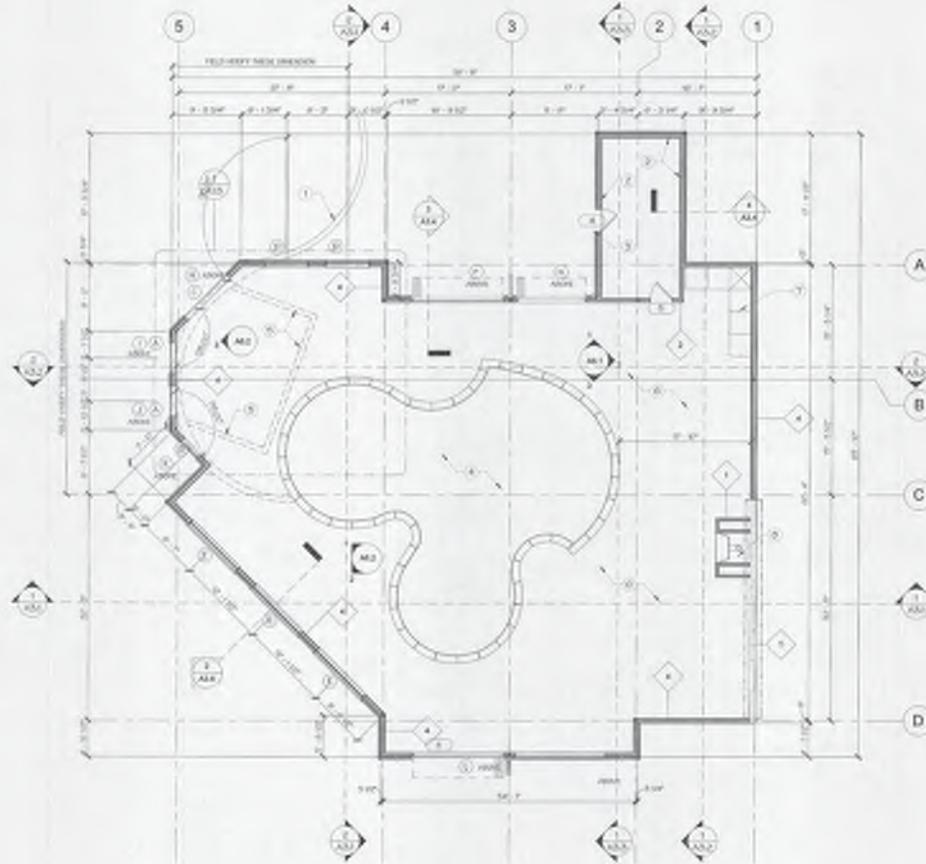
REVISIONS:
No. Date

GENERAL NOTES

1. SEE GENERAL NOTES ON NEXT PLUM PERMIT REQUIREMENTS.
2. DIMENSIONS TO FLOOR AND WINDOW ARE TO CENTER OF FINISHED OPENING UNLESS NOTED OTHERWISE.
3. SEE STRUCTURAL DRAWINGS AND CALCULATIONS FOR ALL STRUCTURAL REQUIREMENTS, INCLUDING FOUNDATION WALL SPECIFICATIONS AND THE WALLS AND WINDOW REQUIREMENTS.
4. COORDINATE ALL WINDOW SIZES HEIGHTS AND SIZES WITH CLIENTS AND WINDOW MANUFACTURER.
5. SEE LANDSCAPE PLANS FOR PAUL DECK, PATIO AND FINISHED.
6. OVERALL DIMENSIONS OF CHOLE ROOF EDGING HUNG UP ARE BASED ON EXISTING 100' WIDE DECK.

NOTES NOTES

1. EXISTING RETAINING WALL.
2. EXISTING WALL TO REMAIN NEW SIDING TO BE MATCHED TO SURROUNDING HOUSE.
3. EXISTING DOOR TO REMAIN.
4. EXISTING PAUL TO REMAIN.
5. EXISTING WALLS OF POOL EQUIPMENT ROOM TO REMAIN.
6. 4" CONCRETE FLOOR ON GRADE.
7. UTILITY.
8. PROVIDE FLOOR JOIST BRACING AS SHOWN AS PER FRAME, PROVIDE AND DETAIL ROOF AND GUTTER DRAINAGE SYSTEM AS PER MANUFACTURERS SPECIFICATIONS.



MAIN FLOOR PLAN
1/8" = 1'-0"



CAMARATA POOL HOUSE
PARK CITY, UTAH

MAIN FLOOR PLAN

A1.1

PAUL R. JAZWINSKI
ARCHITECT

JZW
ARCHITECTS

PROJECT NUMBER
15106

ISSUE DATE:
MAY 15, 2015

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

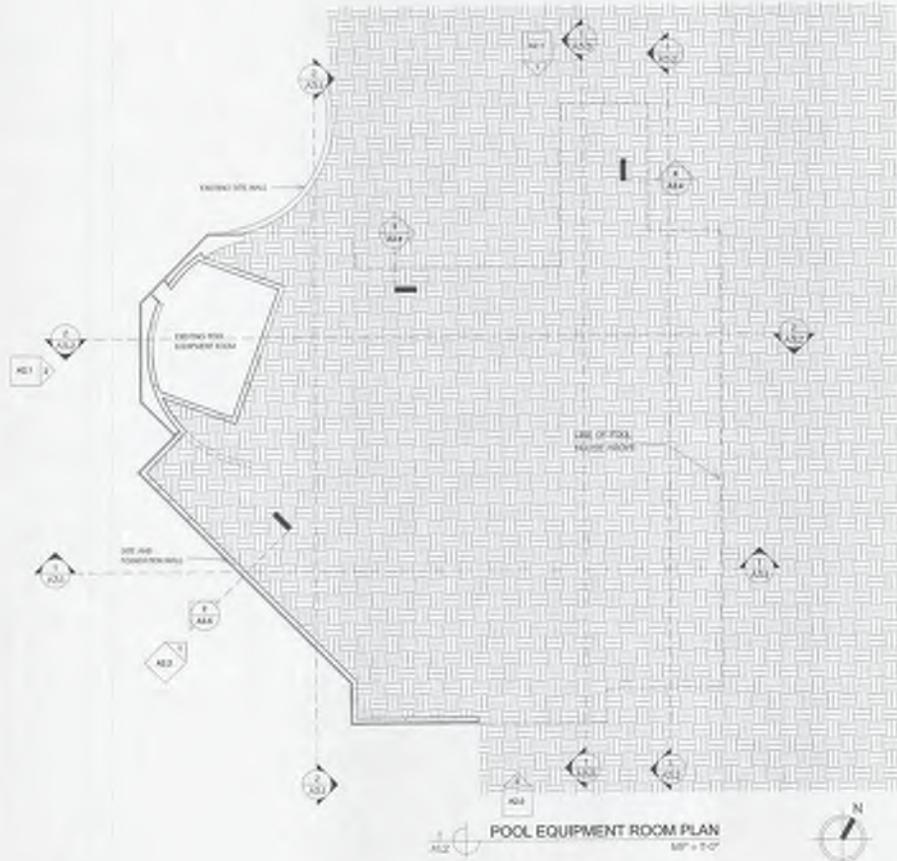
POOL EQUIPMENT
ROOM PLAN

A1.2

Paul J. Zwick
ARCHITECT

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BUILDING DEPT.

JZW
ARCHITECTS



PROJECT NUMBER
15106

ISSUE DATE:
MAY 18, 2016

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

ROOF PLAN

A1.4



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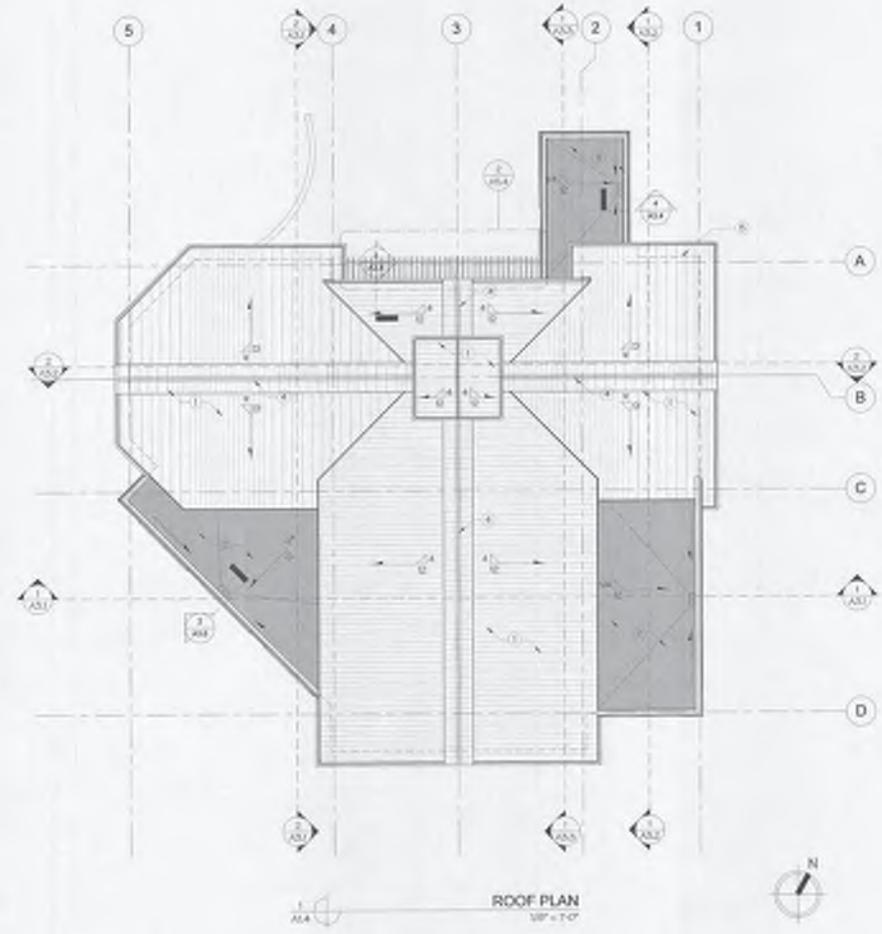
JZW
ARCHITECTS

GENERAL NOTES

- 1. VERIFY ALL MATERIALS AND CONDITIONS TO BE USED BEFORE ORDERING.

KEYED NOTES

- 1. STANDARD METAL ROOF TO MATCH EXISTING ROOF.
- 2. FLASHING WITH GROUND FLOOR FINISH.
- 3. INTERIOR EXTERIOR GROUND ROOF ASSEMBLY TO BE DETERMINED DURING FIELD.
- 4. PER PROJECT MANUAL, REFER TO ALL OTHER EXISTING NOTES.
- 5. USE OF EXTERIOR WALL FINISH.



PROJECT NUMBER
15106

ISSUE DATE:
MAY 18, 2016

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

ELEVATIONS

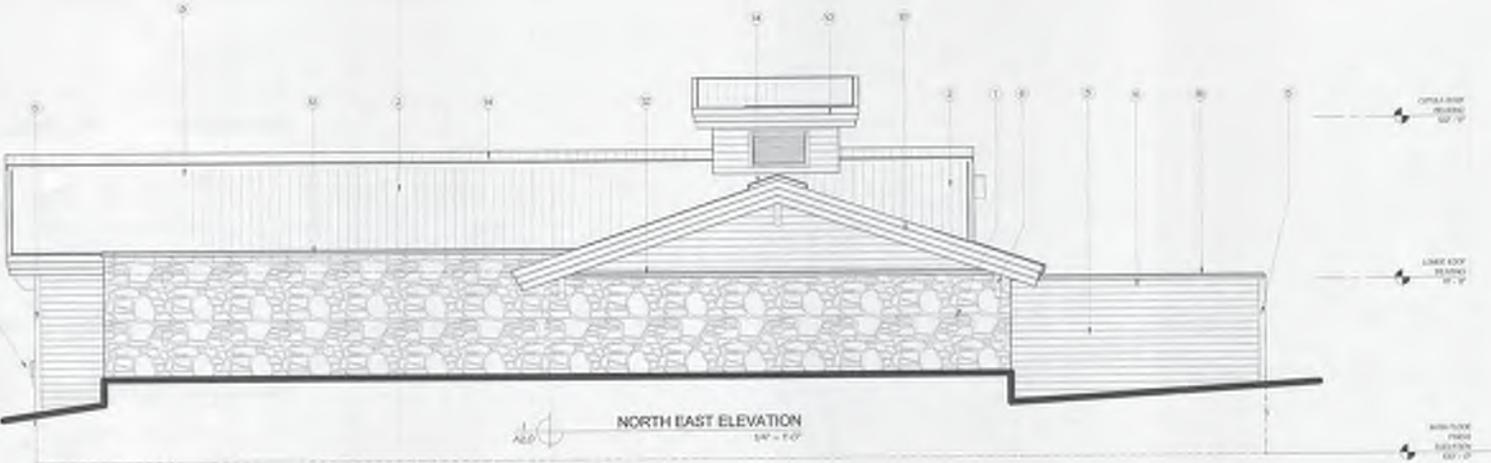
A2.0



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MAY 18 2016
BUILDING DEPT
JZW
ARCHITECTS

KEYED NOTES:

- 1. GYPSUM BOARD TO MATCH EXISTING WALL.
- 2. GYPSUM BOARD TO MATCH EXISTING ROOF.
- 3. GYPSUM TO MATCH EXISTING ROOF.
- 4. BRICK AND MORTAR JOINTS TO MATCH EXISTING ROOF.
- 5. 2" X 4" BRICK EXISTING ROOF.
- 6. WOOD BRICK TO MATCH EXISTING ROOF.
- 7. AIR WALLING.
- 8. FLAT ROOF SYSTEM.
- 9. INSULATED GLASS WALL SYSTEM.
- 10. RAISED PANEL SYSTEM TO MATCH EXISTING ROOF.
- 11. GREEN ROOF.
- 12. STONE WALL CAP.
- 13. BRICKWORK STONE LAP.
- 14. POLYMERIZED METAL ROOF JOINT TO MATCH EXISTING ROOF.
- 15. FINISH LAP.
- 16. LIGHT FINISH.
- 17. FINISH LANDSCAPE FINISH.



PROJECT NUMBER
15106

ISSUE DATE:
MAY 18, 2016

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

ELEVATIONS

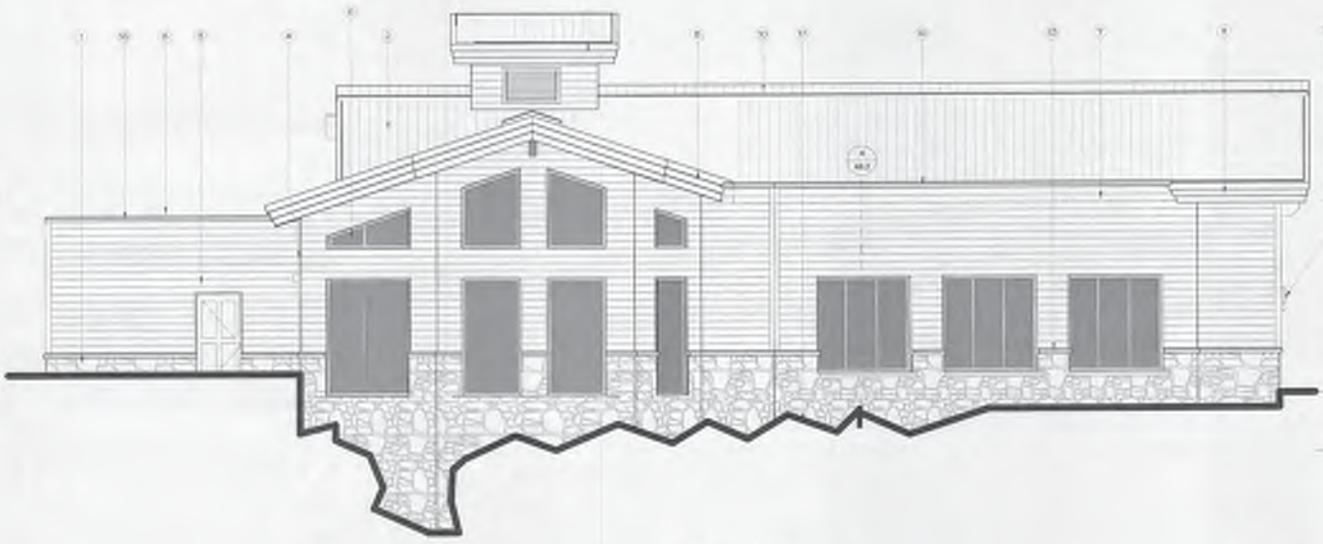
A2.1

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NORTH WEST ELEVATION
94' x 110'



SOUTH WEST ELEVATION
94' x 110'

- KEYED NOTES
- 1 STONE MASONRY TO MATCH EXISTING HOUSE
 - 2 EXISTING SLATE METAL ROOF TO MATCH EXISTING HOUSE
 - 3 PAINT TO MATCH EXISTING HOUSE
 - 4 SEAL TO MATCH EXISTING HOUSE
 - 5 WOOD BRACKS TO MATCH EXISTING HOUSE
 - 6 HANDRAIL AND POROSE STAIRWAY TO MATCH EXISTING HOUSE
 - 7 PLANT SLOTT BEYOND
 - 8 GREEN ROOF
 - 9 LIGHT FIXTURES
 - 10 PRE-FINISHED METAL ROOF OVER TO MATCH EXISTING HOUSE
 - 11 PAINT AND ROOF TO MATCH EXISTING HOUSE
 - 12 POLISHED SLATE WALL SYSTEM
 - 13 MASONRY STONE CLIP
 - 14 EXISTING ROOF
 - 15 BOLLARD LIGHTS OVER POROUSE
 - 16 PAINT TO MATCH
 - 17 STONE WALLTOP

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PROJECT NUMBER
15106

ISSUE DATE:
MAY 18, 2016

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

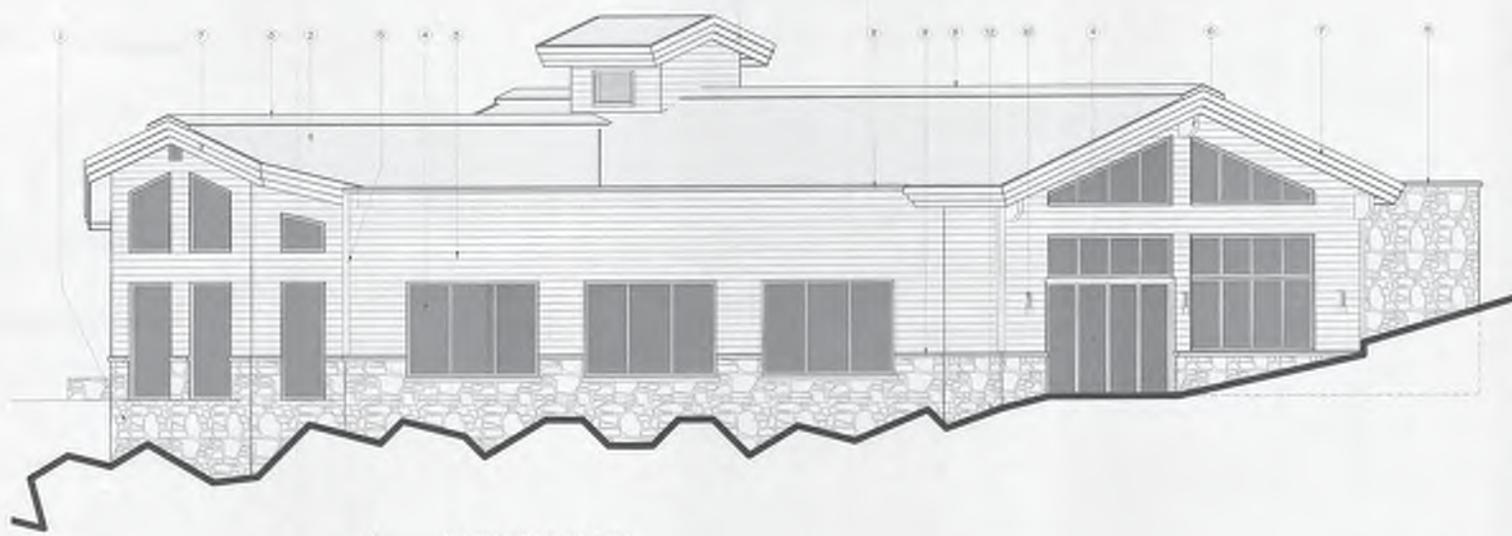
ELEVATIONS

A2.2

STATE OF UTAH
PAUL B. HENNING
ARCHITECT

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PARK CITY MUNICIPAL CODE
MAY 18 2016
BUILDING DEPT

JZW
ARCHITECTS



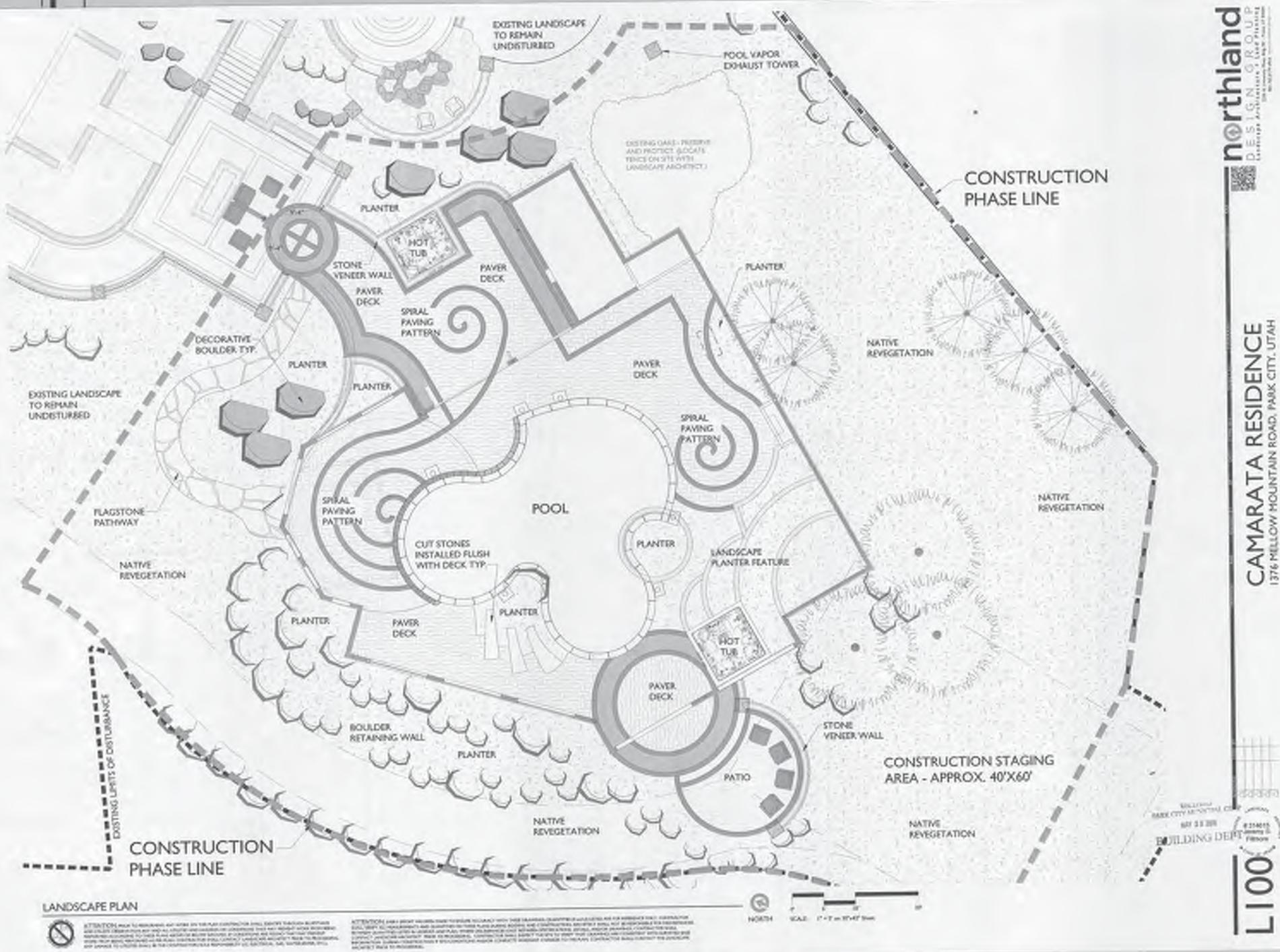
1
A2.2
SOUTHWEST ELEVATION
1/4" = 1'-0"

NOTES

- 1. SEE NOTES TO ARCH ELEVATIONS.
- 2. STAIRS TO MATCH ARCH ELEVATIONS.
- 3. SEE ARCH ELEVATIONS.
- 4. WINDOW HEADINGS TO MATCH ARCH ELEVATIONS.
- 5. SEE ARCH ELEVATIONS.
- 6. MATCH ARCH TO MATCHING ELEVATION.
- 7. MATCH AND VERIFY TO MATCH ELEVATIONS.
- 8. PRE-FINISHED METAL ROOF TO MATCH ELEVATIONS.
- 9. MATCH UP TO ARCH.
- 10. LIGHT FIXTURES.
- 11. STONE WALL CAP.
- 12. SOURCE LANDSCAPE NOTES.

GENERAL NOTES

- 1. SEE GENERAL NOTES ON SHEET A2 FOR ADDITIONAL REQUIREMENTS.
- 2. COORDINATE WINDOW HEIGHTS WITH WINDOW SCHEDULE.
- 3. WINDOW HEADINGS TO MATCH ARCH ELEVATIONS. MATCH AS PER ELEVATIONS. MATCH EXTERIOR FINISHES TO BE AS SHOWN. MATCH AS PER ARCH ELEVATIONS. MATCH EXTERIOR FINISHES TO BE AS SHOWN. MATCH AS PER ARCH ELEVATIONS. MATCH EXTERIOR FINISHES TO BE AS SHOWN.
- 4. PROVIDE EAVE DROPPERS AND SOFFIT SYSTEMS AS REQUIRED.
- 5. PROVIDE ALL FINISHES EXCEPT FOR ROOF FINISHES. FINISH, USE STRUCTURAL DRAWINGS AND CALCULATIONS FOR ALL FINISHES.
- 6. SEE STRUCTURAL DRAWINGS AND CALCULATIONS FOR ALL FINISHES. PROVIDE FINISHES TO MATCH ARCH ELEVATIONS. MATCH AS PER ARCH ELEVATIONS. MATCH AS PER ARCH ELEVATIONS. MATCH AS PER ARCH ELEVATIONS.
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APPROVED
MAY 23 2015
BUILDING DEPT

LANDSCAPE PLAN

ATTENTION: Refer to drawings and notes on this plan. Construction shall follow the approved plan. All work shall be done in accordance with the approved plan. The contractor shall be responsible for obtaining all necessary permits and approvals. The contractor shall be responsible for protecting all existing utilities and structures. The contractor shall be responsible for maintaining access to all adjacent properties. The contractor shall be responsible for restoring the site to its original condition. The contractor shall be responsible for all costs associated with the construction of the landscape plan.

ATTENTION: This plan is a conceptual design and is not intended to be a final construction document. It is subject to change without notice. The contractor shall be responsible for obtaining all necessary permits and approvals. The contractor shall be responsible for protecting all existing utilities and structures. The contractor shall be responsible for maintaining access to all adjacent properties. The contractor shall be responsible for restoring the site to its original condition. The contractor shall be responsible for all costs associated with the construction of the landscape plan.

Exhibit M - Engineering's formal denial of Building Permit
BD-16-22329

From: [Steven Arhart](#)
To: dl@loomishomespc.com
Cc: [Jim Hardy](#); [Makena Hawley](#)
Subject: Engineering Plan Review for 1376 Melow Mountain Road (BD-16-22329)
Date: Wednesday, May 18, 2016 2:33:36 PM
Attachments: [image001.png](#)

Hello,

Engineering has completed their review for 1376 Melow Mountain Road (BD-16-22329). The plans have been denied for the following reason that must be addressed prior to approval of building permit.

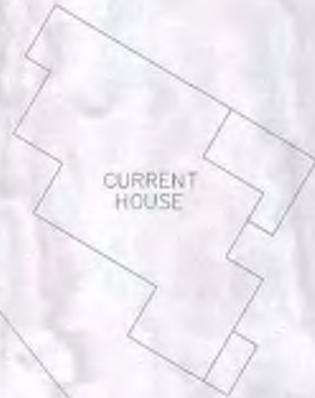
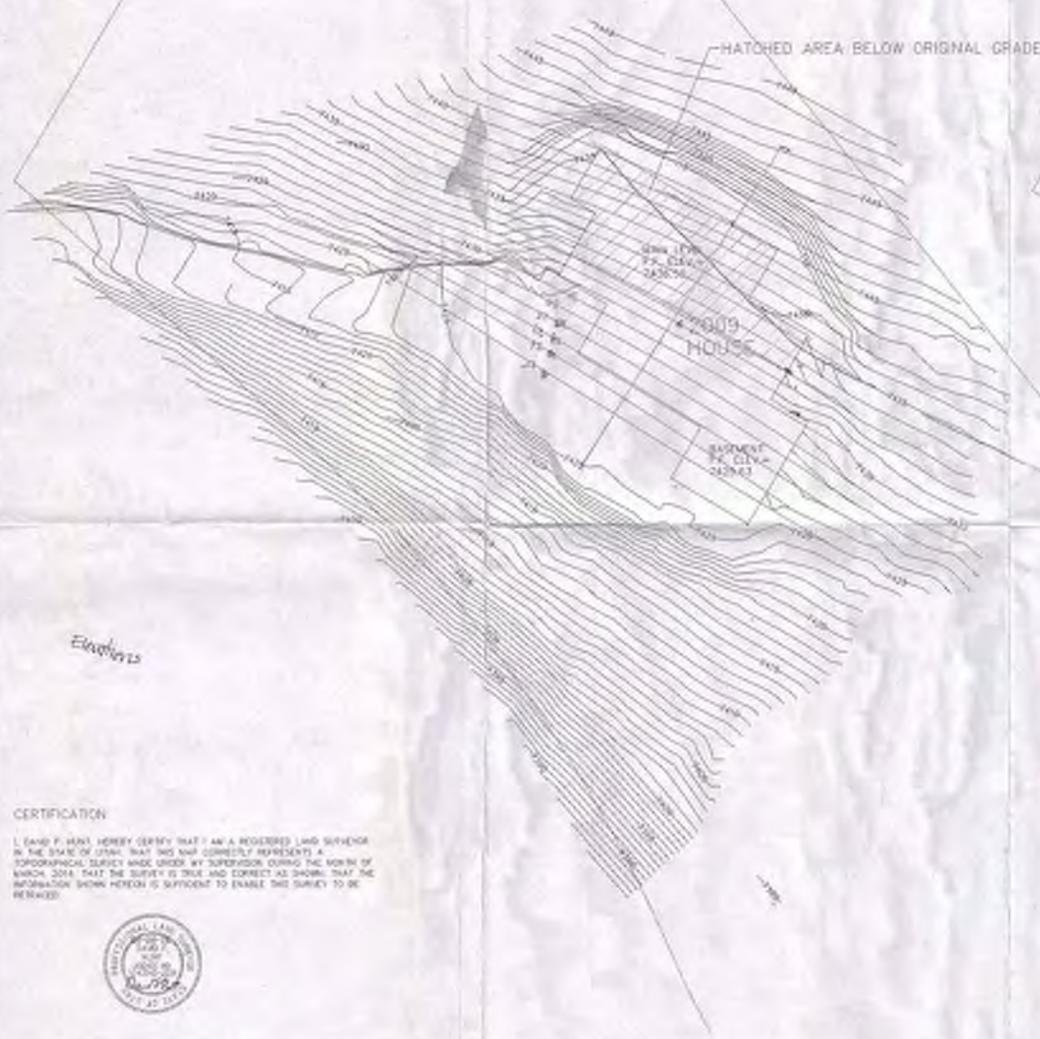
1. Maximum square footage is 14,000 square feet. Per prior building plans the current floor area is 12,717 square feet (including the 600 square feet that is allowed for garages).
 - a. Upper Level is 1,831 square feet.
 - b. Main Level is 5,743 square feet.
 - c. Lower Level is 2,883 square feet.
 - d. Garage is 2,860 square feet.

Also, an engineering permit will be required for work in the ROW. Thanks.

Steven Arhart, EIT
Public Improvements Engineer
445 Marsac Avenue
Park City, UT 84060
435.615.5077 office



Exhibit N - Survey of 1376 Mellow Mountain Road provided by applicant



BASEMENT
 SQUARE FOOTAGE
 6,110 SQ. FT. (TOTAL)
 5,510 SQ. FT. (LESS GARAGE)
 2,844 SQ. FT. (BELOW ORIGINAL GRADE)
 3,266 SQ. FT. (ABOVE ORIGINAL GRADE)

MAIN FLOOR
 SQUARE FOOTAGE
 6,693 SQ. FT.

UPPER FLOOR
 SQUARE FOOTAGE
 1,933 SQ. FT.

11,892 SQ. FT. (TOTAL SQUARE FEET ABOVE ORIGINAL GRADE)

6110
 - 500 - garage
 5610
 - 2844
 2766
 6493
 1933
 8266 sq ft above

Elevations

CERTIFICATION
 I, DAVID F. HUNT, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF UTAH, THAT THIS MAP CORRECTLY REPRESENTS A TOPOGRAPHICAL SURVEY MADE UNDER MY SUPERVISION DURING THE MONTH OF MARCH, 2014, THAT THE SURVEY IS TRUE AND CORRECT AS SHOWN, THAT THE INFORMATION SHOWN HEREON IS SUFFICIENT TO ENABLE THIS SURVEY TO BE REPRODUCED.



| | | | | | | |
|---|---------------|----------|---------------|-------------|---------------|--------|
| DESIGNED BY | DAVID F. HUNT | DRAWN BY | DAVID F. HUNT | CHECKED BY | DAVID F. HUNT | SHEET |
| DATE | 03-18-14 | SCALE | 1" = 20' | PROJECT NO. | | 1 of 1 |
| PROPERTY LOCATION | | | | | | |
| UTAH 1376 MELLOW MOUNTAIN ROAD, PARK CITY, UTAH | | | | | | |

LEVEL OF FOCUS, INC.
 DAVID F. HUNT, P.L.S.
 1324 EAST 1150 SOUTH
 SPANISH FORK, UTAH 84600
 (801) 319-0441

CAMARATA
TOPOGRAPHICAL SURVEY

SUMMIT COUNTY



July 12, 2016

1376 Mellow Mountain Road
Park City, UT 84060

NOTICE OF PLANNING DIRECTOR DETERMINATION:

Project Address: 1376 Mellow Mountain Road
Zoning: Estate (E) zone
Project Description: Planning Director Determination of plat note regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision
Project Number(s): BD-16-22329
Date of Action: July 12, 2016

ACTION TAKEN BY PLANNING DIRECTOR:

The Planning Director has reviewed your submitted information, including the survey you supplied (dated 6/28/16, prepared by Level of Focus, Inc.) and determined that the Maximum House Size to be 11,892 square feet.

(Main level 6,693 square feet, plus Upper level 1,933 square feet, plus the Lower level above Final grade 3,266 square feet- total square footage equals 11,892 square feet as noted on the referenced survey).

The proposed 4,617 square foot pool house would effectively put Lot 11 over the 14,000 square feet allowable by the plat, therefore may not be approved by the Planning Department. This determination is based on the following:

1. First Amendment to Hearthstone Subdivision

(1) Plat note reads: "The Maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.

2. § 15-15-14 Defined Terms

1.165 MAXIMUM HOUSE SIZE. A measurement of Gross Floor Area.

1.107 FLOOR AREA.

A. *Floor Area, Gross Residential. The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet¹, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.*

1.105 FIRST STORY. The lowest Story in a Building provided the floor level is not more than four feet (4') below Final Grade for more than fifty percent (50%) of the perimeter. Can include habitable or uninhabitable Floor Area.

The previous determinations using Appraiser information are not applicable to this permit. You have the option of amending the plat or appealing the final determination to the Planning Commission. The Appeal process is Land Management Code Section 15-1-18. All appeals must be made within ten (10) calendar days of this Final Action.

If you have any questions regarding this determination, please don't hesitate to contact the Planning Department at 435-615-5060.

Sincerely,



Bruce Erickson, AICP
Planning Director

CC: Makena Hawley, Planner

Exhibit P - Original Appeal of Planning Director's first Determination

Joseph E. Tesch (A3219)
TESCH LAW OFFICES, P.C.
314 Main Street, Suite 201
P.O. Box 3390
Park City, Utah 84060-3390
Telephone: (435) 649-0077
Facsimile: (435) 649-2561
joel@teschlaw.com

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION**

DAVID CAMARATA

V.

PARK CITY PLANNING DIRECTOR

**NOTICE OF APPEAL OF PLANNING
DIRECTOR DETERMINATION OF
JULY 1, 2016**

PROJECT NO.: BD-16-22329

COMES NOW, David Camarata, owner of the residence located at 1376 Mellow Mountain Road, Park City, Utah, by an through his attorney Joseph E. Tesch and Tesch Law Offices, P.C. and hereby appeals the action of the Planning Director denying a building permit for a pool house at said residence, upon the following grounds and upon such other grounds as may come to light:

1. The First Amendment to Hearthstone Subdivision plat (the "Plat") calls out for this Lot (Lot 11) "The maximum house size... is 14,000 square feet, with no resulting additional square footage over 14,000 square feet allowed." Nowhere on the plat does the term FLOOR AREA appear nor is there any reference to Land Management Code ("LMC") §1.107, the code section used by the Planning Director in calculating the "maximum house size."

Since the term FLOOR AREA was available to the Owners dedicating the Plat and to the City in approving the Plat in 1999, the standard interpretation would be that the intent of those parties was to not incorporate LMC §1.107 into the maximum house size. Therefore, the application of §1.107 is

incorrect unless the intention to incorporate that section is by some evidence shown to be the intent of both parties to the Plat. None has been shown.

Therefore the Planning Director's decision to apply §1.107 appears to be contrary to the intent of the parties drafting and approving the Plat, and apparently because it was handy and contained some formula for determining "FLOOR AREA" but not "maximum house size" the Planning Director used it. But he was incorrect and, at best, arbitrary and capricious in doing so.

For instance, how did the Planning Director determine that the parties didn't intend maximum house size to be determined by using the previously determined Square Feet of Building of 8,457 as determined in January of 1992 by the City Building Department or the methodology employed by the Uniform Residential Appraisal Report?

2. In the year 1992 when the residence was first constructed, the Building Department determined the Floor Area to be 8,487 square feet. No one in the City or anywhere else appealed that determination of the Floor Area and it became the Floor Area. Admittedly, there was an 800 sq. ft. addition bringing the total square foot Floor Area to 9,287 square feet.

In 2016 the Planning Director re-measured this historic square foot Floor Area to total 11,892 sq. ft. This is contrary to law for at least two reasons:

- (a) when the 1992 measurement was not appealed by the City it became set and not variable any more than it could have been changed and altered by the Applicant after the time for appeal had expired; and,
- (b) there is no evidence that, as measured in 1992, it was in error according to the standard measurements used in 1992.

Therefore, while the Planning Director can use his best judgment in determining the square foot total of the requested pool house, that square foot determination can be added only to the original 9,287 historical square footage, which with the new 4,617 square feet computes to less than the maximum 14,000 square feet allowed.

3. The decision of the Planning Director is arbitrary and capricious.

4. Since Applicant has relied upon prior decisions of the City and has spent large amounts of money and resources based upon those decisions, the doctrine of equitable estoppel prohibits the City from denying the building permit for the pool house as requested.

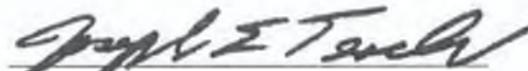
5. The decision by Makena Hawley of the Planning Department in approving the building permit on about April 20, 2016 was the correct decision and should prevail in place of the Planning Director's new decision.

6. The plat calls out a maximum of "14,000 square feet." It does not call out 14,000 square feet of "Floor Area." Therefore, the Planning Director's application of §1.107 Floor Area of the LMC is incorrect and, at best, arbitrary and capricious. The Planning Director's failure to research and apply the concept of the term Floor Area as applied by other sources is arbitrary and the arbitrary application of §1.107 cannot be the basis of his decision.

7. Such other Constitutional, Statutory and case law decisions as may be discovered (requiring an appeal to be filed within 10 days and also requiring to in that short span to fully set forth all the reasons for the appeal is a violation of procedurals due process).

Respectfully submitted this 20th day of July, 2016.

TESCH LAW OFFICES, P.C.


Joseph E. Tesch



Park City Municipal Corp
1 Finance
1620202-1 07/20/2016 BR1 T18
Wed Jul20,2016 04:04PM Trans#170-170
Name: CAMARATA DAVID BERNARD TRUSTEE
Addr: 1376 MELLOW MOUNTAIN RD PARK CIT
170 \$500.00 PRMT - Permits
* Cust #: 00010380
Permit #: PL-16-03247
1 ITEM(S): TOTAL: \$500.00
Check (00003847) PAID \$500.00



Exhibit P - Public Comment support letters from neighbors

To whom it may concern:

Dean and I have been a long term owner of Lot 2 in The Aerie. We know the home 1376 Mellow Mountain through the last three owners. The current owners, Terry and Dave Camarata have made some wonderful improvements to the exterior of the property which, as a neighbor who can see their home, is great. However, the construction of their pool house has been an issue for many months. The building they have proposed is tasteful, a compliment to their property, and in no way will impact our enjoyment of the neighborhood or anyone else's. Having spoken to others in the neighborhood, it is not only my feeling but others as well, that the city should let the project continue as originally permitted.

I spoke with the Camaratas last week and I was told the city had suggested a cover that was tentlike over the pool. That would not be aesthetic and I personally would not want to view it. Their home is one of the prettiest homes in the neighborhood and their construction has absolutely no impact on any one's enjoyment of their home. I am sure it is in the interest of our neighborhood and that of the Camaratas to allow them to complete the poolhouse plans that were approved many months ago. We are now going to have to look at the disrupted landscaping and construction fence for many more months, thanks to some bureaucrat that wants the Camaratas to put a "tent" over the pool—a ridiculous idea in Park City and especially The Aerie.

Sincerely,

Ginny Schulman, Associate Broker, GRI

Keller Williams Park City Real Estate

[\(435\) 602-3600](tel:(435)602-3600)

[\(435\)615-1228](tel:(435)615-1228)

(435) 602-3600 Ginny

(435) 602-3601 Dean

(435) 615-1228 Home

November 28, 2016

Re: 1376 Mellow Mountain Project Completion Recommendation

Dear Sir/Madam,

We are property owners at 1179 Aerie Drive and in relatively close proximity to the Camarata home at 1376 Mellow Mountain as they reside directly above us. It has come to our attention that the construction of their satellite pool house has been suspended and their permit pulled by the City. We certainly appreciate the City's vigilance and thoroughness in ensuring that our wonderful town adheres to only the highest building standards and maintains community integrity and continuity—it's one of the key reasons we determined that Park City, Utah, of all of the places in the world, would become our retirement destination.

In this case, after meeting the Camarata's and discussing their proposed plans in detail, we strongly support the completion of their project. First, it's clear that their home has been tastefully updated and only enhanced our unique hillside enclave. We trust the project at issue will further improve our neighborhood complexion and ultimately support higher property values. The current state is actually a detraction with chain linked fencing and a half completed pool cavity / rough structure. Upon completion, the proposed building and pool should seamlessly meld within the existing property footprint given the Camarata's available acreage. We believe a tent implementation, apparently suggested as an acceptable alternative by the City, would be a challenge given the volatile weather conditions we've experienced along the Aerie hillside, presenting both an extraordinary eyesore from all vantages, including from Old Town and, more importantly, a potential danger under windy conditions to neighboring households.

Accordingly, we are in favor of a re-validation of their previously approved proposal to enable fast tracking construction completion. We appreciate your time and consideration in this matter and would welcome a call or email to further expand upon our recommendation in support of the Camarata's.

Regards,

Thomas and Shanti Schiller
1179 Aerie Drive
Park City, Utah 80460
949.422.0880
thomas.schiller@gmail.com

December 4, 2016

Re: 1376 Mellow Mountain construction.

Dear Sir/Madam,

This letter is in support of the “Camarata” pool project, as originally designed, and previously approved by the city.

We live in the “Aerie’s” and the 1376 Mellow Mountain Camarata home is in full view from our residence. The current stalled state of construction has been an eyesore and economic burden for anyone wishing to sell their property in and around the “Aerie”. Furthermore, we have no concerns with the original design.

Please remove the current construction ban and allow completion of the project...as previously designed...as soon as possible.

Sincerely,

Craig and Patricia Kipp
1264 Aerie Dr
Park City UT 84060
craigkipp55@gmail.com

December 1, 2016

Re: 1376 Mellow Mountain Pool Completion

Dear Sir/Madam,

I have been involved in listing and selling 1401 Mellow Mountain Road which is the property across the street from the Camarata residence at 1376 Mellow Mountain Road. 1401 is the closest property that has any real view of the proposed pool on the Camarata property the new owner as well as the previous owner have had no concern of any impact of their pool house being built. To find out the Park City Building Department granted the building permit and then shortly later revoked it is illogical. The Camarata's have diligently worked to have this project completed only to be stymied by the city building department's change in attitude deciding to pull the permit that was previously granted. It seems to me if there are no neighborhood residents objecting to the construction of this pool house you need to re-grant the permit and allow this project to be completed. To be looking up at construction fencing for the next several years is not going to be an attractive option for any neighbor. Please reconsider reissuing the permit and allow this construction to be completed and the landscaping be restored. The Camarata building plans that were approved will be an attractive addition to the neighborhood if allowed to be completed. The improvements they have made to their property have already raised the neighborhood property values.

Please feel free to contact me for any additional information that I may be able to provide to assist in your decision to reissue their building permit.

Regards,

Scott Kelly

Realtor

435-640-4340

Scott.kelly@sothebysrealty.com

December 1, 2016

I represented Dave and Terry Camarata in the purchase of their residence at 1376 Mellow Mountain Road 6 years ago. From that time, the Camaratas have completed significant exterior improvements to the residence. All of the improvements have been of the highest quality and with the intent to enhance the property in a visually pleasing manner. In my professional opinion, as a local Realtor, I believe their improvements have also increased the nearby and the adjacent homeowners property values. Their property location and large acreage lot is an appropriate site for the pool structure and does not have any negative impact to neighbors.

I am, and have been for many years, an ardent supporter of strict zoning throughout the City and the Basin. There are many examples of poor past zoning and approvals that I think we can all agree are regrettable. In this case, I encourage you to work with the Camarata's in a swift manner to allow them to move forward on their pool structure application. It is my understanding the original approval had been pulled, leaving them and their contractors in a bind. This seems a perfect ease for a reasonable variance. We are all neighbors and strive to keep Park City a friendly and inviting town. Please extend this community spirit to Dave and Terry who support many of our local non profits and are exemplary citizens.



Kathy Mears
Realtor
Summit Sotheby's International Realty