

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 9, 2013

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Jack Thomas, Charlie Wintzer

EX OFFICIO:

Thomas Eddington, Planning Director; Kirsten Whetstone, Planner; Matt Evans, Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Wintzer called the meeting to order at 7:45 p.m. and noted that all Commissioners were present.

ADOPTION OF MINUTES

October 10, 2012

Commissioner Wintzer referred to page 55 of the Staff report, page 11 of the minutes, the last line of paragraph 5, and noted that Matt Cassel was incorrectly identified as the City Attorney. He corrected that to read **City Engineer**.

Commissioner Hontz stated that at the last meeting she had requested that someone re-listen to the recording to incorporate more of the details of her conversation with Matt Cassel regarding 264 Ontario. Based on verification with the recording, she referred to page 50 of the Staff report, page 6 of the minutes, fourth paragraph, and added a sentence at the end of the paragraph to read "**Mr. Cassel believed the road was approximately 15 feet.**"

MOTION: Commissioner Wintzer moved to APPROVE the minutes of October 10, 2012 as amended. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

December 12, 2012

Commissioner Hontz referred to page 97 of the Staff report, page 27 of the minutes, the last paragraph, and noted that the fourth line stated, "...a benefit to the landowner to go from 0-7units...". She corrected the minutes to replace 0-7 with 0 **to** 7 units for better clarification.

MOTION: Commissioner Savage moved to APPROVE the minutes of December 12, 2012 as amended. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

Jim Tedford recalled that at the last meeting the public was told that the discussion on the MPD revisions to the LMC would be continued to this meeting. He asked why that item was not scheduled on the agenda this evening, and when the public could expect the Planning Commission to continue that discussion.

Director Eddington stated that at the last meeting the Planning Commission had forwarded portions of the LMC amendments and continued the rest. Since it was not continued to a date certain the Staff felt it was more important to have the work session discussion regarding stories. He anticipated that the MPD discussion would be scheduled for the second meeting in February. The first meeting in February was primarily dedicated to Form Based Code.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Chair Worel noted that the Planning Commission needed to elect a Commissioner to the Blue Ribbon Commission on the Soil Ordinance and Soil Disposal Options. They also needed to elect a Commissioner to the Citizens Open Space Advisory Committee.

Joan Card, Environmental Regulatory Affairs Manager for Park City, stated that she was one of several involved in staffing the Blue Ribbon Commission on the Soils Ordinance and Soil Disposal Options. If those appointed to the Commission have a sense of humor, they would be called the Dirt Bags. Ms. Card remarked that the Commission is a task force style group tasked to look at the Soil Ordinance and the challenge associated with not having a local repository for soils that are impacted with historic mining tailings and waste. A lot of soil in town is impacted and to excavate that soil there needs to be an affordable disposal option. Ms. Card stated that the group would have an ambitious schedule and the intent is to complete the task within a six week period of meetings. The meetings would be held on Monday mornings at 10:00. They would not meet on President's Day, February 18th. The meetings would begin on February 4th and go into mid-March. Ms. Card reported that the City Council plans to appoint the Commission on January 24th.

Director Eddington reported that COSAC, the Citizens Open Space Advisory Committee, was being reconvened with a new Board. The purpose of the Committee is to help the City look at open space opportunities in the future. Meeting times and dates had not been established at this point. The Committee typically meets monthly or bi-monthly and it would be a mid-day meeting. Director Eddington believed the length of the COSAC Committee was two to three years.

Commissioner Savage asked if the appointment would be a designee of the Planning Commission. Director Eddington replied that both the COSAC and the Soils Ordinance appointees would be designees of the Planning Commission. If the Planning Commissioner's term ends, a new Commissioner would be appointed.

Commissioner Savage nominated Commissioner Gross for either committee. Commissioner Gross was interested in both committees; however, he would have to miss two of the six meetings proposed for the Blue Ribbon Commission. Ms. Card agreed that missing two or three meetings would be problematic.

Commissioner Thomas noted that Commissioner Wintzer has had a lot of experience with soils and he understands the ramifications and the issues.

MOTION: Commissioner Thomas nominated Commissioner Wintzer as the appointee to the Blue Ribbon Commission. Commissioner Hontz seconded that nomination.

VOTE: The motion passed unanimously.

Commissioner Hontz reported that she served two terms as a citizen-at-large on two previous COSAC. She understood that the rules had changed and that the Planning Commissioner appointee is only an advisory position without voting ability. City Attorney McLean was unable to confirm whether there was a change because she had not seen the terms for the new COSAC. Director Eddington stated that the stakeholder groups include Mountain Trails, Park City Chamber, the Planning Commission, Utah Open Lands and the Rec Advisory Board. He believed all the stakeholders were voting members.

Commissioner Hontz clarified that the point she wanted to make was that with the last two Committees there were a lot of opinions around the table that were not necessarily educated opinions. She did a lot of research and came to the meetings with all types of data and a background and knowing what the wildlife studies were on the parcels. It was often a battle because some wanted to purchase open space because it was a personal benefit to their home versus what was actually a valuable piece of open land. Commissioner Hontz stated that COSAC is an important committee and the Planning Commission needs a strong representative. She pointed out that the members are not given a Staff report and each individual is responsible for doing their own research.

Heinrich Deters verified that the Planning Commission appointee would be a voting member. He noted that there was not a set schedule for COSAC meetings and recommended an alternate in the event that the primary member could not attend.

MOTION: Commissioner Savage nominated Commissioner Gross as the primary appointee to COSAC and Commissioner Hontz as the alternate. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Planner Astorga reported that on December 23rd the house at 335 Woodside Avenue fell down. On December 28th the Staff and Building Department met on-site with the contractor, architect, structural engineer and a lifter contractor. An official recommendation was submitted yesterday on how to remedy the situation. The Staff was currently working on approving a plan that would fix

what happened. The proposal is to lift the house with a crane and the Staff was in the process of studying that proposal.

Commissioner Strachan asked what caused the house to fall down. Planner Astorga replied that the Building Department was trying to determine exactly what happened. Commissioner Strachan thought they should be cautious about jacked up buildings that accidentally fall down and then get demolished and rebuilt. Commissioner Wintzer had watched the house from the time it was lifted. He felt it was a timing issue and that the contractor did not do the job fast enough. The house sat in the air for six or seven months and it was only a matter of time before it fell.

Director Eddington clarified that the project was fully bonded and the Staff was working with the Building Department to ensure that the structure is preserved as best as possible. Cost was not an issue.

Commissioner Thomas stated that bracing is a huge component of any construction and it is the responsibility of the general contractor to provide bracing engineering. He suggested that the Planning Commission think about adding a condition of approval on those types of projects that require another level of engineering review. Commissioner Wintzer remarked that lifting a house is a specialized skill and it should be done by a licensed house mover.

Assistant City Attorney Polly Samuels McLean suggested that Chad Root, the Chief Building Official, attend the next meeting to explain the procedures and requirements for this type of project.

Commissioner Hontz disclosed that her husband works in the Sustainability Department; however that would not affect her decision-making on the City application for the tennis courts at 1580 Sullivan Road.

Commissioner Hontz asked about the notice on the Marsac Wall at the top of Hillside. Director Eddington stated that it was noticing for the appeal before the Historic Preservation Board regarding the project at 100 Marsac. Commissioner Hontz suggested that the sign be moved to a better location because no one can reach it on foot and there is no place to stop a car and get out and read the notice.

Commissioner Hontz commented on an applicant who wasted paper unnecessarily by printing out sections from the Code that the Commissioners already have and know. She found it infuriating and insulting because the Commissioners do their job and read the Code. She felt that anyone who had the need to reprint what the Planning Commission already has should pay the additional expense to print the Staff report.

Commissioner Thomas noted that the sign in the roundabout requires someone to physically cross the track at the roundabout to change the data on the sign. He knows the people who change the sign and they feel that their life is in jeopardy stepping across the walkway. The sign code does not allow digital signage and he felt it was worth considering a change in the sign code to allow digital modification of that sign.

Director Eddington stated that re-planning work for Deer Valley Drive was in process and the sign at the roundabout was one item being addressed, as well as lighting opportunities and retaining wall improvements along that road. Digital technology was being considered.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 1580 Sullivan Road – Conditional Use Permit (Application #PL-12-01644)

Planner Astorga reported that at the last meeting the Planning Commission forwarded a positive recommendation to the City Council for a subdivision at 1580 Sullivan Road to resolve a lot line issue. The subdivision was scheduled to be reviewed by the City Council the following evening. The item before the Planning Commission was a conditional use permit for the expansion of the use. Two tennis courts currently exist on the property and the City would like to add a third court. Planner Astorga believed the request was adequately outlined in the Staff report. Ken Fisher and Matt Twombly, representing Park City Municipal Corp., were available to answer questions.

The Staff recommended that the Planning Commission consider approving the requested expansion of the use based on the findings of fact, conclusions of law and conditions of approval outlined in the Staff report.

Commissioner Wintzer asked if the lighting would be the same intensity. Mr. Twombly stated that the lighting would be stronger but still within the requirements of the lighting code. He recalled that it was 1500 watts. However, the new lights would have louvers and shields, which are not present on the current lights.

Commissioner Thomas understood that the light would be galvanized metal poles. Mr. Twombly remarked that a condition of approval requires the poles to be painted. Commissioner Thomas noted that lighting at Quinn's Junction are galvanized poles. He believed too many galvanized poles sticking up create a bigger visual impact. Commissioner Thomas suggested that they explore different options for something non-reflective and darker in color. He would prefer a non-reflective dark bronze pole.

Mr. Twombly stated that based on his discussions with Staff, the poles would be painted black. Planner Astorga noted that painting the poles was addressed in Condition #4, "The galvanized steel poles shall be treated or painted to remove the reflective aspect so they do not stick out". Commissioner Thomas was comfortable with painted poles as long as they are painted a non-reflective color.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Hontz referred to Finding of Fact #4 and added a colon at the end of the first line after the word “the” and before “entry area”.

MOTION: Commissioner Wintzer moved to APPROVE the CUP for 1580 Sullivan Road in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1580 Sullivan Road - CUP

1. The site is located at 1580 Sullivan Road, known as City Park.
2. The site is within the General Commercial (GC) District.
3. The site contains two (2) tennis courts.
4. The City requests to add another tennis court west of the existing courts over the: entry area, concrete sidewalk, bark mulch path, and portion of the landscape area.
5. The City requests to reconstruct the two (2) existing tennis courts by adding another layer of concrete, replacing of all of the fencing and replacing the four (4) light posts and fixtures with more efficient lighting.
6. The City proposes to reconfigure the entrance to the courts and also add a new ADA access, re-grade, the existing berm (for the new ADA sidewalk, and reconfigure the drainage around the proposed court.
7. The City filed this CUP application to move forward with the proposed improvements at City Park.
8. The expansion of the tennis court, a Public Recreation Facility is conditional use in the General Commercial District.
9. A fence over six feet (6') in height from final grade is a conditional use in the General Commercial District.
10. The site, City Park, has ample size for the proposed expansion.
11. There are minimal traffic impacts associated with the expansion of the use.
12. The proposed use is located at City Park, which has access off Sullivan Road towards Deer Valley Drive, a major collector street, and access off Park Avenue, a major bus corridor in the City. The site is also accessed off the rail trail, a major pedestrian trail.
13. No additional utility capacity is required for this project.

14. Emergency vehicles can easily access the site.
15. The proposed expansion of the use does not increase the amount of off-street parking.
16. The parking areas are directly accessed off Deer Valley Drive through Sullivan Road and through Park Avenue.
17. The existing height of the fencing is approximately twelve feet (12').
18. The applicant proposes the new fencing around the three (3) courts to be lowered to ten feet (10').
19. The proposed additional court (third) court will be placed over an existing concrete sidewalk leading to the tennis courts, back mulch pathway, and over a small landscaped area containing two (2) deciduous trees and several shrubs.
20. The improvements include a new fence around three (3) newly constructed tennis courts. The existing courts will receive a new layer of concrete and will be at the exact location. The new court will be located directly west of the existing courts. The three (3) tennis courts will be lined up on a side-by-side configuration.
21. The requested use will be changed from passive open space to active open space. The use will still be usable open space.
22. No signs are proposed at this time.
23. The applicant also proposes to replace all four (4) existing light posts.
24. The proposed lighting fixtures cut operating costs in half and reduces spill light by 50%.
25. The applicant has indicated that they are unable to use the existing wooden posts because of the Building Department's requirement that specific engineering is required to authorize the more efficient lighting fixtures on the existing wooden posts.
26. The applicant requests to replace the existing poles with the proposed galvanized steel poles.
27. The applicant proposes fencing consisting of wooden posts (similar to the existing material) and black vinyl coated chain link.
28. Staff finds that the proposed materials provide a look and feel that is compatible with our character.

29. Staff finds that the existing materials meet the purpose statements as they contribute to the distinctive mountain resort character of our City, which is not repetitive of what may be found in other communities.
30. There isn't any noise, vibration, odors, steam or mechanical factors are anticipated that are not normally associated within City Park.
31. There are no anticipated deliveries, services vehicles, loading zones and screening associated with the proposed expansion.
32. Park City Municipal Corporation, the City, will retain ownership of the property as well as management of the park.
33. The proposal is not located within the Sensitive Lands Overlay zone.

Conclusions of Law – 1580 Sullivan Road - CUP

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

Conditions of Approval – 1580 Sullivan Road - CUP

1. All standard conditions of approval shall continue to apply.
2. The same amount of removed vegetation will be added to the park in another location.
3. The site shall comply with specific standards for recreation lighting outlined in LMC 15-5-5-(l) (11).
4. The galvanized steel poles be treated or painted to remove their reflective aspect so that they do not stick out.
5. Salvageable material shall be used throughout the project as construction waste should be diverted from the landfill and reused and recycled when possible.
6. Existing water lines run adjacent to the existing courts. These water lines will need to be relocated prior to construction.
7. This project shall comply with the City's Soils Ordinance.

**2. 99 Sampson Avenue – Conditional Use Permit for nightly rental
(Application PL-12-01720)**

Commissioner Strachan reported that when he went by the site there was not a sign noticing this project. Commissioner Gross had the same experience. Planner Evans stated that a sign was put there. Commissioner Strachan clarified that the issue was not whether the signs are being posted; but rather the fact that the signs were not staying up. Commissioner Gross thought the sign may have been knocked down by the snow plow.

Planner Matthew Evans reviewed the application for a conditional use for a nightly rental at 99 Sampson Avenue. It is a 3-bedroom, 3-bathroom, 3400 square foot home that was built in 1983. Also included is a 672 square foot garage as two legal off-street parking spaces. The home has frontage on to both Sampson Avenue and King Road. The zoning is HR-L. Nightly rentals are a conditional use in the HR-L zone and require Planning Commission approval.

Planner Evans noted that the Staff report contained background and history on the structure. The last nightly rental that came before the Planning Commission was for 60 Sampson Avenue. The Planning Commission had issues with that particular application and denied the CUP. The denial was appealed to the City Council and the Council reversed the Planning Commission decision and added findings of fact and conditions of approval in addition what the Staff had originally drafted.

Planner Evans stated that in looking at this current application and based on its proximity to 60 Sampson Avenue, the Staff parlayed the same findings of fact and conditions of approval from 60 Sampson Avenue for 99 Sampson Avenue with minor revisions. He noted that there are differences between the two homes; primarily the fact that 60 Sampson Avenue is a historic home and 99 Sampson Avenue is not. Another difference is that 99 Sampson has two enclosed off-street parking spaces. The Staff was still concerned with parking as addressed in the findings of fact and the conditions of approval.

Planner Evans referred to a nightly rental map on page 129 of the Staff report based on a previous study of nightly rentals in the vicinity of the proposed location. He noted that there were 15 criteria under the conditional use process that the Planning Commission must consider. The Staff had reviewed the criteria, as well as the issues raised during the previous review process for 60 Sampson Avenue. The Staff had made recommendations on the best ways to mitigate some of the issues associated with a nightly rental. The Staff has drafted 24 findings of fact and 11 proposed conditions of approval. Planner Evans remarked that the primary issues that were raised during the nightly rental review for 60 Sampson Avenue included occupancy, management, providing information in the materials to perspective renters, and proper management of trash receptacles.

Commissioner Thomas assumed that Drawing A-1 on page 143 of the Staff report was the site plan.

Planner Evans replied that it was a site plan from 1983. Commissioner Thomas remarked that the site plan did not clearly designate the street. Planner Evans used the cursor to show the edge of Sampson Avenue. He reviewed what he considered to be a better illustration on page 131 of the Staff report. He noted that the dashed red lines come from the street to the front of the garage.

Commissioner Thomas asked if the driveway was approximately 24-25 feet long. Planner Evans replied that this was correct.

Janet Margulies, an agent representing Richard Wilson, the owner/applicant, stated that the Staff report adequately outlined the proposal and she was available to answer questions.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Hontz felt it was difficult to move forward based on the reversal of their last decision. However, the same concerns discussed in the application for 60 Sampson Avenue still apply with this application. She still believed that the way the mitigations were recommended shifts the burden of enforcement to the neighborhood and she finds that unacceptable. Commissioner Hontz disagreed that the impacts were fully mitigated by the proposed solutions. She was uncomfortable with the format of the Staff report because it says after each criterion that there are no unmitigated impacts. She pointed out that the impacts are only mitigated with conditions. If conditions are not implemented or the owner does not follow the conditions, then the impacts are not mitigated. Commissioner Hontz referred to page 130 of the Staff report and noted that her comment related to Criteria 2, 4, 5 and 12, at a minimum. She also had issues with trash pickup and the 15 hour requirement. Hypothetically, if trash is picked up on Thursday at 8:00 a.m., the manager could put the trash out on Wednesday and 5:00 p.m. and the trash receptacle could sit there until 5:00 p.m. on Friday. Three days out of seven a trash can would be sitting on the street. She noted that recycling is not even addressed so there is no limitation on how long that could sit on the street. Commissioner Hontz stated that she would have problems approving this request because it promotes bad neighborhood relationships.

Commissioner Hontz stated that she would not be able to find for any of the Findings of Fact because the impacts need to be mitigated via conditions. In her opinion, those are not unmitigated impacts. She suggested either re-writing the findings or removing the impacts from the findings of fact. She also proposed that the Planning Commission consider further limiting the trash by adding recycling to Condition of Approval #8.

Commissioner Gross stated that as a City representative he has sat through meetings and reviewed projects and he keeps hearing how Old Town is becoming seasonal and second home owners. Commissioner Gross asked if this was becoming rental sprawl. If that is something they wanted to do as a community that would be one thing, but with the number of requests they were seeing, he was concerned that everything in Old Town would eventually be nightly rentals. He felt it was an undue burden on the City to make sure the property is managed properly and that the conditions are being met to mitigate the impacts.

Commissioner Strachan recalled discussing this same concern at great length with the last nightly rental application. However, despite their discussion and reasons for denial, the City Council chose to reverse the decision. Commissioner Strachan agreed with Commissioners Gross and Hontz, but

he thought their hands were tied and that they needed to consider approval. It tears away at the fabric of Old Town, but there was nothing the Planning Commission could do to stop it.

Commissioner Strachan thought the best way to address the issue would be to change the LMC to remove nightly rentals as a conditional use. It should either be an allowed use or prohibited. Commissioner Thomas recalled that the Planning Commission had that discussion several times in the past and had requested that the conditional uses be examined for each zone. Unfortunately, that has not yet occurred.

Commissioner Savage presented a theoretical situation where a house had a CUP to allow nightly rentals and that was the use for that particular house; but a later change in the LMC no longer allows nightly rentals as a conditional use for that particular zone. He understood that the use was grandfathered, but he wanted to know what would happen if the ownership changed and whether the use was grandfathered to the property or the owner. Assistant City Attorney explained that the use is grandfathered to the property as long as it is continually used as nightly rentals and there has not been a one-year lapse. Commissioner Savage asked if that was dictated by State law or whether the City has control. Ms. McLean replied that it was a State law requirement that is mimicked in the LMC. Commissioner Wintzer stated that when the zone was first established nightly rentals were not allowed in the zone. However, that was overturned without looking at all the consequences. He pointed out that once something is allowed it is easy to upzone but it is impossible to downzone. That is why issues need to be looked at deeper than just an individual project. They need to look at it from the standpoint of a neighborhood and a city. Commissioner Wintzer did not believe this was being done well enough.

City Attorney McLean corrected her earlier statement by clarifying that State Code does allow the ability to not allow grandfathering, but it is not an easy process.

Chair Worel agreed with Commissioner Hontz that the burden of enforcement is on the neighbors to monitor what goes on. She asked if the neighbors would report any violations to the police department. Ms. McLean stated that the City also has Code Enforcement in the Building Department. Commissioner Wintzer remarked that regardless of who they report to, the point is that the neighbors are left with the responsibility of filing the complaint.

Chair Worel asked if the nightly rental privilege could be withdrawn if a certain number of complaints are logged. Planner Evans explained that the Planning Commission would hold a public hearing to rescind the conditional use permit. Ms. McLean stated that if the conditions of approval are violated, the conditional use permit would come back to the Planning Commission for review. The Planning Commission could specify the number of violations that would trigger a review; otherwise it would be at the Staff's discretion. Commissioner Wintzer thought it should be a standard condition of approval for every nightly rental. Commissioner Strachan agreed. A business can have its business license revoked for violations and this was no different.

Assistant City Attorney McLean explained that there are two components with nightly rentals. The first is the conditional use permit. The second component is the business license, which also has certain requirements. Therefore, if someone does not abide by the requirements of the business license, they would also risk having their business license revoked. Commissioner Strachan asked

if it was valid to have a condition of approval stating that the conditional use permit would be revoked for one violation. Ms. McLean remarked that the CUP would need to go through the proper review process before it could be revoked. Commissioner Strachan asked if it was possible to add a condition stating that the business license would be revoked after one violation. Ms. McLean clarified that the business license was separate with different criteria and it could not be tied to the CUP. Commissioner Strachan thought they would have to tie compliance with the conditional use permit to the business license. It would not be conditioned on obtaining the CUP; but a failure to fulfill the requirements of the CUP would result in losing the business license. Ms. McLean stated that the CUP gives the rights to the use, so the Planning Commission would want to revoke the CUP. Commissioner Strachan pointed out that if they could not prohibit nightly rentals they would want to ensure compliance with the conditions.

Commissioner Thomas recalled that in the past conditional use permits had a one-year review before the Planning Commission to make sure the conditions had been mitigated. He was unsure if State law no longer allows that flexibility, but it was a way to evaluate the CUP. Commissioner Hontz noted that Condition of Approval #10 calls for a one-year review before the Planning Commission. Commissioner Gross asked if the review was only after the first year or every year. Planner Evans replied that after the first review the Planning Commission could request another review in one year. Ms. McLean stated that another mechanism used in the past was that three complaints would trigger a review before the Planning Commission. Commissioner Strachan was comfortable with the reviews as long as they were noticed as a potential loss of the CUP.

Commissioner Wintzer believed the neighborhood was still the issue because no matter who complains you lose the neighborhood. In looking at the rental map, Commissioner Savage assumed that approximately 30% of the houses in the area have this use. He thought the only meaningful leverage was to find a mechanism to modify the LMC to discontinue this conditional use to mitigate the ongoing evolution of the problem.

Commissioner Strachan could not understand how someone could maintain their business license if they were in violation of the CUP. Ms. McLean recommended that the Planning Commission separate the CUP from the business license. If someone does not renew their business license in a timely manner, they are still permitted to renew the license after paying a late fee. However, the conditional use can be revoked after a one year period. The requirements are different because a business license is different than a use. A conditional use is an allowed use with mitigated impacts; and a CUP can be denied if the impacts cannot be mitigated. That is a different standard than a business license where the underlying use is already permitted and it is only a matter of licensing.

Commissioner Strachan asked if a CUP could be suspended for a time indefinite. For example, after one year from approval the CUP is suspended and it is noticed to see if there are any complaints. The Staff would prepare a Staff report and if the Planning Commission determines that the CUP has not been complied with and the impacts have not been mitigated, then the suspension becomes permanent. Ms. McLean stated that the suspension would have to be related to actual misdeeds. If they make it an annual review, the Staff could notice the neighbors within the same noticing requirement of the initial CUP.

Commissioner Wintzer thought it was impractical to have yearly reviews for every CUP. Commissioner Hontz suggested that a CUP be reviewed only if there were issues or complaints, and the review could take place at any time within the year.

Commissioner Hontz understood that the business license requirements for trash cans on the street were more restrictive than the Conditional Use Permit. Ms. McLean read the business license requirements regarding trash for nightly rentals. "Trash collection, which ensures that trash cans are not left at the curb for any period in excess of 24 hours and the property must be kept free from refuse." Commissioner Thomas stated that the business license language was better and he thought the conditions for the CUP should reflect that language. Commissioner Hontz agreed.

MOTION: Commissioner Savage moved to APPROVE the conditional use permit for 99 Sampson Avenue based upon the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Gross seconded the motion.

Director Eddington suggested that the motion include a modification to Criterion 12 in the Staff Report, as identified in Condition #8 related to trash cans, and modify the 15 hours before and 15 hours after to match the Business License requirement, which is a maximum of 24 hours for trash to be left out.

Commissioner Savage amended his motion to include the modification to Criterion 12 in the Staff Report and Condition #8.

Commissioner Thomas asked if they should also modify Condition #11 to include a three complaint trigger to bring the CUP back to the Planning Commission. Commissioner Savage felt that if there was a complaint, the issue needed to be fixed. If it is not fixed appropriately, the CUP would be revoked. If a complaint is logged in six months, the CUP could still be revoked as a consequence of non-compliance. He believed there was already a mechanism in place to deal with the existence of a problem, and the one-year time frame is the mechanism to address the possibility of a problem. Commissioner Savage thought the Planning Commission should address the question of whether or not to implement a change in the LMC to stop the nightly rental problem.

Commissioner Savage re-stated his motion to APPROVE the conditional use permit for 99 Sampson Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report with the amendment to Criteria 12 regarding the 24 hours limit on trash cans. Commissioner Gross seconded the motion.

VOTE: The motion passed 5-1. Commissioners Savage, Thomas, Strachan, Gross, and Wintzer voted in favor of the motion. Commissioner Hontz opposed the motion.

Commissioner Hontz explained that she had voted against the motion because she disagreed with the Findings of Fact that the actual impacts were mitigated, and she did not believe that the Findings accurately represented the situation.

Commissioner Savage noted that the nightly rental issue has come up multiple times and he expected it would come up again. He asked Director Eddington what the Planning Commission

could do to find a solution rather than continue a repetition of the issue. Director Eddington stated that in working on the General Plan the Staff tried to identify primary versus secondary neighborhoods. He requested that the Planning Commission not address the issue until after they see the Staff recommendations in the General Plan. Commissioner Savage assumed there would be a modification to the LMC subsequent to the completion of the General Plan.

Findings of Fact – 99 Sampson Avenue

1. The property is located at 99 Sampson Avenue. The property is improved with a 3,490 square foot, three (3) bedrooms, one den/studio, three (3) bathrooms, and single family house.
2. The subject property is located within the Historic Residential Low Density (HRL) zoning district.
3. The house at 99 Sampson Avenue is located on an approximately 4,360 square feet (.10 acres) lot. Minimum lot size in the HRL district is 3,570 square feet.
4. Nightly rental uses are subject to a Conditional Use Permit in the HRL District.
5. The Planning Commission finds that there are no unmitigated impacts to Criteria 1-15 as outlined in LMC Section 15-1-10(E) if the applicant adheres to the mitigation measures as proposed.
6. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #1 (Size and Location of the Site), that the site and size of the home is suitable for nightly rentals with the number of persons limited to no more than either person occupying the home overnight as conditioned within the Conditions of Approval.
7. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #2 (Traffic) of Section 15-2.1-2, LMC, and that the proposed Nightly Rental may contribute some level of increased traffic; however, the trip generation for long term rentals, seasonal work force rental, and/or housing for permanent residents, is generally greater than that of short term vacation rentals. As a potential mitigation measure limit the number of people occupying the Property during any given rental period to no more than eight (8). Applicant shall include express references to this limit in the marketing material and rental agreements for the Property.
8. The City Council finds that there are no unmitigated impacts with respect to Criterion #3 (Utility Capacity) as no additional utility capacity is required for a night rental, and utilities for a nightly rental use are consistent with the available utilities associated with a typical single-family dwelling.
9. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #4 (Emergency Vehicle Access). The nightly rental business license triggers an inspection of the house by the Park City Building Department and all IBC and Fire Code

requirements have to be met prior to issuance of a business license. Nightly rental use does not change the requirement for, or conditions related to, emergency vehicle access which exists on Sampson Avenue and King Road, and that the double-frontage of the home allows emergency access from two sides, Sampson Avenue and King Road.

10. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #5 (Location and amount of off-street parking). Pursuant to LMC 15-3-6 parking for the first six (6) bedrooms of a Nightly Rental is based on the parking requirement for the unit. The home has three (3) bedrooms with a studio/den, and thus would not exceed the requirement. Furthermore, the parking requirement is the same as that required for the existing home which would be two (2) legal off-street parking spaces and the site has two fully enclosed parking spaces available within the garage.
11. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #6 (Internal circulation system). The home is accessible from both Sampson Avenue and King Road. Access to the site could be complicated during winter months, but the same is true for all local residence and other nightly rentals within the vicinity. The internal circulation within the home is not an issue due to the fact that the home is fairly modern and is typical of other homes within the area.
12. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #7 (Fencing, screening and landscaping to separate uses). The site is heavily landscape, has retaining walls and existing mature trees, making only the very front and rear of the house visible from adjacent properties. The property appears to be well kept and in good condition.
13. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #8 (Building mass, bulk, orientation and the location on the site, including orientation to adjacent buildings or lots) as the size of the existing house, relative to surrounding buildings, mitigates impacts from building mass, bulk, orientation and location on the site.
14. The Planning Commission finds that Criterion #9 (Usable open space) is not applicable due to the fact that open space is not a requirement for a Night Rental; however, the lot is larger than a typical Old Town lot and does provide some outdoor spaces, patios, and decks for renters to enjoy.
15. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #10 (Signs and lighting) as the applicant is not proposing signs or additional light, and signage is not allowed per the Conditions of Approval.
16. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #11 (Physical design and compatibility) with surrounding structures in mass, scale and style) has no unmitigated impacts in that the home is similar in height, size, scale and mass to most of the homes on Sampson Avenue.

17. The Planning Commission finds that there are no unmitigated impacts with respect to Criterion #12 (Noise, vibration, odors, steam or other mechanical factors that might affect people and property off-site). It is not anticipated that the nightly rental would cause additional noise, vibration, odors, steam or mechanical factors above and beyond those normally associated with a detached single family dwelling in Old Town, and as a means to mitigate potential odors, trash and unsightliness, a condition of approval will be to require that the property management place trash receptacle(s) out for trash pick-up and be placed back properly back onto the property within twenty-four (24) hours as required by code.
18. The Planning Commission finds that there are no unmitigated impacts associated with Criterion #13 (Control of delivery and service vehicles, loading and unloading zones, and (screening) as it is anticipated that the Nightly Rental would not necessarily increase deliveries or additional service vehicles at the property. It is conceivable that renters may use taxis and shuttle services, but the infrequency of such vehicles would likely not create a burden in the neighborhood. As part of the Conditions of Approval, Staff is proposing that the Planning Commission review the Nightly Rental one-year after is approval for compliance with the other conditions. The Planning Commission could then consider if the Nightly Rental caused an increase in delivery or service vehicles associated with the same.
19. The Planning Commission finds that there are no unmitigated impacts associated with Criterion #16 (Expected ownership and management of the property). As a condition of approval, the applicant must agree to use a Property Management Company to manage the Nightly Rental business. The home is currently used by the owner, who resides in California, as a secondary residence.
20. The Planning Commission finds that there are no unmitigated impacts associated with Criterion #15 (Sensitive Lands Review) as the home is not located within the Sensitive Lands Overlay Zone. The home is existing, and the use as a Nightly Rental is contained within the existing structure, and no expansion of the home is being proposed at this time.
21. Parking at the property is limited to the garage and driveway, which accommodates two (2) legal parking spaces. The applicant has agreed to limit the number of motor vehicles parked on the Property during any given rental prior to no more than two (2) within the enclosed garage.
22. All-wheel or 4-wheel drive vehicles may be necessary to access the nightly during winter months.
23. The applicant has been informed of the potential conditions based on those imposed on the Conditional Use Permit for 70 Sampson Avenue, and stipulates to the conditions of approval as proposed by Staff.

Conclusions of Law – 99 Sampson Avenue

1. Nightly rentals are a Conditional Use in the HRL District.

2. The proposed nightly rental use as conditioned is compatible with surrounding structures in use, scale and mass, and circulation.
3. The proposed nightly rental use as conditions is consistent with the Park City General Plan.

Conditions of Approval – 99 Sampson Avenue

1. All standard project conditions shall apply.
2. A business license and inspection of the property by the building department are necessary to ensure that the business owners are verified and the property meets all applicable fire and building codes.
3. A detailed review against specific requirements of the Uniform Building and Fire Codes in use at the time of business license application is required as a condition precedent to issuance of a business license.
4. No exterior commercial signs are approved as part of this CUP. All signs are subject to the Park City Sign Code.
5. The Applicant shall at all times have a property management company based in Summit County under contract and responsible for functioning as Applicant's agent with regard to all matters concerning nightly rental of the Property.
6. The Applicant shall limit the number of people on the Property during any given rental period to no more than eight (8) persons total. Applicant shall include express references to this limit in the marketing materials and rental agreements for the Property.
7. The Applicant shall limit the number of motor vehicles parked on the Property during any given rental period to no more than two (2). Said vehicles shall be parked in the garage at all times. Applicant shall include express references to this limit and the stipulation that the vehicles must be parked in the garage within the marketing materials and rental agreements for the property.
8. Trash cans shall not be left at the curb for any period in excess of 24 hours and the property must be kept free from refuse in accordance with the City's Business License requirements.
9. Applicant shall include that all-wheel drive or 4-wheel drive may be necessary to gain access to the property during winter months in the marketing materials and rental agreements for the Property.
10. The applicant shall agree to monitoring of the Conditional Use Permit by the City and shall come back before the Planning Commission after one year from the date of this approval for a review of the Conditional Use Permit for compliance with the Conditions of Approval.
11. A pre-HDDR application is required for any exterior work needed as a result of the Building Department inspection and identification of building code deficiencies prior to the issuance

of the Business License for the Nightly Rental. A building permit is also required prior to the commencement of any interior or exterior work on the home.

**3. 427 Main Street – Conditional Use Permit
(Application PL-12-01672)**

Planner Whetstone reviewed the request for a conditional use permit for commercial uses in the HR2 Zone. The building is located at 427 Main Street. The HR2 zone is the portion of the lot that is Park Avenue. The proposed uses are in a 1,261 square foot space located within the War Memorial Building and located on the lower level beneath the dance floor. The applicant was issued a building permit in 2007 to excavate the space and it was used as back of house. Now the applicant would like the ability to lease this out to one of the tenants, either the bar on the south side or the restaurant, for the option of using this space.

Planner Whetstone reported that in the HR2, Subzone "A" any use of this space is subject to 15 criteria and a conditional use permit is required in order to commence any commercial uses. Planner Whetstone reviewed a slide showing that the space back portion on Park Avenue and noted that the subject space is below the grade of the street.

Planner Whetstone stated that the Staff Report contained the Conditional Use Permit Action Letter for Harry O's, which was at a time when bars required a conditional use permit. Bars are now an allowed use in the HCB zone and in the HR2 subject to a conditional use permit.

The Staff report included the analysis of the 15 criteria, as well as the 15 criteria for conditional use permits. The Staff found that the impacts had been mitigated by either the existing physical situation of the space or by the conditions of approval. The Staff recommended that the Planning Commission conduct a public hearing and consider approving this conditional use permit based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

Commissioner Wintzer recalled a parking requirement on Main Street where exceeding a certain height increased the need for parking and the applicant paid into that. He asked if that was applicable with this application. Planner Whetstone stated that it was determined that this property was a historic building and exempt from the parking requirement. She pointed out that this building would not exceed the height to trigger the requirement Commissioner Wintzer had referred to.

Commissioner Strachan wanted to know the number of parking spaces behind the building. Planner Whetstone replied that there were 10 spaces, but the parking agreement only gives the exclusive right of four in exchange for maintaining the sidewalk and the staircase that comes up for the Blue Church. That agreement is still in place. The other six spaces are for residential parking permits and that is enforced by the City. Commissioner Strachan noted that Condition #6 only addresses four spots. Planner Whetstone replied that per the agreement, parking other than the four spaces identified were a first come/first served by the public. Commissioner Strachan felt there should be no loading and no activity back there.

Commissioner Hontz referred to page 166 of the Staff report, Criteria 5, which talked about parking license and stairway maintenance. Her question to the City was how they were doing and how that

was signed. She was comfortable with the parking arrangement as long as members in the community understand that they can park in those other six spots. When she used to walk the stairway it was quite messy. She referred to Item 9 on page 164 of the Staff report and noted that twice in December she saw ten or twelve trash cans on the sidewalk that prohibited people from walking down Main Street. The cans were related to the bar and that building. Commissioner Hontz did not have a problem with this application, but the trash cans were a problem.

The applicant's representative stated that the tenants are responsible for taking their own trash in and out. She has spoken with Debbie Wilde with Code Enforcement and whenever the tenants leave the cans on the street beyond the 10:00 a.m. time specified in the Code, Ms. Wilde calls her and the tenants are fined.

Chair Worel noted that Condition #4 states that the trash service shall be provided from Main Street and not include the use of Park Avenue. However, page 168 of the Staff report states that trash service on Park Avenue is contemplated in the Parking License and Stairway Maintenance Agreement. If that was being contemplated, she asked if it should be included in the conditions of approval. Commissioner Strachan assumed it was an error and it should say that trash service on Park Avenue is not being contemplated. Planner Whetstone replied that it was contemplated in the Parking License Agreement. She suggested that they change the language to say that it was contemplated on Park Avenue. Director Eddington clarified that it was making note that they understand that it was contemplated, and the condition of approval is that it not be utilized.

Commissioner Hontz requested that the word "recycling" be added to Condition #4. Commissioner Hontz asked about the fence. Commissioner Strachan pointed out that Condition #9 addressed the fence and fence repair. He believed it was left to the discretion of the Staff to determine whether the fence is in good condition. However, he would personally give the Staff gentle direction that it was not in good condition.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Strachan revised Condition of Approval #6 for the Commissioners to consider. "All parking areas on Park Avenue shall not be used by employees, patrons, band members, taxis, shuttles, other non-owners and/or managers or for any other commercial use". There was no objection from the Commissioners.

Commissioner Gross asked if they could add a condition requiring them to paint the front of the building. Ms. McLean replied that conditions have to be tied to the use.

MOTION: Commissioner Hontz moved to APPROVE the conditional use permit for 427 Main Street based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 427 Main Street

1. The subject space is located with a building that is located at 427 Main Street.
2. The building is located within both the Historic Commercial Business (HCB) and Historic Residential 2 (HR-2) Subzone “A” districts.
3. The building, known as the war Memorial Building, is a Landmark historic building on the Park City Historic Sites Inventory and was constructed in 1939. The building is considered to be in good condition.
4. The building is owned by War Memorial LLC, a Utah limited liability corporation. This owner does not own other adjacent properties are not included in this application.
5. The historic building is a legal non-complying building with respect to setbacks on the north side. The historic building is exempt from parking requirements.
6. The total lot area for the building is 18,750 sf and the total floor area is 26,104 sf, including the 1,261 sf subject space on the lower level within the building. No additional floor area is proposed.
7. The total lot area within the HCB zoned portion of the property is 9,375 sf. The HCB zone allows a maximum Floor Area Ratio of 4.0 which equates to 37,500 sf of total floor area. The entire building contains approximately 26,104 square feet of Gross Floor Area. The entire basement level contains a total of 12,970 square feet, including the boiler and utility areas. The building does not exceed the maximum FAR of 4.0.
8. Currently the 1,261 sf subject space is utilized as general storage for the building, not related to any specific use or tenant. The applicant proposes to lease out this space for commercial uses for additional seating area for either a restaurant or a bar on the lower level, or as retail space. No exterior changes to the building are proposed with this application.
9. There are no residential units on the property and no residential units on Park Avenue are possible due to the configuration and location of the historic structure.
10. The building contains two stories with a mezzanine level around the main level dance floor.
11. The proposed commercial space is located within an existing building and no changes to building height are proposed. The building does not exceed the maximum building height in either the HCB (45’) or the HR-2 Subzone “A” zoned portion of the building.
12. The owner was granted a building permit in 2007 for excavation of the 1,261 sf space on the lower level. The space is entirely within the HR-2 Subzone “A” zoned portion of the building.

13. On December 20, 2012, the City Council approved a Land Management Code amendment to include bar uses as a conditional use within the HR-2 Subzone "A".
14. The building currently contains commercial uses (restaurant, bar, and night club uses). These uses are allowed uses within the HCB zone. The night club use was originally approved as a Conditional Use on January 13, 1999. Private clubs and bars were changed from conditional uses to allowed uses in the HCB zoning district, with the 2000 LMC Amendments.
15. The existing commercial uses are located within both the HCB and the HR-2 Subzone "A" zoned portions of the building. The existing commercial uses within the building (Park City Live and O'Shucks) are located within both the HCB and the HR-2 Subzone "A" zoned portions of the building. The existing commercial areas, as well as the currently vacant tenant spaces on the lower level have been utilized continuously for commercial uses since before the HR-2 Subzone "A" district was created in 2000, and for temporary Special Events during the Sundance Film Festival since 2004. The subject space has not been previously utilized for commercial uses and therefore requires a conditional use permit to be used as restaurant, bar, or retail space.
16. Restaurants, bars, and retail uses within the HR-2 zone require a Conditional Use Permit (CUP) with review and approval by the Planning Commission.
17. The conversion from storage to commercial use does not change the total Gross Floor Area of the building because storage space is included in the total Gross Floor Area calculations for commercial buildings.
18. The subject space is entirely enclosed within the existing building and no exterior changes are proposed as part of the Conditional Use Permit. Access to the space is from the main entrance to the building on Main Street.
19. There are no significant traffic impacts associated with converting the subject space to a commercial use as the area is less than 5% of the total floor area of the building. The building has only four (4) parking spaces and therefore patrons and employees are required to park elsewhere and walk or take public transportation.
20. No significant additional utility capacity is required for this project and no additional water fixtures or restrooms are proposed.
21. No emergency vehicle access impacts are associated with the project as the building is accessible from Main Street and Park Avenue for emergency vehicles.
22. No additional parking requirements are required. The building was exempt from the requirements of the downtown parking improvement district because it was an historic public building at that time. The building is currently subject to a Parking License and Stairway Maintenance Agreement recorded, January 8, 1990. Use of four existing parking spaces

within the City right-of-way of Park Avenue, as described in the Agreement, is subject to the existing revocable Park Agreement.

23. The internal circulation between the subject space and associated tenant spaces will be identified and approved by the building department prior to issuance of a building permit for the tenant finish to use this space.
24. Additional fencing is not proposed as part of this application. Existing fencing is in a moderate state of disrepair.
25. No signs are proposed at this time. The applicant has submitted an application to amend the current master sign plan. The amended sign plan is being reviewed concurrent with this application. Parking regulation signs on Park Avenue will be part of the amended sign plan.
26. The applicant has indicated that no noise, vibration, odors, steam or mechanical factors are anticipated that are not normally associated with these types of uses within the HCB District and the space is located beneath the existing dance floor.
27. No new mechanical equipment, doors, windows, or any other exterior changes are proposed.
28. The proposal is not located within the Sensitive Lands Overlay zone.
29. Approval of this Conditional Use Permit allows bar, restaurant, or retail use of the subject space subject to the conditions of approval stated herein. Because the building is exempt from parking requirements and because of the relatively small size of the subject space when compared to the remaining commercial areas within the building there are similar impacts to be mitigated for these uses.

Conclusions of Law – 427 Main Street

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

Conditions of Approval – 427 Main Street

1. All standard conditions of approval shall apply.

2. All conditions of approval of the January 13, 1999 Conditional Use Permit for the Private Club shall continue to apply.
3. Access to the building, including service and deliveries, shall only be from Main Street and shall not include use of Park Avenue, except for emergency Access as required by the Building Code.
4. Trash service and recycling shall be provided for Main Street and shall not include the use of Park Avenue.
5. All conditions, stipulations, and requirements of the Z-Place Parking License and Stairway Maintenance Agreement recorded on January 8, 1990 with the Summit County Recorder's Office shall continue to apply to the entire building.
6. All parking areas along Park Avenue shall not be used by employees, patrons, ban members or crew, taxis, shuttles, limousines, other non-owners and/or mangers, or for any other commercial use.
7. All conditions, stipulations, and requirements of the Grant of Preservation Easement, Park City Entertainment Center, Inc., shall continue to apply to the entire building.
8. All exterior lighting shall comply with the Land Management Code prior to issuance of a certificate of occupancy for use of the subject space.
9. All fencing and parking stalls along Park Avenue shall be repaired prior to issuance of a certificate of occupancy for use of the subject space.
10. All service and delivery shall only be from Main Street and shall not include use of Park Avenue, except in an emergency.
11. All emergency access doors shall be inspected for compliance with the IBC and shall be equipped with proper equipment and alarms to be able to be used only in emergency situations. Side and rear doors providing access to mechanical equipment, trash enclosures, and other services may be used by employees only when servicing the building.
12. All signs, including existing signs and parking regulation signs on Park Avenue, shall be brought into compliance with the Park City Sign Code and a Master Sign Plan for the building shall be submitted for review by the Planning Department and shall comply with requirements of the Park City Sign Code prior to issuance of a certificate of occupancy for use of the subject space.
13. Prior to issuance of a certificate of occupancy for use of the subject space an occupancy load plan shall be submitted by a qualified professional with final certification of this occupancy to be determined by the Chief Building Official. All building code required ingress and egress conditions for safe internal circulation for the entire building shall be addressed prior to final certification of occupancy for the subject space.

4. Richard Parcel – Annexation (Application PL-12-01482)

Planner Whetstone reviewed the request for annexation and zoning of approximately 33 acres of property along Highway 224. Park City Municipal Corporation owns a 19.74 acre parcel. The Frank Richards Family Trust owns the remaining 13.75 acres. Planner Whetstone reported that the requested zoning for the Frank Richards Parcel is single family zoning. A preliminary plat was submitted with the annexation for seven single family lots, with a requirement in the annexation agreement that the lots be constructed to LEED Silver Standard. Part of the proposal is a common lot for an indoor riding arena as an amenity for the subdivision. Planner Whetstone indicated a private driveway and public roads. Lots greater than one acre could be horse lots.

Planner Whetstone stated that the 19.74 acres owned by Park City Municipal Corporation was recommended to be zoned ROS. However, regardless of the zoning, that parcel would be City open space and subject to the Deed of Conservation Agreement that has been held by Summit Land Conservancy since 2005.

Planner Whetstone reported that the annexation was subject to the conditions of the ordinance attached to the Staff report, which included Findings of Fact, Conclusions of Law and Conditions of Approval. It was also subject to the Annexation Agreement which was in draft form and attached to the Staff report as Exhibit I on page 250. Planner Whetstone stated that the procedure is for the Planning Commission to forward a recommendation to the City Council on the requested Annexation, whereby the City Council would make the final determination and take final action.

Planner Whetstone noted that the annexation plat being recommended at this point was included as Exhibit A in the Staff report. If approved, the annexation plat would be recorded at Summit County with the ordinance and the Annexation Agreement. It would then go to the State for final certification.

Planner Whetstone reviewed the revisions to the preliminary subdivision plat. Additional information was added regarding the white fences proposed. The barns were moved as close to the houses as allowed by Code, which was 75'. Planner Whetstone noted that the fence on Lot 7 would be consistent with the existing fence across the north property line. Planner Whetstone outlined the main items that would be addressed at the final subdivision plat. A final subdivision plat would be submitted, the final lot platting would be reviewed for consistency with the preliminary plat. Buildings and barn location, sizes, design and height would be identified as on the preliminary plat. A final subdivision determination is made at the time of review of the final subdivision plat. Issues such as limits of disturbance, grading, a fencing plan, lighting, landscaping, utilities and other items addressed as conditions of approval that must be submitted prior to recording the plat or at the time of the building permit would be part of the final subdivision review. Planner Whetstone emphasized that much more detail would be submitted and reviewed at the final subdivision phase.

Planner Whetstone commented on items that still needed to be address by the City Council.

She noted that the Annexation Agreement addresses water; however a separate water agreement was being drafted as part of the annexation, as well as a license agreement for agricultural use and grazing of the PCMC parcel.

Planner Whetstone outlined items to be addressed by the Housing Authority. The Housing authority has the ability to determine whether affordable housing can be an in-lieu fee or whether it must be provided on site. All annexations require an affordable housing component according to the resolution in effect at the time of the annexation.

Planner Whetstone reviewed the public benefits associated with the annexation request. The Staff analysis was provided in the Staff report. She believed the most important benefit was the ability for local control of this land in a prominent entry corridor. Currently, the property is an island of County jurisdiction surrounded by Park City. The property is contiguous to the City and could easily be served by City services. Planner Whetstone stated that the current configuration was equestrian rural character and the proposal would preserve the existing agricultural entrance into Park City. It also preserves the sensitive wetlands.

Planner Whetstone stated that a typical single family subdivision in the area is three units per acre, which would allow approximately 40 units on the site. Therefore, the seven units proposed would be a significant reduction in density. She pointed out that currently the City parcel was being used on a gentleman's handshake agreement. Another benefit of the annexation would be that any use of that City property would require a license agreement or lease agreement to be determined by the City Council. Planner Whetstone remarked that LEED Silver construction was another benefit of this proposal. An extension of the sidewalk from the existing subdivision across the property's frontage on Payday Drive was a public benefit of the annexation.

Planner Whetstone presented recommended changes to the findings. She referred to Finding #7 regarding the lease agreement on page 222 of the Staff report. In an effort to keep the language more general, she recommended striking the last sentence in Finding #7 and replacing it with, "A lease agreement is required for any use of the PCMC Parcel by any entity other than the City." Planner Whetstone referred to page 223 of the Staff report, and revised Condition #11 to read, "Use of the PCMC parcel shall be addressed and regulated by a signed and executed License Agreement for Agricultural Use and Grazing prior to commencing the use. All use of the PCMC parcel shall comply with the March 24, 2005 Deed of Conservation Easement by and between Park City Municipal Corporation and in favor of Summit Land Conservancy."

Commissioner Savage asked if the recommended changes were acceptable to the applicant. Mr. Richards stated that he has had an agreement with the City for 14 years. He was comfortable with the recommended changes as long as he could continue to use the ground. He pointed out that the proposal would be done in two phases. The second phase would be Lots 5, 6, 7 and 8. He would like to continue to graze horses like he has for many years, until the property is subdivided and fences are installed.

Planner Whetstone referred to the draft Annexation Agreement on page 250 of the Staff report. She noted that Mr. Richards and the City reviewed the agreement and made changes after the Staff report was published. She highlighted the key revisions. On page 255, Item 18, in an effort to keep the language more general, the phrase, "parties shall enter into" was stricken, as

well as the language specifically mentioning Frank Richards and specific uses. Item 18 of the Annexation Agreement was revised to read, "A license agreement for agricultural use and grazing on the PCMC parcel for use of the PCMC parcel is required for any use by anyone other than the City. All use of the PCMC parcel shall comply with the March 24, 2005 Deed of Conservation Easement by and between Park City Municipal Corporation and in favor of Summit Land Conservancy (Exhibit D)." Planner Whetstone explained that the mention of specific uses was deleted because the uses would be determined by Park City and Summit Land Conservancy.

Planner Whetstone noted that additional revisions for clarification would be made prior to sending this to the City Council.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council on the annexation and the zoning map amendment based on the findings of fact, conclusions of law, and conditions of approval in the draft ordinance with the revisions as stated.

Steve Schueler with Alliance Engineering believed Planner Whetstone had adequately abbreviated the benefits of this project. He recalled specific concerns raised by the Planning Commission at the last meeting regarding specific issues such as the barn, fencing and other items. He was willing to discuss those concerns in more detail if the Commissioners still had questions. Commissioner Wintzer pointed out that those issues should be addressed at the time of the subdivision and not with this application. Mr. Schueler understood that they would be addressed at that time; however, he was willing to speak to any issues this evening.

Commissioner Savage apologized for having to leave early at the last meeting before he had the opportunity to participate in the discussion. He understood that historically the large plot of land that Mr. Richards currently anticipates continuing to use as grazing property with this subdivision now belongs to Park City Municipal. Therefore, Mr. Richards would need to enter into a lease agreement with PCMC in order to have that allowed use for a sustained period of time. Commissioner Savage wanted to make sure that Mr. Richards was comfortable that the lease agreement would provide him the ability to get that entitlement in the way he has contemplated this development.

Mr. Richards stated that the project was designed so he would not have to use that property. All the lots, with the exception of the two on Payday Drive, are in excess of an acre or 1.25 acre. He has a verbal agreement with the City and he understood that when he sells the lots, if people choose to use that property and maintain it, they would have to enter into an agreement with the City.

Commissioner Savage recalled a previous discussion where the HOA of that subdivision would have an agreement that would provide access to that property for all the homeowners. Commissioner Savage clarified that he was not trying to structure anything for Mr. Richards. He only wanted to explicitly make sure that Mr. Richards was comfortable with the direction of the revised language. Mr. Richards replied that he was comfortable with the direction of the language.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Thomas asked if any studies or analysis had been done regarding the impacts to the wildlife on that parcel because he has personally seen moose in the area. Mr. Schueler stated that there would not be any impact to the wildlife corridors with respect to the City property because there were no proposed changes to that space. Mr. Richards' property is fully fenced. Commissioner Thomas stated that if Mr. Richards anticipates continued grazing on the City property, it would imply an impact.

Mr. Richards stated that he rarely sees wildlife in the area; however, occasionally he has spotted deer or moose and they graze with the horses. Commissioner Thomas stated that he drives that road every day and he sees moose once a week in that area.

Heinrich Deters, City Trails, remarked that there have been historical uses of agriculture on the property, and that was the reason for wanting to separate the lease agreement for uses from the Annexation. The details and controls would be formalized in the lease agreement with a specific person, rather than as a possible entitlement to a specific lot. Mr. Deters stated that wildlife impacts could still be addressed. He has been working with Conservation Services on a grazing plan for this area and they could also look into wildlife issues. Commissioner Thomas noted that historically the City has required a wildlife study in other annexations. Mr. Schueler stated that he and Mr. Richards had reviewed the wildlife information from the State Department of Wildlife Resources, and that information was contained in the Staff report. Planner Whetstone pointed out that the maps shows that the area is used by deer, elk, moose, birds and other wildlife.

Commissioner Wintzer noted that Condition #3 on page 225 of the Staff report talks about identifying building pads for houses and barns at the final subdivision plat. He would like the language to include that hard surface pads that identifies the driveways and where they would go to the barns would also be addressed with the final subdivision plat.

Commissioner Wintzer clarified that the City was currently approving the annexation with the zones. He would like to have the bottom portion of Lots 1, 3, and 6 put into the ROS zone. It could still be fenced, but it would guarantee that buildings would not be located close to the open space. Mr. Schueler thought that could be accomplished by designated building pad locations. Commissioner Wintzer replied that it would be accomplished initially, but those could be amended. The zone could not be amended without applying for a zone change. Commissioner Wintzer pointed out that ROS zoning would move the barns close to the homes and away from the open space.

Commissioner Hontz asked about the redline setback. Planner Whetstone replied that it was the 50' setback from the wetlands. Commissioner Hontz thought the wetland setback was 100' feet from structures. Mr. Schueler replied that the LMC requires 50 feet. Commissioner Hontz asked about the requirement for the Army Corp of Engineers. Planner Whetstone replied that it

was 20 feet from irrigation, but the applicant was showing 50 feet. Commissioner Hontz concurred with Commissioner Wintzer. There needs to be a reality in the way things should be. If the Planning Commission likes a proposal and wants to approve it, they need to add the layers of protection. She supported Commissioner Wintzer's idea of adding ROS so the actual line follows the redline or the wetlands. She also preferred to include the upper portion of Lot 7 as well.

Commissioner Wintzer pointed to the areas that he was suggesting be zoned ROS. Planner Whetstone remarked that the issue was that the barn could not be any closer than 75 feet, and the plan as shown was drawn at 75 feet. She suggested the possibility of putting an ROS line on the plat for Lot 7 that could be identified and legally described in the subdivision plat. She believed that would address their concerns about protecting the north end. Planner Whetstone stated that zoning a portion of the lots ROS would eliminate the acreage for horses. Commissioner Hontz pointed out that the acreage was not being taken away because they were only changing the zoning. The owner would have the same amount of acreage required to have horses, but they would not be able to use the ROS portion to calculate additional density. She agreed that protection measures were already in place, but without additional layers, it is too easy to request changes and amend was what done.

Commissioner Savage remarked that in terms of thinking about visual corridors and highway 224, Thaynes Canyon is lined with houses. Everything they were talking about modifying in Mr. Richards' plan would be tucked into a corner with houses on both sides. In his opinion they were only talking about moving the barn back and forth. Commissioner Savage stated that Mr. Richards has proven to be a responsible friend of the City's and he thought they should allow him to do his project.

Commissioner Hontz stated that the ROS zone would not change Mr. Richards' plan. However, it would make it more difficult for a future owner to undo what Mr. Richards intended. Commissioner Savage disagreed. He felt it would force the buyer who purchases a lot from Mr. Richards to be constrained to one side of the lot rather than take full advantage of the lot.

Planner Whetstone pointed out that the Annexation Agreement would not allow additional density. Commissioner Savage clarified that his issue was not about density. It was about allowing the owner to place a barn on his lot where he wants it. Planner Whetstone explained that the subdivision plat would state that these lots may not be separately divided. The annexation agreement sets the density and the applicant is proposing building pads for the final plat to set the location of housing and barns.

Commissioner Hontz remarked that additional layers would make any changes more difficult and require three steps instead of one. Step one would be to amend the annexation agreement. Step two would be to modify the lot location through the subdivision plat. Step three would be to change the zone. Commissioner Hontz understood that not everyone agreed with her, but she was not willing to move forward without the layers.

Commissioner Savage thought they were talking about two different things. He understood that Commissioner Wintzer was proposing to draw a vertical line through Lot 1 and everything to the

right of that line would be zoned ROS. ROS zoning would preclude building on that portion of the lot at any point in the future. Commissioner Savage believed that approach would significantly diminish the natural value of the lot because the owner would be restricted on how he could use his lot. He did not think the Planning Commission should do those things “willy-nilly”. Commissioner Wintzer stated that it was not being done “willy-nilly”. Secondly, Mr. Richards does not have a lot. He was requesting to create a lot and the Planning Commission was providing description to it. Planner Whetstone clarified that the request was for an annexation and preliminary plat. Commissioner Savage made it clear that he agreed with Commissioner Hontz regarding the wetlands.

Commissioner Hontz understood that water rights were part of the annexation agreement, and she asked if the City had to purchase those water rights when they purchased the acreage.

Tom Daley, representing the City, explained that the water rights belong to Mr. Richards and he would sell them as part of the entitlement to the individual lot owners. Commissioner Hontz read from the Annexation agreement, “additional ten acre feet were conveyed to the trust for public lands”. Mr. Daley explained that those were part of the same underlying water rights. The ten acre feet were separated off and are pertinent to the Park City open space. Therefore, they would not be used in the subdivision. Commissioner Hontz asked if any money exchanged hands for those ten acre feet of water. Mr. Daley replied that the City purchased ten acre feet. Mr. Richards owns approximately 11,000 acre feet of water rights and the ten acre feet are a part of that.

Commissioner Strachan read language in the Annexation Agreement stating that the petitioner has to pay 86 acre feet of the decreed water right to a third party. He wanted to know who would be the third party. Mr. Daley replied that it was a deal Mr. Richards made with John Cummings. Mr. Richards explained that he leased the water rights to the City for approximately ten years with a first right of refusal. He offered the rights to the City and the City chose not to buy them. John Cummings became aware that the water rights were available and he purchased them from Mr. Richards.

Commissioner Hontz referred to her comments from December 12th and noted that nothing in the application had changed enough to make her change her opinion on what they were being asked to approve this evening. She believed the density was compatible with the neighborhood and she never found that to be an issue. However, she uses the same filter for every annexation and with this one she did not believe there were appropriate “gets” for the community in return for the density that she felt was very generous. Commissioner Hontz thought it was important to have the additional protection of ROS lines being added at a minimum on Lot 7, and to have an entire affordable housing unit instead of the partial unit proposed, whether on-site or a fee in lieu, in addition to utilizing a caretaker unit on site. The added protection and the affordable housing unit would need to occur before she could begin to feel comfortable with upzoning from zero to 7 units.

Commissioner Strachan stated that his comments have remained the same since the beginning. He has always thought the Estate zone was more appropriate than single family. Commissioner Strachan also thought the comments made by Commissioners Wintzer and Hontz regarding the

position of the building pads should be set in stone and defined now.

Commissioner Savage stated that the City talks about “gives” and “gets”, yet they were not giving credit to the historical “gives” that Mr. Richards has provided to Park City and Summit County and the community. He thought the Planning Commission was treating Mr. Richards like a random stranger. Commissioner Savage believed there were a lot of “gets” for Park City. They would annex this property into the City and get the economic benefit associated with development on that property. They would also get the underlying tax base that would come about as a consequence of that development. Commissioner Savage stated that considering the homes along Payday Drive and the homes along the Aspen Springs subdivision, he would conclude that the density in this proposal was significantly less than in those very present contiguous neighborhoods. Therefore, density was not an issue and there were economic benefits to this annexation request.

Commissioner Savage believed Mr. Richards had come forward with a proposal that improves the overall quality of what exists in the City, and it does nothing to detract from the beauty associated with the surrounding area.

Commissioner Gross concurred with Commissioner Savage.

Commissioner Thomas was uncomfortable being painted into a corner because he was concerned about the visual impact of the barns on the entry corridor to Park City. He sided with Commissioners Strachan and Wintzer in terms of the sensitivity of where those barns are placed. Commissioner Thomas stated that in the design process and establishment of the building pads, Lots 1, 2 and 6 pull the residential components as tight to the front yard setback as possible, being sensitive to the depth of that building pad to create 75 feet to the barn and possibly pull the barns forward. Commissioner Thomas believed the barns would have a visual impact on the entry corridor. He felt they needed to be careful about where they establish the building pads; however, he was unsure whether that should be done now or in the subdivision plat.

Commissioner Wintzer stated that the zoning is done now and the building pads are defined with the subdivision plat. Commissioner Thomas replied that in his opinion, the most critical component was positioning the building pads as tight to the west as possible. Mr. Schueler pointed out that the barn on Lot 6 was an existing barn. Commissioner Thomas stated that it would have been helpful to have that identified as an existing barn. He pointed out that two or three additional barns would add to the visual impact, particularly if equipment is parked next to them. Mr. Schueler remarked that the barns are proposed to be large enough to store equipment inside rather than outside the barn.

Commissioner Gross recalled that two months ago Mr. Richards presented photos of the barn that he wanted to use. At that time the Planning Commission wanted variety as opposed to having all the barns look the same. He believed Mr. Richards had tried to be responsible in reacting to their direction.

Mr. Richards stated that by putting two zones on 1.25 acre of ground really limits the salability of

the lot. Commissioner Gross suggested that the ROS portion could be designated as a no-build easement area as opposed to a different zone. Mr. Richards asked if it could be done through covenants. Commissioner Wintzer pointed out that a covenant could be easily changed.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council on the Richards/PCMC Annexation and zoning map amendment based on the Findings of Fact, Conclusions of Law and Conditions of Approval in the draft ordinance, as amended by Planner Whetstone, and with the amendment to Condition #3 to include the hard surfaces, and the request to add a zone line to zone the easterly portion of Lots 1, 2 and 6 and the wetlands portion of Lot 7 to ROS zoning.

Commissioner Hontz referred to page 225 of the Staff report, and language in Condition #7, "Construction of a five-foot wide public sidewalk along Payday Drive...." "The sidewalk and all required public improvements including, landscaping on the public right-of-way, shall be complete prior to issuance of a certificate of occupancy for any house on the property." Commissioner Hontz pointed out that Mr. Richards already has a house on his property; therefore, the condition was not accurately written. She wanted to make sure that nothing else could be built until the sidewalk and all improvements were installed. Planner Whetstone revised Condition #7 to state, "...for any new construction on the property subject to the final plat."

Commissioner Gross seconded the motion.

VOTE: The motion passed 4-2. Commissioners Gross, Thomas, Wintzer and Strachan voted in favor of the motion. Commissioners Savage and Hontz were opposed.

Planner Whetstone requested that the Commissioners be more definitive on the location of the proposed ROS line. Commissioner Savage understood that the Commissioners intended to arbitrarily decide this evening how Mr. Richards would have to divide his lots. Commissioner Wintzer replied that this was correct. Planner Whetstone stated that this has previously been done on other parcels. One in particular was Morning Star Estates, which had more restrictive zoning for the open space. However, the City typically plats the ROS line, which is the limit of disturbance line. In this case they were platting building pads and the remainder of the lot would be unbuildable area. Planner Whetstone believed that ROS zoning for the wetlands and the wetlands setback area made sense on Lots 6 and 7.

Assistant City Attorney McLean recommended that the Planning Commission consider where they wanted the absolute no-build zone as opposed to defining the building pads. That would allow some flexibility for shifting the building pad as long as it stayed out of the no-build area. Commissioner Hontz remarked that there was already agreement on areas where building could not occur because of the wetlands. This was just an added layer of protection. Commissioner Savage was comfortable with an ROS designation on the wetland areas because it was already an unbuildable area.

Commissioner Thomas indicated the existing homes along Payday and the last house before Mr. Richards. He remarked that if the existing property line between the two properties

continued straight up, that could delineate the ROS zone. It would leave a non-complying barn in the ROS zone, but the other two barns would be forced forward slightly. Planner Whetstone pointed out that a barn would be allowed in the ROS zone as an accessory structure through a CUP. Commissioner Thomas stated that extending the property line would not necessitate moving the barn on Lot 1. The barn on Lot 2 would probably have to shift forward. Commissioner Gross asked if the existing barn could be grandfathered in its existing location within the ROS zone, with the caveat that if it were ever demolished and replaced, the replacement barn would have to move. Commissioner Thomas pointed out that in addition to building pads, they could designate non-disturbance lines that are platted on the subdivision plat to help protect the sensitive areas.

Commissioner Savage assumed that the items they were discussing could be accomplished in conjunction with the subdivision approval. Commissioner Thomas stated that other than the modification of the zone, the rest could be accomplished with the subdivision. Commissioner Savage reiterated his earlier position that the Planning Commission was willy-nilly imposing a constraint on Mr. Richards in an effort to get a "get" now, when they would have significant amount of control and influence at the time of the subdivision. In his opinion, doing it now provides no benefit to the City and it detracts the ability for Mr. Richards to have maximum creativity to plan his subdivision. Commissioner Wintzer pointed out that a motion had already been made and it was voted on and passed.

Director Eddington understood that the Planning Commission was recommending moving the ROS line to the west approximately 75 feet. Planner Whetstone clarified that it would be from the northwest corner of Lot 9 of the Thaynes Creek Subdivision and continues north, parallel to the northern property line of Lot 6. It would also encompass all of the wetland areas. Commissioner Hontz suggested that instead of forming a triangle, it should be an east to west or west to east line somewhere north of the barn on Lot 7.

Assistant City Attorney McLean stated that accessory buildings less than 600 square feet are allowed uses in the ROS zone. A barn is called out as an accessory building in the Code. An accessory building larger than 600 square feet would require a conditional use in the zone. Commissioner Thomas asked if they could establish the buildings pads since they were looking forward to doing a plat amendment. Ms. McLean replied that they could establish the building pad area, but if the property is zoned, a building pad could not be placed within a zone that does not allow it.

Planner Whetstone reviewed the proposed changes in addition to the ones she had revised earlier in the meeting.

- Condition #3 – To define driveways and hard surface areas at the time of the final subdivision plat.

- The recommendation that the easternmost 80' of Lots 1, 2, and 6 and the northern most 250' of Lot 7 be zoned Recreation Open Space (ROS) with the remaining portions of these lots zoned Single Family (SF).

Mr. Richards asked if he would be able to have a gravel road to the back of his property. Planner Whetstone stated that he could put a driveway in the ROS zone.

Commissioner Hontz clarified that everything starting on Highway 224 on the open space parcel all the way over to the new line would be zoned ROS, and it would then go up to Lot 7. The ROS zone would be contiguous to the east and to the south and the west. Planner Whetstone replied that this was correct.

Due to the discussion and additional changes following the vote on the previous motion, the motion was amended and voted on again.

MOTION: Commissioner Wintzer amended his previous motion to include the clarification of the new ROS lines as stated by Planner Whetstone. Commissioner Gross seconded the motion.

VOTE: The motion passed 4-2. Commissioners Strachan, Wintzer, Thomas and Gross voted in favor of the motion. Commissioners Savage and Hontz were opposed.

Findings of Fact – Richard Parcel Annexation

1. On February 7, 2012, the applicants filed an annexation petition with the City Recorder for annexation of two parcels currently within the jurisdiction of Summit County and completely surrounded by properties within the Park City municipal boundaries.
2. The applicants are requesting annexation and zoning approval for two separately owned parcels. The Frank Richards parcel is 13.75 acres and the requested zoning is Single Family (SF). The PCMC parcel is 19.74 acres and the requested zoning is Recreation Open Space (ROS).
3. The property is located north of Payday Drive (north of the Thayne's Creek Ranch Subdivision), south of Aspen Springs Subdivision, east of Iron Canyon Subdivision, and west of Highway 224 (Exhibit A). The property is surrounded on all boundaries by Park City municipal boundaries and is considered an island of unincorporated land.
4. The applicants submitted an annexation plat for the two parcels, prepared by a licensed surveyor and additional annexation petition materials according to provisions of the City's Annexation Policy Plan and Utah State Code. A preliminary subdivision plat and an existing conditions survey map were also submitted.
5. The preliminary plat indicates four lots in Phase I and three possible future lots in Phase II. The existing home and horse training facility are in Phase II and may remain unplatted until a final subdivision plat is submitted and approved by the City for that property.
6. The petition was accepted by the City Council February 16, 2012 and certified by the City Recorder on March 1, 2012. Notice of certification was mailed to affected entities as required by the State Code. The protest period for acceptance of the petition ended on April 1st. No protests to the petition were filed.

7. The PCMC property is a dedicated open space parcel, subject to a March 24th, 2005, Deed of Conservation Easement in favor of the Summit Land Conservancy, in perpetuity. In 1999, the City purchased this 19.74 acre parcel through a purchase agreement with the Trust for Public Land from Frank Richards. A Lease Agreement is required for any use of the PCMC Parcel by any entity other than the City.
8. The PCMC parcel is currently utilized for grazing and growing of hay, as well as for undisturbed open space along streams, irrigation ditches, and wetlands. The City provides winter time grooming of a ski trail within the parcel, along Hwy 224. The land was originally part of the Frank Richards property. The PCMC property will remain as open space in perpetuity, subject to restrictions of the Conservation Easement.
9. The property is located within the Park City Municipal Corporation Annexation Expansion Area boundary, as described in the adopted Annexation Policy Plan (Land Management Code (LMC) Chapter 8) and is contiguous with the current Park City Municipal Boundary along the south property lines with the Thayne's Creek Subdivision Annexation (June 2, 1989) and the Treasure Mountain Annexation (Thayne's Canyon Subdivision) (July 28, 1971). The property is contiguous with the City along the north property lines with the Peterson Property Annexation (February 22, 1993) and the Chamber Bureau Kiosk Annexation. Along the west property lines there is contiguity with the Smith Ranch Annexation (July 14, 1988) (aka Aspen Springs Subdivision) and the Iron Canyon Annexation (October 28, 1983). Along the east property lines there is contiguity with the McLeod Creek Annexation (May 7, 1979).
10. The property is the entirety of property owned in this location by these applicants that has not already been annexed to the City.
11. Access to the Richards property is from Payday Drive at the existing driveway to the Richards arm. Access to the PCMC property is also from Payday Drive, just west of Hwy 224 at a stubbed in roadway. This access is used by ski grooming equipment and other municipal vehicles to maintain the property. No access is proposed directly off of Highway 224 with this annexation or for the subdivision.
12. The property is subject to the Employee/Affordable Housing requirements of the Affordable Housing Guidelines and Standards Resolution 20-07. One Affordable Unit Equivalent equals 900 square feet. The affordable housing obligation is 15% of 6 new units or 0.9 AUE (810 sf). Affordable housing shall be provided on-site according to requirements of the Housing Resolution 20-07, unless payment of fees in lieu is approved by the Park City Housing Authority. Additional requirements regarding affordable housing are spelled out in the Annexation Agreement. Fees in lieu are subject to the dollar amounts established by the Housing Authority and in effect at the time of submittal of building permits.
13. Land uses proposed in the subdivision include a total of 7 single family lots and 1 common area lot (Lot 8 of the preliminary plat) for an existing riding arena. No density is assigned or permitted to be developed on Lot 8. Only one single family home and one

barn are permitted to be constructed on the remaining lots. Lot 5 of the preliminary plat contains an existing single family house and a guest house. These uses are permitted. A maximum of 2 horses per acre of lot area are permitted on lots containing one acre or more, subject to an administrative conditional use permit and an animal management plan. The PCMC parcel allows only uses permitted by the Conservation Easement.

14. The proposed land uses are consistent with the purpose statements of the SF and ROS zones respectively. The SF zone does not allow nightly rental uses and restricting this use is desired by the neighborhood. The Annexation Agreement and preliminary plat limit the total number of lots seven (7) and the final plat would include a note indicating that no further subdivision of lots is allowed and no residential or commercial density is permitted on Lot 8.
15. Annexation of this parcel will not create an island, peninsula, or irregular city boundary. The annexation is a logical extension of the City Boundary.
16. Provision of municipal services for this property is more efficiently provided by Park City than by Summit County.
17. Areas of wetlands and irrigation ditches have been identified on the property.
18. The annexation is outside the City's Soils Ordinance District and there are no areas of steep slope that would indicate the property should be placed in the Sensitive Lands Overlay Zone. Wetlands and streams are protected by language in the LMC requiring minimum setbacks and protection during construction. The platting and designation of sensitive areas as platted ROS (Recreation Open Space) will further protect these sensitive areas from impacts of development.
19. The annexation petition has been reviewed pursuant to the Utah Code Annotated (UCA) Section 10-2-4-1, 10-2-402 and 10-2-403. The annexation petition requirements set forth in these sections of the UCA have been met; including issues of 1) contiguity and municipal annexation expansion area, 2) boundaries drawn along existing local districts, special districts and other taxing entities, and 3) for the content of the petition.
20. The proposed annexation is consistent with the purpose statements of the Annexation Policy Plan and as conditioned will protect the general interests and character of the community; assure orderly growth and development of the Park City community in terms of utilities and public services; preserve open space and ensure environmental quality; protect a prominent entry corridor, view sheds and environmentally Sensitive Lands; enhance pedestrian connectivity, create buffer areas; and protect the general public health, safety and welfare.
21. City Staff has reviewed the proposed annexation and preliminary plat against the general requirements established for annexation to Park City as presented in LMC Section 15-8-2 and as further described in the Analysis section of this report.

22. The property was posted, courtesy notices were mailed to surrounding property owners, and legal notice was published in the Park Record according to requirements for annexations in the Land Management Code.

Conclusions of Law – Richards Parcel Annexation

1. The Annexation and Zoning Map amendment are consistent with the Annexation Policy Plan and the Park City General Plan.
2. Approval of the Annexation and Zoning Map amendment does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval – Richard Parcel Annexation

1. The Official Zoning Map shall be amended to designate the PCMC property as Recreation Open Space (ROS) and the Richards' Parcel as Single Family (SF) with the easternmost 80' of Lots 1, 2, and 6 and the northern most 250' of Lot 7 to be zoned Recreation Open Space (ROS) with the remaining portions of these lots zoned Single Family (SF).
2. The Annexation Agreement shall be fully executed and recorded at Summit County.
3. Recordation of a final subdivision plat, to create legal lots of record; dedicate utility, access, drainage, snow storage, and irrigation easements; identify building pads for houses and barns; identify limits of disturbance areas and define driveway and hard surface areas; establish architectural guidelines for barns; establish fencing details; and to address other issues that are typically addressed at the time of the final subdivision plat, is a requirement prior to commencing of site work and issuance of building permits on the Property.
4. The final subdivision plat shall be in substantial compliance with the preliminary plat submitted with the Annexation petition and reviewed by the Planning Commission.
5. All exterior lighting shall be reviewed with each building permit application for compliance with best lighting practices as recommended by the Dark Skies organization.
6. Fencing shall be consistent throughout the subdivision and described on the final subdivision plat and in the CCRs. A fencing plan shall be submitted with the final subdivision plat application and with each building permit application to allow Staff to review all fencing for consistency throughout the subdivision and to review impacts of fencing on wildlife movement through the site. The fencing plan shall include location of fences and materials, dimensions, and installation methods.
7. Construction of a five foot wide public sidewalk along Payday Drive connecting the existing sidewalk on the north side of the street with a pedestrian crossing at Iron Mountain Drive is required and shall be identified on the final subdivision plat. The sidewalk and all required public improvements, including landscaping of the public right-

of-way along Payday Drive, shall be completed prior to issuance of a certificate of occupancy for any new construction on the Property.

8. A grading plan and landscape plan shall be submitted with each building permit application and this requirement shall be noted on the final subdivision plat. A landscaping plan for public right-of-way and any common areas shall be submitted with the final subdivision plat.
9. A note shall be included on the final subdivision plats requiring each new house in the development to meet LEED for Homes Silver Rating certification (at a minimum) with required water conservation requirements as further described in the Annexation Agreement.
10. Excavated materials shall remain on site to the greatest extent possible.
11. Use of the PCMC parcel shall be addressed and regulated by a signed and executed License Agreement for Agricultural Use and grazing prior to commencing the use. All use of the PCMC parcel shall comply with the March 24, 2005 Deed of Conservation Easement by and between Park City Municipal Corporation and in favor of Summit Land Conservancy.
12. The application is subject to the City's Affordable Housing Resolution 20-07 and as further described in the Annexation Agreement. Affordable housing obligation shall be provided on the property, unless otherwise approved by the Park City Housing Authority.
13. A note shall be added to the final subdivision plats stating that the Planning Director may grant an administrative Conditional Use permit for the raising and grazing of horses on these lots, including a barn located within the building pad identified on the final subdivision plat, provided the application complies with the LMC requirements for raising and grazing of horses and providing an Animal Management Plan is submitted and approved.
14. Access easements shall be provided on the final plat, along lot lines to facilitate access to the PCMC parcel, for equestrian use and for maintenance of the parcel as allowed by the March 2005 Deed of Conservation Easement.
15. All conditions and restrictions of the Annexation Agreement shall continue to apply to the Final Subdivision plat.
16. The final subdivision plat shall dedicate a private access easement for the Ross-Gaebe Property to memorialize the existing private easement across the existing driveway and to extend this easement to the public ROW at Payday Drive.
17. Prior to recordation of a final subdivision plat, an historic and cultural resources survey of the Property shall be conducted by the Applicants in conformance with the City's Historic Preservation Chapter 11 of the Land Management Code and a certification letter

regarding any historic and cultural resources be submitted to the City. Any discovered historical structures shall be added to the City's Historic Sites Inventory, and designed as either "Significant" or "Landmark" according to the criteria as listed in LMC Chapter 11.

18. Ownership of water rights shall not affect the application of the Impact Fee Ordinance to the property at the time of development of the lots.

The Park City Planning Commission meeting adjourned at 10:30 p.m.

Approved by Planning Commission: _____