

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
OCTOBER 22, 2014

COMMISSIONERS IN ATTENDANCE:

Chair Pro Tem Adam Strachan, Melissa Band, Preston Campbell, John Phillips, Steve Joyce, Doug Thimm

EX OFFICIO:

Planning Director Thomas Eddington; Kirsten Whetstone, Planner; John Boehm, Planner; Polly Samuels-McLean, Assistant City Attorney

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REGULAR MEETING

The Planning Commission held a site visit to 510 Payday Drive prior to the meeting. All Commissioners were present except Commissioner Worel who was excused.

**ROLL CALL**

Chair Pro Tem Strachan called the meeting to order at 5:50 p.m. and noted that all Commissioners were present except Commissioner Worel, who was excused.

**ADOPTION OF MINUTES**

There were no minutes to approve. The minutes of October 8, 2014 would be on the November 12, 2014 agenda for approval.

**PUBLIC COMMUNICATIONS**

Council Member Liza Simpson informed the Planning Commission that due to scheduling conflicts she and Council Member Peek would be sharing the role of liaison to the Planning Commission. She assured the Commissioners that one of them would be present at each meeting.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Commissioner Joyce commented on the most recent delivery of the very large LMC documents. He asked if it was possible for the Staff to create the LMC in a smaller pdf that could be placed in their dropbox. Director Eddington stated that dropbox should take the

entire LMC in pdf. and he would make sure it was put in the dropbox. Commissioner Strachan noted that he still preferred to have the physical LMC binder and he would pick his up in the Planning Department.

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

### **1. 920 Empire Avenue – Conditional Use Permit in the Historic Residential (HR-1) zoning district. (Application PL-14-02462)**

Planner John Boehm reviewed the request for a Steep Slope CUP for 920 Empire Avenue. The applicant was requesting a Steep Slope CUP to allow for construction of a new single family home on a vacant lot located at 920 Empire Avenue, which is in the HR-1 District. Planner Boehm explained that a Steep Slope CUP was required for this project because the total floor area would be in excess of 1,000 square feet and on a slope of 30% or greater.

The Staff had reviewed this application against the nine steep slope review criteria and found that there would be no unmitigated impacts caused by the issuance of this Steep Slope CUP.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope CUP for 920 Empire Avenue, based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

The applicants were present to answer questions.

Chair Pro Tem Strachan opened the public hearing.

There were no comments.

Chair Pro Tem Strachan closed the public hearing.

Commissioner Thimm had visited the site and he thought the proposal was consistent with what was currently being built next door. The scale looked good and it appeared to be a good fit for the street seam.

Commissioner Band pointed out that it was a tight lot and she wanted to know where they planned to stage construction. She understood that it would be addressed in the construction mitigation plan, but she was interested in knowing their plan for staging. Planner Boehm replied that staging would be addressed at the time of Building Permit.

Commissioner Band clarified that she only asked the question out of curiosity and not as an objection.

MOTION: Commissioner Joyce moved to APPROVE the 920 Empire Avenue Steep Slope Conditional Use Permit based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 920 Empire Avenue

1. The property is located at 920 Empire Avenue.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. The property is described as Lot 27, Block 15 of the Snyder's Addition to the Park City Survey. The lot area is 1,875 square feet. The lot is vacant.
4. A Historic District Design Review (HDDR) application is required and will be reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
5. This is an infill "Old Town" lot. There is no existing significant vegetation on this lot. A non-historic structure was demolished on this property in July of 2014. This is a downhill lot.
6. Access to the property is from Empire Avenue, a public street.
7. Two parking spaces are proposed on site. One space is proposed within an attached garage and the second is on the driveway in a tandem configuration to the garage, within the lot area.
8. The neighborhood is characterized by a mix of historic and non-historic residential structures, single family homes and duplexes. There are condominium buildings to the north on Empire Avenue.
9. The proposal consists of a single family dwelling of 2,003 square feet, including the basement area and a single car garage.
10. The driveway is designed with a maximum width of twelve feet and is approximately

thirty feet in length from the garage to the existing edge of street with a minimum of eighteen feet of driveway located on the property. The garage door complies with the maximum height and width of nine feet by nine feet.

11. The proposed driveway has a maximum slope of 14% with sections at 5% (in front of the garage) and 10% (from property line to edge of street). Overall slope is 9.7% as measured from the front of the garage to the edge of the paved street.

12. An overall building footprint of 812 square feet is proposed. The maximum allowed footprint for this lot is 844 square feet.

13. The proposed structure complies with all setbacks.

14. The proposed structure complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less than 27' in height.

15. The proposed home includes a split level configuration created by a mezzanine level for the front interior entry area. The proposed structure complies with the LMC required total building height of 35' from the lowest floor plane to the highest wall plate and is in compliance with the LMC amendments adopted by City Council on November 21, 2013.

16. There is a fourteen and one-half foot (14.5') step back from the first two stories. The stepping occurs within the first twenty- three feet (23') of the rear (lower) facade.

17. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this house on the cross canyon views and the Empire Avenue streetscape. Staff finds that the proposed house is compatible with the surrounding structures based on this analysis.

18. Retaining is necessary around the home on the upper, steeper portion of the lot. There will be no free-standing retaining walls that exceed six feet in height with the majority of retaining walls proposed at 4' (four) feet or less. Retaining walls between four (4) and six (6) feet will require approval by the Planning Director and the City Engineer. Retaining of grade at rear is minimized by the stepping foundation. There are no window wells.

19. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. There is no existing significant vegetation on the lot.

20. The site design, stepping of the foundation and building mass, increased articulation, and decrease in the allowed difference between the existing and final grade mitigates impacts of construction on the 30% slope areas.

21. The design includes setback variations in the front and back and lower building heights for portions of the structure in both the front and back where facades are less than twenty-seven feet in height.

22. The proposed massing and architectural design components are compatible with both the volume and massing of other single family dwellings in the area. No wall effect is created with adjacent structures due to stepping, articulation, and placement of the house on the lot.

23. The proposed structure follows the predominant pattern of buildings along the street, maintaining traditional setbacks, orientation, and alignment. Lot coverage, site grading, and steep slope issues are also compatible with neighboring sites. The size and mass of the structure is compatible with surrounding sites, as are details such as foundation, roofing, materials, window and door openings, and single car garages.

24. This property is required to have independent utility services for water, sewer, power, etc. Stubbing of these utilities was completed during the Empire Avenue reconstruction project.

25. No lighting has been proposed at this time. Lighting will be reviewed at the time of the HDDR and Building Permit application for compliance with the LMC lighting code standards.

26. The applicant submitted a visual analysis, cross canyon view, and streetscape showing a contextual analysis of visual impacts of the proposed structure on the adjacent streetscape.

27. The findings in the Analysis section of this report are incorporated herein.

28. The applicant stipulates to the conditions of approval.

#### Conclusions of Law – 920 Empire Avenue

1. The Steep Slope CUP application is consistent with requirements of the Park City Land Management Code, specifically Section 15-2.2 for the HR-1 zoning district.

2. The Steep Slope CUP application is consistent with the Park City General Plan.
3. The application is consistent with requirements of the Park City LMC, specifically Section 15-2.2-6 (B) (1-10) regarding development on Steep Slopes.
4. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
5. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 920 Empire Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. A final utility plan, including a drainage plan, for utility installation, public improvements, and storm drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers, including Snyderville Basin Water Reclamation District, prior to issuance of a building permit.
4. Separate, individual utility service is required for 920 Empire Avenue.
5. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
6. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
7. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit, the 2009 Design Guidelines for Historic Districts and Historic Sites (Historic District Design Review) and the Land Management Code.
8. As part of the building permit review process, the applicant shall submit a certified

topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions and that the driveway complies with the required slope restrictions.

9. If required by the Chief Building official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer. The shoring plan shall take into consideration protection of the historic structure to the north and existing retaining wall on the south property line.

10. This approval will expire on October 22, 2015, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and the request is granted by the Planning Director.

11. Modified 13-D residential fire sprinklers are required for all new structures on the lot.

12. All exterior lighting, on porches, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way. Light trespass into the night sky is prohibited.

**2. 95 King Road – Conditional Use Permit for Nightly Rental use in the Historic Residential Low Density (HR-L) zoning district. (Application PL-14-02468)**

Planner Boehm reviewed the request for a nightly rental conditional use permit for 95 King Road. The applicant was requesting that the Planning Commission review the proposal to allow nightly rentals in the existing single family home located at 95 King Road. The property is located in the HR-L District where nightly rentals are a conditional use and must be approved by the Planning Commission.

The Staff had reviewed this application against the 15 conditional use permit criteria and requested discussion on three of the criterion; parking, circulation and control of service vehicles.

Planner Boehm requested discussion on the parking issue related to Criteria 5 on page 29 of the Staff report. He stated that according to the LMC 15-3-6, parking for the first six bedrooms of a nightly rental is based on the parking requirement for the dwelling. As outlined in the Staff report, this home was built prior to the current requirement, which

would be two off-street parking spaces. Planner Boehm noted that the home has two parking spaces; one in the garage and one in front of the garage. However, only one of those spots is legal because the second one extends half-way into the City right-of-way on King Road.

The Staff has determined that the existing home does meet the nightly rental parking requirement, since the parking for nightly rentals is based on the requirement for the dwelling. The existing home was built prior to the requirement for two off street parking spaces. However, due to the winter conditions on King Road, the Staff recommended that the Planning Commission add a condition of approval stating that all lease agreements for nightly rental at 95 King Road include language limiting the number of vehicles allowed to one vehicle. The Staff believed there was no possible way to fit a vehicle in the 18' x 10' space due to snow removal and the steepness of the road.

Planner Boehm stated that the second issue for discussion was Circulation, Criteria 6. Due to the narrow and steep nature of King Road, the Staff recommended a condition of approval that the nightly rental lease agreement include language indicating that access may require a four-wheel drive vehicle, and that there may be times when King Road is impassable and the renter would need to park in an approved overnight parking lot and walk to the property.

Planner Boehm remarked that the last issue for discussion related to control of service vehicles, Criteria 13; specifically trash cans being left on the street. The Staff recommended that the Planning Commission add a condition of approval that garbage receptacles shall be placed out for trash pickup no more than 15 hours prior to anticipated pick up, and that the receptacles be placed properly back on to the property no more than 15 hours after the actual pickup time.

Commissioner Phillips wanted to know how the conditions could be enforced to make sure the owner included the recommended language in the lease. Planner Boehm stated that prior to issuance of a business license for nightly rentals they would make sure the lease included the language. There were several mechanisms for enforcement. For example, parking would be enforced by the City's residential parking zone regulations. If a car is parked in the road it could be ticketed or towed.

Chair Pro Tem Strachan stated that based on past discussions it was evident that the impacts from nightly rentals were always the same. Commissioner Phillips stated that he had attended the public hearing for the nightly rental at 60 Sampson Avenue because it was in his neighborhood. He remembered the discussion and agreed that the impacts were similar. Commissioner Phillips liked the recommended conditions because it would help to mitigate some of the issues related to nightly rentals in Old Town.



Planner Boehm clarified that the Staff had based their recommendations on what they saw occurring with nightly rentals at 60 Sampson and 99 King Road.

Chair Pro Tem Strachan remarked that one issue that was never resolved for 60 Sampson was where the renters would park if they could not park next to the house. It was suggested that they park at China Bridge and walk up, but he never thought that was a realistic solution. He was concerned that there was not a parking alternative for 95 King Road if they bring more than one car. He noted that parking for guests was another impact that needed to be addressed.

Commissioner Band thought it was a condition of the lease for 60 Sampson that only one car was allowed for the rental. Chair Pro Tem Strachan recalled that they did condition the lease to limit only one car, and that it needed to be specified in the market materials. Commissioner Phillips pointed out that the Staff was recommending the same condition for 95 King Road. Chair Pro Tem Strachan reiterated his concern about guest parking. Commissioner Band noted that the parking restriction was primarily due to snow removal. If a renter had guests for two or three hours it should not present a problem. Commissioner Band pointed out that it is a two bedroom house and she believed the renters would be less likely to have two cars.

Commissioner Band wanted to know what would happen if the conditions were not met and the impacts were not mitigated. She asked if the City could pull the CUP if they consistently had issues with garbage cans and/or parking. She understood that the applicant intended to have a property manager and she believed most of the property management companies were good about following the rules, but there is always the exception.

Planner Boehm stated that the CUP is reviewed in one year to see if there were complaints or issues reported. If there appears to be a consistent issue it would come back to the Planning Commission for review. The one-year review was addressed in Condition of Approval #9.

Commissioner Phillips commented on nightly rentals in general and asked if a change in ownership would require the new owner to apply for a new business license to operate a nightly rental. Planner Boehm answered yes. Chair Pro Tem Strachan pointed out that the CUP runs with the property and that is different than a business license. Director Eddington replied that a business license must be renewed annually, which is separate from the CUP. A new owner would be bound by the conditions of the CUP and they would have to apply for a new business license in their name. Commissioner Phillips understood that the new owner would be bound by the conditions but the question was whether or not

they would abide by them. He assumed there was a mechanism but he just wanted to make sure.

Commission Thimm asked if there was a precedent with other nightly rentals for the four-wheel drive requirement. Planner Boehm replied that the recommended conditions were actual conditions of approval taken from the comparable nightly rental CUPs for 99 King Road and 60 Sampson to include the language in the lease agreement.

Commissioner Thimm asked if the lease becomes part of the business license application. Assistant City Attorney McLean explained that the owner just needs to abide by the conditions. The Staff does not review the lease, but not including the language would violate the CUP. Chair Pro Tem Strachan remarked that neighbors are the best regulators in those situations.

Council Member Simpson did not believe that the parking lot at the bottom of King Road was completed at the time they were discussing 60 Sampson Avenue. An alternative place to park other than China Bridge would be the public parking lot at the bottom of Hillside and King Road. Chair Pro Tem thought they should let the landlords and the tenants figure out the best parking solutions to meet the conditions of approval. Planner Boehm agreed, which was why the language was vague. Commissioner Thimm remarked that his point was to control the parking or the lack of parking on the property. How that is accomplished should be left to the people involved.

Chair Pro Tem Strachan opened the public hearing.

There were no comments.

Chair Pro Tem Strachan closed the public hearing.

Commissioner Joyce agreed with the comments regarding the parking. His concern was the language related to the garbage cans unless it applies to everyone on the street. He was unsure why they would single out the nightly rental.

Assistant City Attorney McLean recalled from previous nightly rental discussions that there were comments where people who rent over the weekend take out the garbage before they leave and the can sits out for days until the scheduled pickup day. In contrast, a resident living on the street would take the cans to the street and remove them within a 24 hour period. Ms. McLean noted that the Municipal Code states that garbage cans cannot be left on the street for more than 24 hours. The reason for including the language is to highlight it for the owner to make sure the property management company understands the

problem. Commissioner Joyce understood the reasoning, but he was still uncomfortable requiring 15 hours for one property when everyone else is allowed 24 hours by Code.

Commissioner Campbell agreed that everyone should have to abide by the Code provision that is already in place. Commissioner Phillips concurred.

Commissioner Thimm asked if the 24 hour timeframe specified in the Code was the total time for taking out the cans and removing them from the street. If that was the case, the 15 hours language as written for the nightly rental would actually allow 30 hours total. Assistant City Attorney McLean was unsure and needed to verify it with the Municipal Code.

Commissioner Campbell recommended changing the language to say that they must abide by the rule that is already in place. Ms. McLean thought that would be sufficient. Planner Boehm clarified that the language was taken directly from the conditions in the 60 Sampson Avenue approval, and the condition was placed by the City Council as part of the appeal. Commissioner Band remarked that since there were five or six nightly rentals within the vicinity they should keep it consistent.

Assistant City Attorney McLean read from the Municipal Code, "Trash collection, which ensures the trash cans are not left at the curb for any period in excess of 24 hours. And the property must be kept free from accumulated garbage and refuse". Commissioner Thimm reiterated that the condition as written suggested a period of 30 hours for the nightly rental. He thought they should change the language to be consistent with the Municipal Code.

Commissioner Phillips recalled from the 60 Sampson discussion, that parking was a major issue because the house had so many beds and there was so little parking. However, since the time the CUP was awarded he has not noticed any issues and the restrictions appear to be working.

MOTION: Commissioner Phillips moved to APPROVE the Conditional Use Permit for nightly rental for 95 King Road based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended to revise Condition #6 to state, "Property Management shall abide by the Municipal Code 14-2-18C4F regarding the trash cans". Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 95 King Road

1. The property is located a 95 King Road. The property is improved with a nonhistoric 1,175 square foot, two bedroom, two bath single family house.
2. The subject property is located within the Historic Residential Low Density (HRL) zoning district.
3. The house at 95 King Road is located on Lots 23 and 24 of Block 76 of the Park City Survey. The total area of Lots 23/24 is 3,485 square feet which is smaller than the minimum lot size of 3,750 sf currently required in the HRL zoning district for a single family house.
4. The earliest record that staff was able to locate regarding the structure at 95 King was a building permit for fire damage repair dated March 6, 1986. The Building Department keeps records dating back to 1980 so the home was constructed sometime prior to 1980. The site is not listed on the City's Historic Sites Inventory.
5. The setback to the west property line (4'6") does not meet the current LMC required setback for front yards on lots up to 75 feet in depth (10').
6. The house has one legal parking spot in a single car garage and one noncompliant parking spot in front of the garage that is partially in the City Right-of-Way.
7. Nightly rental uses are subject to a Conditional Use Permit in the HRL zoning district.
8. On August 22nd, 2014, the owner of 95 King Road submitted a complete application requesting approval of a Conditional Use Permit to allow nightly rental use of the existing home.
9. According to the City's business license records, there are currently eight (8) active nightly rental business licenses in the surrounding neighborhood of King Road, Sampson and Ridge Avenues.
10. The business license and inspection of the property by the Building Department are required to ensure that the business owners are verified and the property meets all applicable fire and building codes.
11. Staff finds that there are no unmitigated impacts regarding size and location of the site as the existing structure is not changing.

12. Staff finds that there are no unmitigated impacts regarding traffic considerations as 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.

13. Staff finds that there are no unmitigated impacts regarding utility capacity as no additional utility capacity is required for this project.

14. Staff finds that there are no unmitigated impacts regarding emergency vehicle access as nightly rental use does not change the requirement for emergency vehicle access which exists on King Road and Ridge Avenue.

15. Staff finds that there are no unmitigated impacts regarding the location and amount of off-street parking as the house was built prior to the requirement of two off street spaces and the fact that the applicant has agreed to limit the number of vehicles allowed for nightly rentals to one (1).

16. Staff finds that there are no unmitigated impacts regarding circulation as the applicant has agreed to provide information in the nightly rental lease agreement regarding the occasional need for a four wheel drive vehicle and the possibility that the renter may need to find legal parking in a free or pay lot and then walk to the property during times that King Road is impassable.

17. Staff finds that there are no unmitigated impacts regarding fencing, screening and landscaping as no changes to these elements are proposed.

18. Staff finds that there are no unmitigated impacts regarding building mass, bulk, orientation and the location on site as no changes are proposed to the existing building.

19. Staff finds that there are no unmitigated impacts regarding signs and lighting as no signs or additional lighting is proposed at this time. Existing lighting was previously approved.

20. Staff finds that there are no unmitigated impacts regarding physical design and compatibility with surrounding structures as the existing home is compatible with surrounding structures in mass, scale, and style.

21. Staff finds that there are no unmitigated impacts regarding noise, vibration, odors, steam, or other mechanical factors as there is no outdoor hot tub.

22. Staff finds that there are no unmitigated impacts regarding control of delivery and service vehicles as the applicant will be using a local property management company who will adhere to the condition of approval that trash receptacles cannot be placed on the street more than 15 hours prior to expected pick-up and must be removed with 15 hours of actual pick-up.

23. Staff finds that there are no unmitigated impacts regarding expected ownership and management of the property as the applicant will be utilizing a local property management company.

24. Staff finds that Criteria #9 and #15 of LMC 15-1-10 do not apply to this application as there is no open space required for this use and the property is not in the sensitive lands overlay.

25. The applicant stipulates to the conditions of approval.

#### Conclusions of Law – 95 King Road

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

#### Conditions of Approval – 95 King Road

1. All standard project conditions shall apply.
2. All existing and any new exterior lighting shall be subdued in nature and shall conform to the City's lighting ordinance, LMC Section 15-5-5-(l) and 15-3-3(c) prior to the issuance of a nightly rental business license.
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. All lease agreements for nightly rental shall include language that limits the number of vehicles allowed at 95 King Road to one (1) vehicle.
6. Property management shall abide by Park City Municipal Ordinance 4-2-18(C)-(4)(f) which states that trash receptacles may not be left at the curb for a period longer than twenty-four (24) hours.
7. All lease agreements for nightly rental shall include language indicating that during heavy snow fall or bad road conditions, access to the lot may be limited or may require a four-wheel drive vehicle in order to gain access. There may be times when renters need to park off-site in an approved overnight public parking lot and walk to the property.
8. Nightly rental use of 95 King Road prohibits Commercial uses such as hospitality houses, screening rooms, reception centers, etc.
9. The CUP will be reviewed after one year, on October 22nd 2015, by staff. If there are recorded complaints, staff will bring the matter before the Planning Commission.

**3. 510 Payday Drive – Thayne’s Creek Ranch Estates Phase II Subdivision Plat (Application PL-14-02427)**

The Planning Commission held a site visit on this item prior to the meeting.

Chair Pro Tem Strachan summarized the site visit to 510 Payday Drive. The applicant, Frank Richards, met them on site and pointed out the boundaries of the no-build zone and the boundaries of the wetland area. Mr. Richards had flagged some of the contours of the various building footprints and answered the Commissioners questions regarding the location of the existing footprints and the proposed changes to those footprints.

Planner Kirsten Whetstone reviewed the request for a subdivision plat for three lots of Phase II of the Thaynes Creek Ranch Estates subdivision, which was a recent annexation that occurred a year ago between Frank Richards and the Park City Municipal Corp. Planner Whetstone noted that the annexation incorporated the City open space west of Highway 224, as well as the Franklin Richards Ranch.

Planner Whetstone noted that Exhibit H in the packet were the minutes from previous Planning Commission meetings; however, after the packets were printed they noticed that the pages were mixed-up. She provided the Commissioners with corrected copies of Exhibit H.

Planner Whetstone reported that the Planning Commission reviewed this item on September 24th and requested to see the minutes of the previous meetings to better understand the restrictions that were placed on this subdivision. The property was zoned in the single-family zone, which has an allowed height of 28'+5' for a total of 33'. When the property was annexed, a preliminary plat for seven lots and one parcel for the riding arena was approved. The January 31st, 2013 City Council minutes in Exhibit H reflect the discussion regarding the preliminary plat and no build zones. Planner Whetstone stated that the lots being discussed this evening was Lot 5, which is the existing house and ranch, Lot 6 across the driveway, and Lot 7, the lot they looked at during the site visit.

Planner Whetstone recalled discussion on Lot 1, 2 and 6 of an 80-foot no-build zone from the east property as shown on the plat, Exhibit A. There was additional discussion as to whether there should be a no-build for the northern part of Lot 7 of 250 feet. Planner Whetstone noted that the previous minutes also reflect a 336' no build zone. She noted that measuring from the north property line down south, 336' is at the line shown on the preliminary plat that was approved with the annexation. Planner Whetstone stated that the plat also had height restrictions that called out a maximum height of 30' for Lots 5 and 6, which would be 25'+ 5' for a pitched roof. However, Lot 7 had a maximum height of 28', or 23'+5'.

Planner Whetstone reported that at the last meeting the applicant made a request to move the line north. The Planning Staff had conducted an analysis of the plat that was submitted based on the preliminary plat and the annexation agreement. The Staff reiterated their recommendation for consistency with the preliminary plat. The maximum footprints should be 4,900 square feet for lots 5, 6 and 7. The maximum height for lots 5 and 6 would be 30' and Lot 7 would have a maximum height of 28'.

Planner Whetstone noted that the Staff had prepared a draft ordinance included on page 61 of the Staff report that reiterates some of the conditions of approval with the annexation. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation per the ordinance in the Staff report.

Frank Richards, the applicant, did not believe that 30 feet was excessive for Lot 7 and he thought it should be consistent with the other lots. He stated that the adjacent property to the west, Aspen Springs, was 33' in height. The adjoining Lots 1 and 2 have a maximum



height of 28'+5'. He did not think it was unreasonable for Lot 7 to have a maximum consistent with the next three lots they were bringing into the subdivision.

Mr. Richards stated that the no-build zone on Lot 7 was originally set at 250'. At some point it was increased to 336' and he was unsure how that occurred. He was requesting a no-build zone of 300' to give some flexibility to the location of the proposed on Lot 7. Mr. Richards remarked that the Lot is already handicapped because there is a 20' right-of-way on the west boundary, the no-build zone on the north boundary, and the wetlands and a 50-foot buffer on the east boundary. Mr. Richards noted that the remaining parcel to locate the home was approximately one-quarter of an acre of the 3.25 acre lot. By expanding to the north by 35' allows room for a barn and still keep the 75' separation required between the barn and the house; with some flexibility on where to locate the home.

Chair Pro Tem Strachan asked why there needed to be a 75' separation between the barn and the house. Planner Whetstone stated that there is a requirement in the Code on properties that allow horses that the barns must be 75' from any adjacent residence. Mr. Richards stated that of the 35' reduction they were requesting, 70% of that was no-build anyway because of the buffer zone to the wetlands.

Commissioner Joyce understood that the intent for requesting the reduction of the no-build area was to move the barn 35' to the north. Mr. Richards replied that this was correct. Mr. Richards clarified that the barn is 48' and they were asking for 35'. Therefore, the barn would project into that area. Planner Whetstone pulled up an exhibit that Mr. Richards used to identify the area he was talking about and to explain his comments.

Chair Pro Tem Strachan asked Mr. Richards to explain why the 150' x 100' foot building area was not sufficient. Mr. Richards replied that there needed to be some flexibility to locate the home. Planner Whetstone referred to the drawing Mr. Richards had submitted and noted that what he had put as a 75' separation from the house to the barn actually measured out as 35'. She pointed out that the building area needed to be smaller because otherwise it projects into the no-build zone.

Commissioner Thimm clarified that they were looking at a two-scale drawing. Planner Whetstone replied that this was correct. She reiterated that Mr. Richard's barn setback was actually scaled at 35'. When she scaled it at 75' she ended up with the barn being in the area where he was asking for additional space. Planner Whetstone reviewed the calculations. Chair Pro Tem Strachan understood that the 150' should actually be 125'; however, the building area was still approximately one-quarter of an acre. Planner Whetstone calculated that the building area would be approximately 12,500 square feet and the footprint would be limited to 4900 square feet including the garage. The barn would be separate.

Chair Pro Tem Strachan opened the public hearing.

Roger Armstrong, a neighbor, stated that the requested extension would put the barn right behind his property. He requested that Mr. Richards find a way to keep the barn further up and cluster the development. Mr. Armstrong noted that the houses coming up that line would be impacted to a lesser extent because of the direction they face; but in terms of view sheds he would be looking over the top of the barn rather than his current view. He appreciated anything Mr. Richards could do to further mitigate the impacts. Mr. Armstrong remarked that his house faces due east and if the barn is moved north it would come down to probably the first third of his property.

Mr. Richards pointed to Mr. Armstrong's property and the 30' tall pine trees along the edge. They were unable to put the sewer line in that location because of the trees. If they move the barn 35' it would be hidden by the pine trees because the barn would only be 18' high.

Mr. Armstrong reiterated his request to cluster the development a little tighter. He noted that he purchased the house from the neighbor who previously agreed to the plan, but that person was gone and Mr. Armstrong had concerns with the impacts.

Chair Pro Tem Strachan closed the public hearing.

Regarding home size, Mr. Richards had reviewed the analysis Planner Whetstone had done on Aspen Springs. He noted that Aspen Springs permits 8,000 square foot homes on a half-acre lot. Any lot over three-quarters is allowed up to 12,000 feet. He was asking to have the same privilege of an 8,000 square foot total house on his three-quarter acre, which would give a footprint of 5,000 square feet rather than 4900 square feet.

Commissioner Campbell understood that Mr. Richards was asking the Planning Commission to change the agreement he made with the previous Planning Commission. He was comfortable with that because one Planning Commission does not have the right to bind the hands of a future Planning Commission. However, before they decide whether to overturn that agreement, it was important to make sure there was a legitimate reason to do so. Commissioner Campbell asked Mr. Richards why he did not make this request the first time when it came before the previous Planning Commission. Mr. Richards stated that at the time he did not understand the 50' buffer of the wetlands.

Commissioner Campbell believed there were many impacts on the property, particularly in terms of how much of the lot is carved up in ways that could not be used. Mr. Richards remarked that when they first started they were not aware of the 20-foot easement that the Sewer District required.

Jeff Petersen, the builder, explained that the 35' setback plus the building pad, plus the 75' barn separation really restricted the potential for building the house. They did not fully understand those impacts when they met with the previous Planning Commission. Commissioner Campbell believed that was a legitimate reason to make the request to re-negotiate.

Commissioner Band understood why Mr. Richards was requesting the reduction and she agreed that the surrounding houses have larger footprints. In her opinion, the difference was the wetlands on Lot 7. She believed that whoever purchases the property would pay a lot of money for three-quarters of an acre, but they should also understand that restrictions come with wetlands. Commissioner Band remarked that it is a beautiful property and she hoped a buyer would be excited to have it. However, she could not see the justification for moving the lines. She believed the barn location in the original plan is less impactful to the neighbors. Commissioner Band recognized that 12,500 square feet of a building pad with a 4900 square foot house is going to be tight, but she thought there was enough wiggle room to make it possible.

Commissioner Phillips concurred with Commissioner Band. When he was at the site he walked away from the group and went from where the lines were to where they were proposed to be. He noticed the negative impacts it would have on Mr. Armstrong and he believed it would put the barn in his view. Commissioner Phillips understood that the purpose of the no-build area was to prevent the development from going further into the field to keep the space open. In his opinion, that was another reason not to reduce the no-build area. He could not see a good reason to change what has already been platted. Commissioner Phillips stated that he is in construction business and he personally lives on a 25' x 75' lot so he understands the constraints. He also knows that architects are really good at working with the space and he believes there is enough room to fit a nice home.

Commissioner Joyce echoed Commissioner Phillips. He had not seen a good cause aside from the fact that it would make the lot worth more to the potential buyer. In his opinion, that was not a compelling reason to change what was done under the previous Planning Commission.

Commissioner Thimm agreed with his fellow Commissioners. He had visited the site three times and he tried to line up the view shed. In looking at the drawing that defined the building pad area, and thinking about the 4900 square foot footprint in comparison to 12,500 square feet, he believed there would be sufficient space. Commissioner Thimm concurred that there needed to be a very good reason to change what was put in place, and he had not found a good reason based on what was presented. Whether it was 150'

or 125' he was unsure how it would fit on the lot; but if 125' leaves over 12,500 square foot of buildable area, it would be ample enough space to locate a 4900 square foot footprint.

Commissioner Campbell noted that during the site visit the question was asked about who the Planning Commission represented as their constituency. He noted that one of the Commissioners suggested that their constituency was the LMC. Assistant City Attorney McLean stated that whoever said it was correct. They are not elected officials and, therefore, they do not have constituents. Commissioner Campbell wanted to know what part of the LMC the other Commissioners were referencing when they said it was enough space to locate the house. He felt like they were making it up as they go. Commissioner Campbell stated that the Planning Commission always looks for consistency and that properties and property owners should be treated the same. He believed that Mr. Richards' argument for wanting to be treated the same as the adjacent property had more validity than their personal opinions of how large the house should be.

Commissioner Band stated that her calling card has always been to do things consistently. However, this was a different subdivision from the one Mr. Richards used as a comparison. Commissioner Campbell clarified that if there was not a specific place in the Code that was being violated, then the cause should go to the landowner.

Commissioner Joyce stated that his issue was not whether there was enough space. An agreement was put in place as part of the annexation and a lot of effort went into the discussions and the end result. They have seen the minutes and all the drawings and maps, and that was the agreement. Commissioner Joyce remarked that the wetlands did not suddenly appear and the drawings from a long time ago show the house right where it was supposed to be. Commissioner Joyce remarked that there was an annexation agreement that went into a lot of detail to force things into certain places to accomplish a certain appearance. A lot of thought went into those details and he could find no compelling reason to undo the Annexation Agreement.

Commissioner Band stated that this is an entry corridor and the LMC talks about protecting the entry corridor and as much open space as possible. That would include clustering the development in accordance with the original Annexation Agreement.

Commissioner Phillips believed that protecting the open space was the major point. He only addressed the issue of sufficient space for the house because that was Mr. Richards' reason for wanting to move it.

Planner Whetstone stated that she was the planner on the Annexation, and the entry corridor, the City open space, and clustering buildings were major considerations. At the same time they wanted to provide large lots to keep an agrarian look and feel. Planner

Whetstone noted that the height restrictions placed on the lots were done for the purpose of visibility. She pointed out that the houses in Aspen Springs are all in the single family zone and have a maximum height of 33'. However, the lots above the white barn have a height restriction of 30' because they can be seen from the entry corridor.

Chair Pro Tem Strachan stated that the Planning Commission would be forwarding a recommendation to the City Council. He pointed out that the City Council had weighed in the first time and as reflected in the minutes, they weighed in thoroughly and with a good eye, and they reached the correct conclusion. Chair Pro Tem Strachan clarified that he was not in favor of changing the original agreement. He believed that building a 4900 square foot house on a 12,500 square foot footprint was doable and it allowed some flexibility.

Chair Pro Tem Strachan noted that there was not a finding of fact or conclusions of law about how the final building footprint should be memorialized; and he suggested that Exhibit C on page 91 of the Staff report should be incorporated in the motion. Exhibit C is the preliminary plat and whoever makes the motion could make it the final plat.

Mr. Richards stated that the Commissioners were suggesting that he abide by the Annexation agreement, but the Annexation agreement identifies a 250' no-build zone. He pointed out that he was willing to give 50 feet as a compromise.

Commissioner Joyce asked where the 336' no-build zone came from. Planner Whetstone pointed to a line that was drawn in during the discussion for the preliminary plat and the annexation before it went to City Council. The Planning Commission originally suggested that the 80' on the east side be ROS zoned. She could not find in the minutes where a decision was made on that line, but they did talk about having to have a driveway, a house, a separation and then a barn. The line was drawn with rulers and the location was discussed. Planner Whetstone showed the preliminary plat with the line when it went to the City Council, and the Council left the line.

Planner Whetstone stated that it was possible that the 250' reference could have been from the cul-de-sac north. She did not think it was clear in the minutes.

Mr. Peters had a recorded copy of the Annexation agreement and on Exhibit C, and the line Planner Whetstone mentioned did not exist on the exhibit. Planner Whetstone stated that the Exhibit Mr. Peters had did not have the recorder's stamp. Mr. Richards stated that he requested that the County send him a packet including the plats and all the documents that were recorded, and those were the documents he had this evening.

Chair Pro Tem Strachan stated that Exhibit C on page 91 of the Staff report was a Concept Subdivision and Phasing Plan done by Alliance Engineering on 1/8/13. Planner Whetstone remarked that it was actually the one that was approved by the City Council and recorded. Chair Pro Tem Strachan believed that was even more reason to make it the final plat through a motion and override the preliminary plan.

Planner Whetstone remarked that the Annexation Agreement did not mention an actual number for the no-build zone. Mr. Richards stated that the plat that was submitted did not mention a number either.

Mr. Richards stated that when the annexation was made there was a concept but no definition of exactly where the house would sit. They were trying to get the first phase approved and the Planning Commission wanted an idea of what they were proposing for Phase 2. For that reason they submitted a concept plan. It was only a concept and it was never intended to be final. Mr. Richards remarked that the home shown on the plan was only something that could potentially be built. Mr. Richards did not believe that when Phase 1 was approved that Phase 2 was approved at the same time. The concept was to place a home on the lot reasonably near the cul-de-sac and that the barn would be 75' from a home.

Commissioner Joyce clarified that he was mostly concerned about the demarcation line of the no-build zone. He understood it was not the actual house that would be built and he was not concerned with the placement because it would be restricted by the wetlands.

Mr. Richards stated that somebody will have to look at the barn. He realized that Mr. Armstrong would be looking at third of the barn, but the rest would be hidden by the trees. If they move it for Mr. Armstrong, then another neighbor would have to look at it.

Commissioner Joyce clarified that he personally was not saying that Mr. Armstrong should not have to look at the barn. That was not his issue. His issue was finding a compelling reason to change an agreement. Accommodating a buyer so he can build the house he wants is not a compelling reason because there are ways to build within the constraints of the lot. Commissioner Joyce stated that protecting the entry corridors was more important than protecting the view of one individual.

Mr. Richards pointed out that the distance between the barn and the house would not change because they could not bring it in any closer. Wherever the house and the barn sits would be as close as they could be regardless of whether they are closer to the cul-de-sac or 35' beyond the cul-de-sac. Mr. Richards stated that Lot 4 in Aspen Springs is 100 feet closer to the highway than the home on Lot 7 would be.

Commissioner Campbell was unclear as to where the no-build line came from. He was under the impression that it had to do with the Annexation Agreement but that did not appear to be the case. Commissioner Campbell wanted to know when it was inserted into the plat, who had the idea and who approved it.

Planner Whetstone referred to page 139 of the Staff report and noted that the January 9, 2013 minutes reflect that the Planning Commission forwarded a recommendation to the City Council on the annexation. Commissioner Wintzer made a motion to forward a positive recommendation to the City Council as approved in the draft ordinance and as amended by Planner Whetstone, and the amendment to Condition 3 to include the hard surfaces, and a request to add a zone line to zone the eastern portion of Lots 1, 2 and 6 and the wetlands portion of Lot 7 to ROS. Planner Whetstone noted that the minutes show some discussion among the Commissioners and the motion was voted on and passed. Later in the minutes it states that, “Assistant City Attorney McLean recommended that the Planning Commission consider where they wanted the absolute no-build zone as opposed to defining building pads. That would add some flexibility for shifting the building pads 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 wetlands, and this was another added layer of protection. Commissioner Savage was comfortable with an ROS designation on the wetland area because it was already an unbuildable area.” Planner Whetstone clarified that they were talking about the wetland area and the 50' foot buffer.

Planner Whetstone referred to page 140 of the Staff report, also the January 9, 2013 minutes, and read, “Planner Whetstone reviewed the proposed changes in addition to the ones she had revised earlier and condition #3 was read to define driveways and hard surface areas at the time of final plat, and the recommendation that the easternmost 80 feet of Lots 1, 2 and 6 and the northernmost 250' of Lot 7 be zoned Recreation Open Space, with the remaining portions zoned SF.” Planner Whetstone remarked that the City Council did not think the lots should be separate zones and there should just be a no-build zone.

Planner Whetstone pointed out that the language talked about the wetlands area and then suddenly it was 250'. She and Director Eddington recalled that people were using rulers to figure out where the line should be based on a driveway, a house, a setback and a barn and the wetland area. The line was drawn on the preliminary plat by Alliance Engineering. She was unsure whether someone had measured it and believed it was 250' or how that came about. She clarified that the minutes say, “the northernmost 250 feet”. Planner Whetstone stated that if that was the case then some of the wetlands would not be in the no-build area.

Commissioner Thimm remarked that the wetlands have their own protection for where building would not be allowed to occur. He thought it went back to the question of where the 336' no-build came from if it was identified as 250' in the minutes.

Planner Whetstone referred to the minutes of the January 31, 2013 City Council meeting on page 146 of the Staff report. She read, "She explained that the Planning Commission recommended that the north 250' of Lot 7 be zoned ROS and the easternmost portion, as opposed to the Staff recommendation which was to place a no-build designation." Planner Whetstone read from the same minutes at the end of page 146 and a comment by then Council Member Alex Butwinski, "The Annexation Agreement is consistent about the Park City Municipal Corporation parcel being ROS and the zoning of single family, except for the back 250' of Lot 7, which will also be zoned ROS."

Planner Whetstone noted that 250' keeps showing up in the minutes from both the Planning Commission and City Council meetings, but Exhibit C in the Staff report was the preliminary plat that was approved.

Chair Pro Tem Strachan pointed out that Exhibit C was dated 1/8/13 and the City Council approved it on 1/31/13. The Exhibit pre-dates the City Council's decision. Chair Pro Tem Strachan recalled that the City Council looked at the plat and the line on the plat and approved it. He was certain that the line did not somehow show up after the City Council approval.

Commissioner Campbell remarked that in the minutes Commissioner Savage had stated that the line was arbitrary. Chair Pro Tem Strachan replied that it Commissioner Savage's opinion that the line was arbitrary, and he was the lone dissenter.

Commissioner Joyce stated that if everything discussed in both the City Council and Planning Commission meetings was 250-feet, it appeared that someone may have drawn the line in the wrong place on the preliminary plat for Lot 7. Commissioner Campbell thought that was exactly what happened.

Commissioner Phillips thought the discussion where everyone sat down with rulers was where it all changed. He asked if that discussion was reflected in any of the minutes and whether it occurred at the City Council meeting or with the Planning Commission. Chair Pro Tem Strachan recalled that it was in the City Council meeting. He noted that Alliance Engineering was retained by Mr. Richards and the plat was submitted to the City Council in their packet of materials for approval.

Commissioner Campbell pointed out that all the documents say 250', except for Exhibit C, which is what the applicant submitted.



Mr. Richards wanted to know why the plat that was submitted for recording did not show the no-build zone. Planner Whetstone clarified that the annexation plat would not have shown it. It was only an exhibit that indicated that it was a preliminary plat. She explained that an annexation has to come with a master plan or some kind of preliminary plat, and gets finalized when the Planning Commission looks at the final plat, which they were looking at this evening. The first and final plat included the 80 feet and that was all clear. Planner Whetstone stated that the Planning Commission had the ability to look at this as a final plat. The Annexation agreement talks about no-build and protecting wetlands and protecting the views and the entry corridor. It does not have to comply completely but it should be consistent with the preliminary plat to the greatest extent possible.

Commissioner Joyce felt like someone had drawn a made-up line and it became the decisive line.

Director Eddington recalled that when this was first being discussed early in the preliminary stages there was concern with regard to whether a Lot 7 should even exist because it would be located between two wetlands. Six lots were proposed and the 7th lot was proposed between the two wetlands. There was concern with that lot being located between the two wetland areas. It already had so many constraints that the question was whether it should even exist. It went forward and was noted on the plat as a possible lot. The discussions went from annexation discussions to the final plat, which is where they were tonight. Director Eddington thought from the earlier discussions that there was a 250' ROS discussion on the north part of this property. He also remembered a discussion about doing something similar for Lots 1, 2 and 6 and adding the 75' no-build zone. He thought it was the 250' plus 75', but that would only total 325 not 336. Director Eddington acknowledged that he could be wrong but that was his recollection of how it all evolved. He did remember that there was significant concern about reducing that lot because of its location between the two wetlands.

Commissioner Campbell remarked that this was a conflict that the City Council would have to resolve regardless of what the Planning Commission decided. He asked if the Planning Commission could forward a recommendation to the City Council to look carefully at where the 250' zone really is, rather than try to force the applicant to live by what seemed to be an imperfect document.

Commissioner Melissa noted that the Planning Commission had continued this item at the last meeting so they could have all the meeting minutes to understand where the 336' number came from. She thought they needed to be fair to Mr. Richards, and after reading the minutes and seeing 250' consistently they were still looking to understand what happened.

Chair Pro Tem Strachan suggested that they send it to the City Council with a positive recommendation that Exhibit C should be the final plat, and let the Council determine whether it was in the right place or the wrong place. Commissioner Campbell thought their recommendation should have language that makes the City Council aware of the discrepancy. Chair Pro Tem Strachan noted that the City Council would have the minutes from this meeting. Council Member Simpson was in attendance and she would also relay their discussion.

Commissioner Joyce stated that aside from the question of how the line was drawn, he understood that they were talking about a line in the middle of Lot 7. When the first half of the subdivision was done on Lots 1 through 4, the applicant had not asked for approval for Lot 7. Since the approval of Lot 7 was part of the final plat, he wanted to know how much the Planning Commission was constrained by the previous agreements. Chair Pro Tem explained that when the applicant came in for lots 1, 2 and 3, a large bulk of the discussion was about Lot 7. Commissioner Joyce asked if the line that was drawn for Lot 7 in the preliminary plat was a definitive plat that was expected with the approval, or whether it was a concept of what Lot 7 might look like with the details to be determined at the time of approval for Lot 7. Chair Pro Tem Strachan replied that it was only a concept in the annexation discussion. However, he believed it was one of the more thorough annexation discussions because they actually talked about where the building footprint should be located. Because the site is so sensitive and delicate and contains wetlands and open space on the entry corridor, the Planning Commission and the City Council looked at this annexation petition with more scrutiny in contrast to other annexations.

Commissioner Campbell remarked that based on the minutes from both the Planning Commission and City Council meetings, everyone repeatedly assumed that the line would be at 250'. It is referenced often and no one corrects it.

Chair Pro Tem Strachan summarized that none of the Commissioners were clear as to whether Exhibit C on page 91 of the Staff report reflects the accurate no-build line. He understood that there was consensus that the current building footprint and barn footprint did not need to be changed. Chair Pro Tem Strachan stated that the Planning Commission could make a motion to forward a positive recommendation to the City Council and include those two items; and let the City Council decide whether or not to accept it.

Commissioner Campbell wanted the recommendation to include the fact that the Planning Commission was unclear about where the line should exist. He thought they should be clear that the Planning Commission was not asking the City Council to codify the existence of the line where it was currently drawn.

Mr. Richards was disappointed that Steve Schueler was unable to attend this evening because he was told by Staff to add the line and he might be able to provide some clarity. Commissioner Campbell informed Mr. Richards that Mr. Schueler could still attend the City Council meeting since they would be making the final decision.

MOTION: Chair Pro Tem Strachan moved to forward a POSITIVE recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval as contained in the draft ordinance, with specific reference to Exhibit C on page 91 of the Staff report as indicating the no-build zone for Lot 7. Commissioner Phillips seconded the motion.

Commissioner Campbell did not believe the motion expressed their lack of clarity on the 250' issue. Council Member Simpson stated that she understood the confusion; however, she was unsure where they would find clarity. She suggested that they amend the motion to ask the City Council to make a final determination on where the line should be; or the request could come from Staff. Ms. Simpson assured the Planning Commission that she would remember this discussion when the City Council has their discussion. Council Member Simpson questioned whether or not the motion needed to be that specific.

Chair Pro Tem Strachan amended his motion to say that the Planning Commission would leave it the City Council to determine where the no-build line should be on Exhibit C on page 91. Commissioner Phillips seconded the amendment to the motion.

VOTE: The motion passed unanimously.

Assistant City Attorney McLean recommended that the Staff include the draft minutes from this meeting in the Staff report for the City Council meeting. Planner Whetstone would notify the Planning Commission when the item is scheduled so at least one Commissioner could attend. Ms. McLean noted from the agenda that this item was scheduled to go before the City Council on November 13th.

#### Findings of Fact – 510 Payday Drive

1. 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.
2. The property was annexed into Park City with the Richards/PCMC Annexation approved by the City Council on January 31, 2013 and recorded at Summit County on April 12, 2013.

3. The property is zoned Single Family (SF).
4. Access to the property is from Payday Drive at the existing driveway to the Richard's property. The driveway has been improved to a private street known as Country Lane.
5. On January 31, 2013, concurrent with the Annexation, the City Council reviewed and approved a preliminary subdivision plat for a total of seven single family lots and one common lot for the riding arena. The proposed phase two plat is consistent with the preliminary subdivision plat and consists of four (4) lots. Three of the lots are single family development lots and one lot is a common, non-residential lot for the existing riding arena.
6. The property is not within the Entry Corridor Protection Overlay zone (ECPO) and no portion of the plat is within the Park City Soils Ordinance boundary.
7. The subdivision creates non-conforming rear setbacks for an existing outbuilding and a guest house on Lot 5.
8. The subdivision complies with the Land Management Code regarding final subdivision plats, including SF zoning requirements, general subdivision requirements, and lot and street design standards and requirements.
9. General subdivision requirements related to 1) drainage and storm water; 2) water facilities; 3) sidewalks and trails; 4) utilities such as gas, electric, power, telephone, cable, etc.; and 5) preservation of natural amenities and features, have been addressed through the Annexation and subdivision plat review process as required by the Land Management Code.
10. Sanitary sewer facilities are required to be installed in a manner prescribed by the Snyderville Basin Water Reclamation District (SBWRD).
11. 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 determined at the time of the annexation is 15% of 6 new units or 0.9 AUE (810 sf). The affordable housing obligation has been satisfied with payment of an in-lieu fee as approved by the Park City Housing Authority.
12. Land uses proposed in the second phase subdivision include three single family lots and one lot to be dedicated to the HOA for common recreation

facilities, such as the existing riding arena. Only one single family home and one barn are permitted to be constructed on each of Lots 6 and 7. Lot 6 contains an existing hay barn that may remain. Lot 5 contains an existing house, a guest house, a storage shed, and two barns that may remain. Lots 5 and 7 are allowed up to six (6) horses and therefore the barns are larger than on Lots 1, 2, and 6.

13. Per the Land Management Code, 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.

14. The PCMC Parcel that is adjoining Lots 6 and 7 allows only those uses permitted by the Deed of Conservation Easement.

15. The subdivision plat is consistent with the purpose statements of the SF zone. The SF zone does not allow nightly rental uses and restricting this use is consistent with the character of the surrounding neighborhood.

16. Areas of wetlands and irrigation ditches, and any required setbacks from these areas for the private road were identified during the annexation.

17. The proposed subdivision is outside the City's Soils Ordinance District.

18. Wetlands are protected by language in the LMC and Annexation Agreement requiring building pad locations, setbacks, and requirements for protection of sensitive lands during construction. Delineated wetland buffer areas are shown on the plat.

19. There is good cause for this subdivision plat in that it creates legal lots of record from metes and bounds described parcels; memorializes and expands utility easements and provides for new utility easements for orderly provision of utilities; provides access easements for adjacent property; provides no build areas for protection of the City's Open Space and wetland buffer areas, and is consistent with the approved the Richards/PCMC Annexation Agreement and preliminary subdivision plat.

20. The findings in the Analysis section are incorporated herein.

Conclusions of Law – 510 Paydrive Drive

1. The subdivision complies with LMC 15-7.3 as conditioned.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivision plats.
3. The subdivision is consistent with the Richards/PCMC Annexation Agreement approved by the City Council on January 31, 2013.
4. The subdivision is consistent with the Richards/PCMC preliminary plat approved by the City Council on January 31, 2013.
5. Neither the public nor any person will be materially injured as a result of approval of the proposed subdivision plat.
6. Approval of the proposed subdivision plat, subject to the conditions stated herein, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 510 Payday Drive

1. City Attorney and City Engineer review and approval of the final form and content of the subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval, is a condition precedent to recordation of the plat.
2. The applicant will record the subdivision plat at Summit County on or prior to the date that is one year from the final City Council approval. If recordation has not occurred within this extended timeframe, the plat amendment approval will be void, unless a complete application requesting a further extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Conditions of approval of the Richards/PCMC Annexation, as stated in the Annexation Agreement, continue to apply.
4. Final approval of the sewer facilities plan by the Snyderville Basin Water Reclamation District is required prior to final plat recordation.
5. A landscape and irrigation plan shall be submitted for City review and approval for each lot, prior to building permit issuance. All applicable requirements of the LMC regarding top soil preservation, final grading, and

landscaping shall be completed prior to issuance of a certificate of occupancy.

6. An industry standard Third Party inspector shall be mutually agreed upon by the Chief Building Official and the applicant prior to issuance of a building permit to provide third party inspection for compliance with LEED for Homes Silver rating, per the Annexation Agreement.

7. A construction mitigation plan (CMP) shall be submitted and approved by the City for compliance with the Municipal Code, LMC, and conditions of the Annexation Agreement prior to building permit issuance.

8. A financial guarantee, in a form and amount acceptable to the City and in conformance with the conditions of approvals has been provided to the City for public improvements. A portion of the guarantee, to be determined by the City Engineer, shall be held by the City through the warranty period and until such improvements are accepted by the City.

9. All standard project conditions shall apply.

10. Recordation of a final subdivision plat is a requirement prior to issuance of building permits.

11. The final subdivision plat shall include plat notes stating that the maximum density of the second phase subdivision is three (3) single family dwelling units and that no lot shall be further subdivided to increase the overall density of the subdivision. Lot 8 (to be renamed Parcel 8) is not a residential building lot and shall be dedicated to the Thaynes Creek Ranch Estates HOA as a common recreation parcel that may contain the existing riding arena, a storage area, and other associated uses identified in the CCRs. Barns shall not be used for human occupation.

12. All exterior lighting shall be reviewed with each building permit application for compliance with best lighting practices as recommended by the Dark Skies organization.

13. Fencing shall be consistent through-out the subdivision. A fencing plan shall be submitted with each building permit application to allow Staff to review all fencing for consistency through-out 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 and

shall be consistent with the fencing plan approved with the preliminary plat.

14. Construction of a five foot wide public side walk along Payday Drive connecting the existing sidewalk on the north side of the street with a pedestrian crossing at Iron Mountain Drive is required to provide connectivity to Rotary Park. 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 house located on either the Phase One or Phase Two plats.

15. 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. Excavated materials shall remain on site to the greatest extent possible and shall be addressed with the grading plan.

16. A note shall be included on the final subdivision plat 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.

17. A note shall be added to the final subdivision plat 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 an identified building pad 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.

18. A note shall be added to the final subdivision plat indicated that barns may not be used for human occupation.

19. A note shall be included on the final plat indicating that barns shall be designed to be architecturally compatible with the house on the same lot, including architectural design, materials, colors, and character.

20. All conditions and restrictions of the Annexation Agreement shall continue to apply to the Final Subdivision plat and shall be noted on the plat prior to recordation.

21. 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 as further described in the Annexation Agreement.



22. Modified 13-D residential fire sprinklers are required for all new construction as required by the Chief Building Official.

23. The plat shall note that Lots 5, 6 and 7 are restricted to a maximum house building footprint of 4,900 sf, including the garage. New barn footprint is restricted to 1,300 sf for Lot 6 and 1,800 sf for Lot 7. Lot 5 has an existing single family house (3,906 sf footprint), an existing guest house and garage (1,398 sf footprint), a shed with a studio apartment (2,349 sf footprint), and two barns (2,203 sf and 1,690 sf) that may remain. Lot 6 has an existing hay barn with a 1,585 sf footprint that may remain and be enclosed with no additional building footprint allowed. All new construction shall meet LMC lot and site requirements in effect at the time of the building permit and shall comply with these plat notes.

24. Maximum building height for barns is 18' (to peak of roof).

25. Maximum building height for houses on Lots 5 and 6 is 30' (25' plus 5' for pitched roof). Maximum building height for Lot 7 is 28' (23' plus 5' for pitched roof).

26. Maximum irrigated area for finished landscape (excluding pasture areas irrigated with private irrigation shares) is 12,000 sf for Lots 6 and 7. All landscaping shall comply with LMC Section 15-5-5 (M). Trees, such as cottonwoods, willows, aspens, and fruit trees may be planted in the pasture areas provided they are irrigated only with private irrigation shares.

27. Maximum LOD area (including house and barn footprints, paved driveways, patios and other hardscape, and irrigated landscaping) for Lots 5, 6 and 7 is restricted to a maximum of 45% of the Lot Area. Area necessary for utility installation is excluded from the maximum LOD area calculation and if utility installation is within the pasture areas it shall be re-vegetated with like pasture vegetation. Designated "no-building zones" and wetland buffer areas shall not be impacted or disturbed by construction activities, with the exception of necessary utilities, irrigation facilities, and fence installation and repairs. Use of these areas by horses is subject to an Administrative Conditional Use permit and Animal Management Plan.

28. All new construction on Lot 5 shall comply with the Land Management Code in effect at the time of building permit application for the new construction.

29. Lot 8 shall be renamed on the final plat as Parcel 8 and clearly noted as a non-residential parcel.

**4. 1825 Three Kings Drive – Three Kings Realty at Silver Star Conditional Use Permit for Office Building (Application PL-14-02329)**

Planner Whetstone reviewed the request for a conditional use permit for a 2,260 square foot single-story office building which would include 1325 square feet of real estate offices, 615 square feet for the existing mine tunnel entrance, and 320 square feet for storage for the Silver Star Café. The building is an existing historic structure. The proposal is to restore the historic structure and add the addition to the south side.

Planner Whetstone presented a slide showing the existing historic structure, the area of the proposed addition, and the affordable housing building to the north. The existing Silver Star ski shop is to the south. She indicated the Silver Star ski lift and noted that the Silver Star Café was across the plaza in a different building.

Planner Whetstone reported that the conditional use permit is required because the MPD states that any new construction requires a conditional use permit. The structure is in the RDM zone, which allows office uses in a re-use building as a CUP. She noted that the MPD already acknowledged that there would be 14,500 square feet of commercial offices. Sundance takes a larger amount of the square footage. Based on the Staff calculation there appeared to be an existing 12,692 square feet with the addition of this office building, which under the 14,500 square feet allowed by the MPD.

The Staff conducted an analysis of the project against the 15 criteria in the LMC for conditional uses and found that there were no unmitigated impacts. Since parking is always an impact at Silver Star, the Staff recommended a condition of approval that within a year of Certificate of Occupancy the applicant would come back to the Planning Commission with a parking study to show how they were managing the parking. Planner Whetstone stated that parking for this use was already part of the 110 spaces that were constructed, but the issue is how it is managed and whether the affordable housing units are impacted by the uses.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the conditional use permit for the office uses at 1825 Three Kings Drive to be located within a restored historic building with the proposed addition, in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval attached to the Staff report.

John Shirley, the architect representing the applicant, stated that he was the architect who planned Silver Star and he was excited to have the opportunity to complete the plaza. Mr. Shirley noted that a proposal was presented in 2008 for a bar use that was approved. Due to the economic downturn the bar never materialized.

Mr. Shirley presented slides and reviewed their proposal. They intend to renovate and utilize the existing mine structure as part of the entrance. He explained that the main purpose of the project is to complete the plazas and renovate and clean up the last piece of the area.

Mr. Shirley noted that a 16" inch water line comes out of the mine shaft and the applicant has been working with Roger McClelland with the Water Department to make sure the Water Department would still have access in and out. The design was modified to meet those needs.

Chair Pro Tem Strachan could not recall when the bar was approved whether the Planning Commission attached a condition of approval requiring a parking analysis after one year. Mr. Shirley could not recall. Planner Whetstone thought they had placed that condition. Mr. Shirley stated that Steve Perkins, the project manager, was present to address any parking questions. He believed Mr. Perkins has done a great job maintaining the parking, even during challenging periods. Chair Pro Tem Strachan concurred.

Chair Pro Tem Strachan opened the public hearing.

Planner Whetstone read into the record an email she had received from Claire Jackson, a resident on Kings Court, which is directly to the north of Silver Star. Ms. Jackson stated that she has been the owner of 5 Kings Court for twelve years. She had received the notice from Silver Star and she opposed the addition of any more building on that site. Noise, traffic congestion and lack of parking are all issues. Parking is so tight in that locale that people park on Kings Court. There is no need for an office building there. They should leave the open space open space.

Chair Pro Tem Strachan closed the public hearing.

Commissioner Band pointed out that a bar was approved in 2008, which would have created many more impacts than the proposed office use. She had no issues with the request.

Commissioner Campbell was unclear as to how Claire Jackson could refer to it as open space when the building already exists. Planner Whetstone stated that she had responded to Ms. Jackson and offered to provide her with additional information. She also explained

what the proposal was for and Ms. Jackson never responded back. Commissioner Campbell clarified that he was only interested in noting for the record that it was not open space. He felt that if the Planning Commission remained silent it would indicate that they agreed with Ms. Jackson that it was open space when that was not the case.

Commissioner Thimm agreed with Commissioner Campbell. He had visited the site and what was being proposed is to put building where building already exists. Commissioner Thimm thought the proposal was consistent with what was on record as having been approved.

Planner Whetstone noted that there was a small area that was not building. She had done an analysis and found that the open space is 76.4% which was provided at the time of the approval was. Sixty percent was required. Adding the entire footprint, the open space is reduced to 74.41%, which still exceeds the 60% required.

Commissioner Joyce stated that as a customer in that area for hiking, shopping and eating, the parking is very challenging. However he did not believe that adding the small addition would make it worse. Commissioner Joyce noted that over the past few years more spaces are being marked as reserved. He asked whether additional spaces would be reserved for this new business, and if so, how many. He thought the Staff report was conflicting because it said there would be four to five employees, but later stated that there would generally only be one employee in the office at one time. Commissioner Joyce was concerned that three or more parking spaces would be allocated to the real estate business.

Steve Perkins, the General Manager for Silver Star, replied that the agreement is that they could not assign any parking spaces on the southern end of the parking lot. He noted that flex parking was the easiest way to keep those problems from occurring. Commissioner Joyce asked if it was safe to assume that there would be no new allocated spaces specifically for this business. Mr. Perkins answered yes.

Commissioner Joyce did not believe it was necessary to require the applicants to return with a parking study in one year since they were only adding a small addition to an existing building in an already parking challenged area. He preferred to strike the condition.

Commissioner Band concurred with Commissioner Joyce. She had visited the site at 11:37 a.m. and there were empty spaces in front of the restaurant and retail shops. However, the parking lot for the trail access was completely full.

Assistant City Attorney McLean stated that parking for the overall subdivision came in for Planning Commission review a few years ago. She suggested that the Planning

Commission could ask the developer to come in and provide an update on how they were managing the parking. Ms. McLean understood that there was underground parking that was not being used. She thought the question was how they could better use the underground parking since Silver Star has become a popular destination.

Commissioner Phillips was satisfied with the proposal and he had no concerns. He complimented Mr. Shirley on the architecture and trying to preserve the history.

Chair Pro Tem Strachan concurred with his fellow Commissioners. He liked the proposal and he thought the parking was self-regulating. He favored the suggestion to strike Condition #11 because there was no reason for the applicant to provide a parking analysis. He noted that parking was discussed in great length when it was originally built and there were several parking studies. Chair Pro Tem Strachan was unsure what they would accomplish by having the applicant do a study because the parking was already done.

MOTION: Commissioner Phillips moved APPROVE the conditional use permit for Three Kings Realty at Silver Star based on the Findings of Fact, Conclusions of Law and Conditions of Approval in the Staff report and as amended to remove Condition of Approval #11 and renumber the conditions. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 1825 Three Kings Drive

1. The subject property is located at 1825 Three Kings Drive.
2. The property is located in the Residential Development Medium density (RDM) zoning district and within the Spiro Tunnel Master Planned Development (aka Silver Star MPD).
3. The project site is located within the Residential Development Medium Density (RDM) zoning district. Office uses are allowed with an MPD. The Spiro Tunnel MPD and CUP approved office uses at this site and no MPD amendment is required for this proposed CUP application.
4. On October 27, 2004, the Planning Commission approved the Spiro Tunnel Master Planned Development and Conditional Use Permit for a mixed use development consisting of 97 residential unit equivalents (74 condominium units, 22 cottage units and one single family house with guest); an artist-in-residence campus with up to 14,500 sf of offices, studios, and gallery retail space; support commercial uses and support meeting space; and 16.11 (AUE) of affordable housing units (21 units in Buildings N and O).

5. Support commercial and support meeting space (up to 10% of the total residential floor area is 19,400 sf based on a total of 97 residential UE) was specifically allowed during the MPD approval for the Silver Star project, as the project was considered a nightly rental condominium project.
6. The CUP is subject to the Silver Star Plaza Condominiums Buildings N, O, P, Q, and R condominium plat approved by City Council on November 30, 2006 and recorded at Summit County on February 19, 2008. The building is located in the common area of this condominium plat and is currently owned by the Silver Star Plaza Condominiums Homeowner's Association.
7. The existing single story historic mine shed consists of approximately 615 square feet. The proposed single story addition consists of approximately 1,645 square feet of gross floor area, including 1,325 sf for office uses and 320 sf for storage and walk-in cooler for Silver Star Café to replace the temporary storage shed located at this site. The mine shed area will continue to be used for access to the mine tunnel for maintenance of water facilities.
8. The site is listed on the Historic Sites Inventory as a Significant Historic Site.
9. There are currently 110 shared parking spaces at the property. All parking within Spiro Tunnel MPD (Silver Star), with the exception of the private garages for the 22 cottage units, is shared parking, and was provided at the time of construction of the project in accordance with parking requirements for the approved uses.
10. No outdoor storage of goods or mechanical equipment is proposed. The existing temporary structure housing a walk-in cooler and storage for the Silver Star Café will be removed upon completion of the addition and these uses (storage for the Café) will be relocated to a 320 sf portion of the addition, completely enclosed within the building.
11. Additional traffic to the site will primarily be due to the 4-5 employees, as the office is primarily to provide real estate services to the Silver Star MPD owners. Additional trips on the surrounding streets are estimated at 20-25 trips (5 trips per employee per day) during the day between 8AM and 5 PM. A public transit stop is located at the property on Three Kings Drive near the main entrance.
12. Any additional utility capacity, in terms of water requirements due to added fire flows, will be reviewed by the Fire District, Water Department, and Building Department prior to issuance of a building permit.

13. The proposed development will not interfere with access routes for emergency vehicles.

14. No signs are proposed at this time. Any new signs will be reviewed under a separate sign permit for compliance with the approved Master Sign Plan for Silver Star.

15. Exterior lighting will be reviewed at the time of the building permit review.

16. The proposal exists within the Park City Soil Ordinance Boundary.

17. The findings in the Analysis section of this report are incorporated herein.

#### Conclusions of Law – 1825 Three Kings Drive

1. The application satisfies all Conditional Use Permit review criteria for residential uses as established by the LMC's Conditional Use Review process [Section 15-1-10(E) (1-15)];
2. The use as conditioned will be compatible with surrounding structures in use, scale, mass, and circulation.
3. The Applicant complies with all requirements of the LMC;
4. The Use is consistent with the Spiro Tunnel Master Planned Development and the Park City General Plan, and
5. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 1825 Three Kings Drive

1. All standard conditions of project approval shall apply to this project.
2. All signs associated with the use of the property must comply with the Silver Star Master Sign Plan and the City's Sign Code.
3. All exterior lighting shall comply with the lighting requirements in the LMC and shall be down directed and shielded.

4. No outdoor storage of goods or mechanical equipment is allowed on-site for this use. The existing temporary storage shed shall be removed from the site upon completion of the building.
  5. A storm water and drainage plan shall be submitted and approved by the City Engineer prior to issuance of a building permit.
  6. Prior to recordation of the plat amendment for this property a utility plan and any amended utility, drainage, and access easements shall be provided as required by the City Engineer and utility providers.
  7. A utility and grading plan shall be submitted and approved by the City Engineer, City Water Department, Fire District, and Sewer District prior to issuance of a building permit. Existing water service will need to be evaluated and may need to be upgraded to meet fire flow requirements for the proposed uses and required fire sprinkler system.
  8. A Historic District Design Review application is required to be submitted and the plans shall be reviewed for compliance with the Design Guidelines for Historic Buildings and Sites prior to issuance of a building permit for any work on the historic building.
  9. The site exists within the Park City Soil Ordinance Boundary, therefore any soil disturbance or proposed landscaping must adhere to Park City Municipal Code 11-15-1.
  10. The Silver Star Plaza Condominium plat will have to be amended prior to issuance of a building permit to identify the building and addition on the plat. If the HOA intends to sell the building then the condominium plat would have to be amended to indicate the building as a private commercial condominium unit, similar to the designation of the other buildings on the plat. If the building remains commonly owned, the amended plat can identify the building and indicate that it is common area.
  11. A construction mitigation plan (CMP) shall be submitted with the building permit and shall identify how construction activity and construction parking impacts on the residential units and commercial activity on the plaza will be mitigated. The CMP shall indicate where the temporary storage building will be relocated to during construction of the permanent building.
5. **Land Management Code Amendments related to:**  
**1) Pet services in GC and LI zoning Districts (LMC Sections 15-2.18-2, 15-2.19.2 and 15-15-1).**



**2) Definitions regarding Pet Services (LMC Chapter 15).**  
**(Application PL-14-02348)**

Planner Whetstone requested that the Planning Commission review the proposed amendments to the Land Management Code and provide a recommendation to the City Council on the amendments regarding animal services. The request is to amend Chapter 2 and Chapter 15. In Chapter 2 they were looking at the General Commercial and Light Industrial zone.

Planner Whetstone reported that on May 28<sup>th</sup> the Planning Commission discussed other LMC amendments. At that time the Staff proposed allowing animal services such as boarding, grooming, kennels and daycare. The Staff suggested that the General Commercial and Limited Industrial zones might be appropriate places where these uses could occur as either an allowed use, an administrative conditional use, or a conditional use. Planner Whetstone remarked that some of the definitions were more consistent with the Municipal Code and less specific to the types of uses that people had requested to be in these zones.

Planner Whetstone stated that the Staff did some research and looked at Aspen, Colorado; Sedona, Arizona; Santa Fe, New Mexico; and Summit County, Utah where all the proposed uses are allowed.

Planner Whetstone reviewed the proposed definitions, which addressed household pets. She noted that household pets include dogs, cats, rabbits, birds, and other small companion animals. The definitions talk about pet boarding being a commercial establishment for overnight boarding and care of four or fewer dogs and five or fewer other household pets. She explained that the language specified four or fewer dogs because five or more dogs is defined as a kennel. Planner Whetstone stated that the definition of a pet daycare would be a commercial establishment for providing same-day short-term care for household pets. It is a purposely designed establishment that excludes the keeping or boarding of animals overnight. Planner Whetstone noted that pet grooming is currently allowed in Park City and the Staff was suggesting a definition for pet grooming. They also clarified the definition for Veterinary Clinic per Planning Commission input.

Planner Whetstone stated that the Staff was proposing Pet Boarding as a conditional use in the GC and the LI zones. The Pet Daycare would be a conditional use in these same zones. There would be no limitation on the number of animals for Pet Daycare. Pet Grooming was proposed as an administrative conditional use permit in both the GC and LI zones.

Planner Whetstone explained that the Planning Commission could place these uses as a full conditional use permit where an application is reviewed against the same 15 CUP criteria. However, with a regular conditional use permit process there is a 14 day public notice period, the property is posted and notices are sent to everyone within 300 feet. The Planning Commission reviews the CUP request and conducts a public hearing. Planner Whetstone noted that with an Administrative CUP the application is reviewed against the same criteria, the adjacent property owners are notified, and the property is posted. After review and proper noticing, the Staff makes the decision to approve or deny the application.

The Staff recommended leaving kennels out of the discussion at this time to allow for further study.

Planner Whetstone noted that with animal services another layer is added to the process that involves licensing requirements for Animal Control, the Health Department or other related entities.

Chair Pro Tem Strachan opened the public hearing.

Bob Sailor stated that he had addressed the Planning Commission in May and he wanted to address the same issues. Mr. Sailor stated that he came to Park City in May and tried to obtain a license for his daughter to open a doggy day care business. Since that time it became apparent from his own observations that daycare, grooming and pet boarding are already established services in Park City, and hundreds of Park City citizens seek out and pay for those services every day. Mr. Sailor commented on the website and social media sites where Park City residents and visitors reach out to the individuals who offer these services. Because the services are not addressed or permitted in the Code, he assumed these individuals were operating without a business license. Mr. Sailor stated that in addition to the Park City residents who obtain these pet services, destination visitors also contact these service providers to arrange care for their pets while they ski, shop, and dine in Park City. He noted that pet friendly hotel and lodging establishment ask their guest not to leave their pets unattended. Therefore, they need to have a place to take them when they are out. Mr. Sailor stated that some lodging managements who are not yet pet friendly would like to be and they are looking for a solution that would empower them to be pet friendly.

Mr. Sailor commented on the taxes and license fee revenue that the City is losing by not addressing these services in the Code. The fact that these services are being provided indicates that there is a market for it. It is a thriving business market that is currently unlicensed, unregulated, uninsured and untaxed.

Mr. Sailor asked the Planning Commission to consider allowing these animal services as an allowed use rather than a conditional use permit. In his opinion a conditional use is not a solution because of the burdens attached in terms of the time and money involved in the process. He stated that if someone finds a building to locate their business and they have to wait for the conditional use permit to be approved, it would be a hardship because they would either lose the building or have to pay for it on the hope that their request would be approved. Making it a conditional use would also keep those already in the business from coming forward and applying for a conditional use for time and money reasons. If it was an allowed use those same people would be more willing to come forward and seek the proper licensing. Mr. Sailor stated that the conditional use is too onerous for those already in the business making money. He reiterated his suggestion for making it an allowable use and for the Planning Commission to forward that recommendation to the City Council.

Mr. Sailor thought the daycare, grooming and boarding services as recommended by the Staff were circular businesses. He explained how they could overlap each other and use the example of dropping your dog off in the morning to be groomed but not picking him up until after work. In that circumstance, grooming and daycare overlap. Mr. Sailor named other scenarios where daycare and boarding could overlap. He felt there was very little distinction between the three services.

Chair Pro Tem summarized that Mr. Sailor believed the proposed animal services were very necessary and he thought it should be an allowed use.

Mr. Sailor felt his comments were accurately summarized and he was happy to answer any questions.

PJ Sailor stated that they moved from Virginia specifically to set up a dog daycare business. She believed that dog daycare is an allowed use in Aspen because it evolved that way. Ten years ago people did not take their dogs to doggy daycare the way they do now. Mrs. Sailor reiterated her husband's request that doggy daycare be considered as an allowed use rather than a conditional use. She noted that restrictions and regulations are currently in place through the Health Department and Animal Control that govern how a dog daycare is run. Aspen and many other locations they researched do not believe it is a zoning issue. She believed that making it a conditional use would be a tough sell to a business owner who only charges \$25 for an entire day of care. Rent in Park City is another major consideration. Mrs. Sailor remarked that dog daycare is not an extremely profitable business. Her daughter has been in the veterinary business for 10 years. She also has autism and this is her first try at opening a business and being her own boss. Making the move from Virginia was difficult for her daughter and they did not expect to encounter these problems when they made the decision to move. She again urged the Planning Commission to consider dog day care as an allowed use

Chair Pro Tem Strachan closed the public hearing.

Commissioner Joyce believed there was good reason to make it a conditional use. He has a dog that he sometimes takes to dog daycare and there is always noise, odors and other issues. He clarified that the intent of a CUP is not to tell someone how to run their business. The purpose is to address impacts and inconveniences to the surrounding neighbors.

Commissioner Joyce was not opposed to the recommendation for pet grooming to be an allowed use. However, he was unsure why the number of dogs allowed was different between a dog daycare and a kennel. He did not believe there was enough difference between the two uses to differentiate the number of dogs.

Commissioner Thimm concurred with Commissioner Joyce. In researching zoning codes in other resort communities he was struck by the idea of a commercial kennel being enclosed and entirely soundproofed. He noted that conditions of approval address noise, odors and safety issues. Commissioner Thimm thought an allowed use made sense for a dog grooming business; however, overnight and daycare facilities should be conditional uses for the reasons stated by Commissioner Joyce.

Commissioner Phillips concurred with Commissioners Joyce and Thimm. Understanding how difficult it would be for a small business to go through the process, he suggested that the City should do whatever possible to move the process forward as quickly as possible. If the City could have a comprehensive list of items that would be addressed in the CUP, the applicant could come fully prepared to avoid having to come back with additional or missing information. Commissioner Phillips supported the Staff recommendation for a conditional use for dog daycare and boarding.

Commissioner Campbell stated that he has lived in Park City for 12 years and over time dogs are becoming allowed everywhere. He was surprised that dog owners were not already choked with regulations. Commissioner Campbell could not understand why they would want to further regulate this type of service when there are already many regulations on small businesses. He preferred that it be an allowed use. Commissioner Campbell pointed out that these types of services are not in residential neighborhoods. They are in areas with other businesses where noise and disruption already exist.

Commissioner Phillips asked if they could put requirements or definitions in the LMC to address decibel levels, etc.

Commissioner Band referred to the comments that doggy daycares already exist. She tried to look them up prior to the meeting and she tried to call Animal Control and Summit County. Commissioner Band wanted to know what the Planning Commission needed to do in terms of what was being requested to open up that type of business.

Commissioner Campbell agreed with Mr. Sailor's point that if someone wanted to open up a business the dilemma would be holding on to the building while waiting for the CUP. He personally knows that the conditional use permit process can take as long as a year. A person would use all their money paying rent on the business before getting an approval to operate it. He thought it was an unfair restriction to put on a small business that he believed would do well in Park City.

Commissioner Joyce pointed out that this same type of business was a conditional use in Summit County.

Council Member Simpson suggested that the Planning Commission could keep the conditional use aspect, but make it an Administrative CUP. The applicant would not be required to come to the Planning Commission, which would streamline the process. In reference to an earlier comment about dogs being allowed everywhere including dining decks, Ms. Simpson clarified that dogs are not allowed on dining decks unless the restaurant applies for a permit with the Health Department. She sat on the Board of Health and it was a vigorous discussion that was dog supported, much to the dismay of the Environmental Health Officer.

Planner Whetstone stated that she had contacted the County. They do not have a separate definition for doggy or pet daycare. It is all under one definition of kennels. Planner Whetstone noted that the County does a low impact permit in the commercial districts. She explained that it was similar to an Administrative CUP, and the Planning Department has the discretion of deciding whether or not to take it to the Planning Commission.

Chair Pro Tem Strachan believed that making it an Administrative CUP was the right direction. He agreed with Mr. Sailor's that the uses will overlap and one business could provide all services. For that reason, he thought all three uses should be treated the same, whether it is an allowed use, a conditional use, or an Administrative CUP. His preference was to make them all Administrative CUPs.

Chair Pro Tem Strachan re-opened the public hearing for an additional comment.

Tory Sailor understood that the Commissioners were concerned about noise and smell; but those impacts already occur in residential neighborhoods. She referred to their earlier

discussion regarding trash cans as an example. Ms. Sailor remarked that the business owners need to abide by certain rules not only for the people but also for the animals. The animals need a clean place and a good environment. She wanted to open this business and she would not be reckless.

Chair Pro Tem Strachan closed the public hearing.

Commissioner Joyce reiterated his concern regarding the restriction on the number of dogs. If they intend to address all the issues through the conditional use process, he did not understand why they would arbitrarily limit the number. Chair Pro Tem Strachan understood that the number came from limits placed in other jurisdictions. Director Eddington stated that there was a distinction between kennels and pet boarding or pet daycare and the kennel was defined differently. Chair Pro Tem Strachan noted that Summit County has the five dog restriction for kennels.

Commissioner Band understood the distinctions between the uses and she recalled that they decided not to have kennels in the City, even as a conditional use. Commissioner Band believed it was important to have doggy daycare in Park City, but they also need to recognize that they are a town full of nimbys and she had concerns with it being an allowed use. She pointed out that people rarely complain that children are playing too loudly, but they will complain about barking dogs. Commissioner Band supported an Administrative CUP.

Chair Pro Tem Strachan pointed out that neighbors are noticed with an Administrative CUP and it would be left to the Staff to mitigate the impacts.

Commissioner Campbell asked about the time frame for the Administrative process, and if the application was denied, whether it could be appealed to the Planning Commission. Director Eddington replied that a denial could be appealed to the Planning Commission. He stated that once the application is received it is reviewed by Staff and letters are sent to the neighboring properties. The noticing period is ten days. Following the noticing period the Staff makes the decision to approve or deny. Commissioner Thimm understood that if the Staff identified issues with a particular circumstance, they would have the ability to send it to the Planning Commission. Director Eddington stated that a few days prior to sending the notices the Staff addresses any conditions that would be part of the application approval. He reiterated that if the Staff denied the application it would be appealed to the Planning Commission and that would start a new process. Director Eddington noted that the neighbors would also have the right to appeal the action taken by Staff.

Commissioner Joyce noted that the numbering of the conditional uses starting on page 250 of the Staff report were out of sequence and should be corrected before it was forwarded to the City Council.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council to adopt the Land Management Code amendments related to Pet Services in the GC and LI zoning districts, and the definitions regarding pet services found in the draft ordinance and as amended. Commissioner Thimm seconded the motion.

Chair Pro Tem Strachan clarified that the amendment is that all proposed uses would be administrative conditional use permits as opposed to conditional use permits.

VOTE: The motion passed unanimously.

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

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